

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
June 4, 2020**

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

| | | | |
|---|-----------|---------------|---|
| I | 9:00 A.M. | SDAB-D-20-065 | Construct a Convenience Retail Store and Specialty Food Service (56 sq.m. public space) with Drive-in Food Service building, and Gas Bar (8 pumps) 15525 - 111 Avenue NW Project No.: 348295101-002 |
|---|-----------|---------------|---|

| | | | |
|----|-----------|---------------|--|
| II | 9:00 A.M. | SDAB-D-20-066 | Construct a Single Detached House with an Unenclosed Front Porch, rear uncovered deck (7.32m x 3.66m), balconies and fireplace, and to demolish an existing Single Detached House and rear detached Garage 9625 - 101 Street NW Project No.: 355064516-001 |
|----|-----------|---------------|--|

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

ITEM I

FILE: SDAB-D-20-065

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 348295101-002

APPLICATION TO: Construct a Convenience Retail Store and Specialty Food Service (56 sq.m. public space) with Drive-in Food Service building, and Gas Bar (8 pumps)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: April 21, 2020

DATE OF APPEAL: May 9, 2020

NOTIFICATION PERIOD: April 28, 2020 through May 19, 2020

RESPONDENT: CTM Design Services Ltd.

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 15525 - 111 Avenue NW

LEGAL DESCRIPTION: Plan 1920323 Blk 5 Lot 13

ZONE: (CHY) Highway Corridor Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

1. The location is not suitable for new gas station due to relatively small size. As a new gas station should be enough space for the future new development of electric or other new type of cars.
2. Too many Variances and Discretionary uses for that location.
3. Too busy or too dangerous as a new gas station use for the location

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

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

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any land use bylaw in effect;
- (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 350.2(4), **Convenience Retail Stores** is a **Permitted Use** in the **(CHY) Highway Corridor Zone**.

Under section 350.2(18), **Specialty Food Services**, for less than 100 occupants and 120 m² of Public Space is a **Permitted Use** in the **(CHY) Highway Corridor Zone**.

Under section 350.2(6), **Drive-in Food Services** is a **Permitted Use** in the **(CHY) Highway Corridor Zone**.

Under section 350.2(7), **Gas Bars** is a **Permitted Use** in the **(CHY) Highway Corridor Zone**.

Under section 7.4(13), **Convenience Retail Stores** means:

development used for the retail sale of those goods required by area residents or employees on a day to day basis, from business premises which do not exceed 275 m² in gross Floor Area. Typical Uses include small food stores, drug stores, and variety stores selling confectionery, tobacco, groceries, beverages, pharmaceutical and personal care items, hardware or printed matter. This Use does not include Cannabis Retail Sales.

Under section 7.4(48), **Specialty Food Services** means:

development where limited types of prepared foods and beverages, excluding alcoholic beverages, are offered for sale to the public, for consumption within the premises or off the Site. This Use typically relies primarily on walk-in clientele, and includes coffee, donut, bagel or sandwich shops, ice cream parlours, and dessert shops.

Under section 7.4(16), **Drive-in Food Services** means:

development used for eating and drinking which offer a limited menu produced in a manner that allows rapid customer service and include one or more of the following features: car attendant services; drive-through food pickup services; or parking primarily intended for the on-site consumption of food within a motor vehicle.

Under section 7.4(7), **Gas Bars** means:

development used for the retail sale of gasoline, other petroleum products, and incidental auto accessories. This Use does not include Minor and Major Service Stations.

Section 350.1 states that the **General Purpose** of the **(CHY) Highway Corridor Zone** is:

to provide for high quality commercial development along those public roadways, which serve as entrance routes to the City or along limited access public roadways intended to provide a connection to entrance routes.

Landscaping

Section 55.3(1) states:

Unless otherwise specified in this Bylaw, Landscaping shall be provided in accordance with the following:

...

b. for new development consisting of Residential-Related Use Classes, Commercial Use Classes, Industrial Use Classes, Basic Services Use Classes, and Community, Educational, Recreational and Cultural Service Use Classes, the number of trees and shrubs provided shall be determined on the basis of the following:

- i. one tree for each 25 m2 and one shrub for each 15 m2 of Setback;
- ii. one tree for each 20 m2 and one shrub for each 10 m2 of parking area islands, as determined by subsection 54.2(3); and
- iii. in no case shall there be less than one tree per parking area island;

...

Development Officer’s Determination

1) Landscaping – The site has 58 trees, instead of 73 (Section 55.3(1)). [unedited]

Parking

Section 54.2, Schedule 1(A) states:

| Use of Building or Site | Minimum Number of Parking Spaces Required |
|-------------------------|---|
| 12. Any development | |

| | |
|---|--|
| within a Commercial Use not listed separately in this table, with a Floor Area of: | |
| a. less than $4\,500\text{ m}^2$ b. $4\,500\text{ m}^2 - 9\,000\text{ m}^2$ c. $9\,000\text{ m}^2 - 28\,000\text{ m}^2$ d. greater than $28\,000\text{ m}^2$ | 1 parking space per 40.0 m^2 of Floor Area 1 parking space per 33.3 m^2 of Floor Area 1 parking space per 28.5 m^2 of Floor Area 1 parking space per 25.0 m^2 of Floor Area |
| 20. Specialty Food Services | 1 parking space per 9.6 m^2 of Public Space. |

Under section 6.1, **Floor Area** means:

the total Floor Area of the building or structure, contained within the outside surface of the exterior and Basement walls, provided that in the case of a wall containing windows, the glazing line of windows may be used.

Under section 6.1, **Public Space** means:

space that is part of an establishment, which is open to the public and not restricted to only employees. Public Space includes any private non-sale hospitality area where products manufactured within the premises are provided to private groups for tasting and sampling. This definition does not include kitchens, administration offices, food or drink preparation areas.

Development Officer’s Determination

2) Parking - The site has 12 parking stalls, instead of 8 (Section 54.2, Schedule 1). [unedited]

Vehicular – Oriented Uses (Gas Bars)

Section 72.2(6)(a) states “all pump islands shall be located at least 6.0 m from any boundary of the Site, parking area on the Site, or Lane intended to control traffic circulation on the Site.”

Development Officer’s Determination

3) Reduced Setback - The distance from the gas bar to the south drive aisle is 0.73m instead of 6m (Section 72.2(6)(a)). [unedited]

Setbacks

Section 350.4(3) states “A minimum Setback of 7.5 m shall be required where a Site abuts a public roadway including a Lane that serves a Residential Zone, or where a Site abuts the lot line of a Site zoned Residential.”

Section 350.4(5) states:

No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback. Loading, storage and trash collection areas shall be located to the rear or sides of the principal building and shall be screened from view from any adjacent Sites, public roadways or a LRT line in accordance with the provisions of Section 55.5 of this Bylaw. If the rear or sides of a Site are used for parking, an outdoor service or display area or both, and abut a Residential Zone or a Lane serving a Residential Zone, such areas shall be screened in accordance with the provisions of subsection 55.4 of this Bylaw;

Under section 6.1, **Setback** means “the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space.”

Development Officer’s Determination

4) Reduced Side Setback - The width of the landscaped area abutting the property line along 111 Avenue (flanking side lot line) is 2.94m instead of 7.5m (Section 350.4(5))

5) Reduced Side Setback - The width of the landscaped area abutting the property line shared with 11072, 11076, 11077, and 11078-155 Street (side lot line) is 1.22m instead of 7.5m (Section 350.4(3)).

6) Use of a Setback Area - The drive-thru queuing spaces are located in the setback, 2.94m from the property line facing 111 Avenue (Section 350.4(5)).

[unedited]

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

| | | | |
|--|--|--|---|
|  | Project Number: 348295101-002 Application Date: NOV 27, 2019 Printed: May 11, 2020 at 8:32 AM Page: 1 of 5 | | |
| <h2 style="margin: 0;">Major Development Permit</h2> | | | |
| 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) 15525 - 111 AVENUE NW Plan 1920323 Blk 5 Lot 13 | | |
| Scope of Permit To construct a Convenience Retail Store and Specialty Food Service (56 sq.m. public space) with Drive-in Food Service building, and Gas Bar (8 pumps). | | | |
| Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Gross Floor Area (sq.m.): 346.41 New Sewer Service Required: Y Site Area (sq. m.): 3843.48 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table> | | Class of Permit: Gross Floor Area (sq.m.): 346.41 New Sewer Service Required: Y Site Area (sq. m.): 3843.48 | Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) |
| Class of Permit: Gross Floor Area (sq.m.): 346.41 New Sewer Service Required: Y Site Area (sq. m.): 3843.48 | Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) | | |
| Development Permit Decision Approved Issue Date: Apr 21, 2020 Development Authority: WELCH, IMAI Subject to the Following Conditions GENERAL CONDITIONS: <ol style="list-style-type: none"> 1) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Lot Grading Fee of \$236. 2) WITHIN 14 DAYS OF THE END OF THE NOTIFICATION PERIOD with NO APPEAL and prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.6). 3) This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1). 4) Bicycle parking shall be provided in accordance to Section 54.3 and to the satisfaction of the Development Officer. 5) 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. DRAINAGE SERVICES CONDITIONS: <ol style="list-style-type: none"> 1) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or landowner must pay the Sanitary Sewer Trunk Charge (SSTC). Based on our records, this property was never assessed for SSTC. SSTC is applicable to the entire property of 0.3836 ha at the rate of \$8,311/ha under the current DP#348295101-002. Payment should be made at the Edmonton Service Centre, 2nd Floor, 10111 – 104 Avenue NW. | | | |
| | | | |

Major Development Permit

For information purposes, the 2019 rate is \$8,311/ha. However, the final SSTC is based on the prevailing rate at the time the applicant/owner makes payment.

EPCOR CONDITIONS:

- 1) The applicant is required to construct a new public fire hydrant on the south east corner of 111 Ave and 149 St at their expense as shown on the submitted drawings. This work can be undertaken either under a servicing agreement or under EPCOR Water Services, Inc.'s New Water Distribution Mains capital program. For more information on the EPCOR New Water program, please contact EPCOR New Water at waterdinfrastructure@epcor.com.
- 2) Fire Rescue Services (FRS), Fire Protection Engineer must perform a Infill Fire Protection Assessment at development permit application to confirm on-street fire protection infrastructure upgrades. The applicant can work with the City Planner to initiate this review.
- 3) Any party proposing construction involving ground disturbance to a depth exceeding 2m within 5m of the boundary of lands or rights-of-way (ROW) containing EPCOR Water facilities is required to enter into a Facility Proximity Agreement with EWSI, prior to performing the ground disturbance. Additional information and requirements can be found in the City of Edmonton Bylaw 15816 (EPCOR Water Services and Wastewater Treatment). The process can take up to 4 weeks. More information can be requested by contacting waterlandadmin@epcor.com.

LANDSCAPING CONDITIONS:

- 1) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Development Permit Inspection Fee of \$528.00 (this can be paid by phone with a credit card - 780-442-5054).
- 2) Landscaping shall be in accordance with the approved Landscape Plan, and Section 55 of the Zoning Bylaw, to the satisfaction of the Development Officer.
- 3) Any changes to an approved Landscape Plan require the approval of the Development Officer prior to the Landscaping being installed.
- 4) Landscaping shall be installed within 18 months of receiving the Final Occupancy Permit. Landscaping shall be maintained in a healthy condition for a minimum of 24 months after the landscaping has been installed, to the satisfaction of the Development Officer.
- 5) A Landscape Security shall be provided to the City of Edmonton at the time of initial Landscape Inspection, to the satisfaction of the Development Officer. The initial Landscape Inspection shall be requested within 14 days of the Landscape installation being completed (www.edmonton.ca/landscapeinspectionrequest).
- 6) Upon determination that landscaping has been installed in compliance with the approved Landscape Plan, 20% of the full Landscape Security value as determined by the Development Officer shall be collected. The Landscape Security shall be retained for a period of 24 months from the date of the initial Landscape Inspection.
- 7) Sites that are not completed or are not compliant with approved Landscape Plans at the initial Landscape Inspection shall, in addition, be required to submit a Security for incomplete work; up to the full value of the Landscape Security, as determined by the Development Officer.

SUBDIVISION PLANNING (TRANSPORTATION) CONDITIONS:

- 1) The City of Edmonton is conducting road rehabilitation for 111 Avenue between 149 Street and 156 Street. The city project is



Project Number: **348295101-002**
 Application Date: NOV 27, 2019
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Major Development Permit

scheduled for construction in 2020. The proposed rehabilitation will include reconstruction of the existing access to 156 Street, realignment of the public sidewalk adjacent to the site, and new curb alignment on 111 Avenue and 156 Street. A new bus pad will also be constructed for the existing bus stop on 111 Avenue adjacent to the site. Minor modifications to the existing access to 111 Avenue will also be completed to tie in with the new infrastructure. The owner/applicant must contact Wayne Squires of Integrated Infrastructure Services (780-423-5544) or wayne.squires@edmonton.ca to coordinate construction. The proposed sidewalk connections are acceptable and must connect to the new sidewalk realignment along 111 Avenue.

2) Access to the site from 156 Street and 111 Avenue exists. Any modification to the existing accesses requires the review and approval of Subdivision Planning.

3) Pedestrian signage must be provided for the onsite pedestrian crosswalk locations at the drive-through entrance and exit.

4) All landscaping for the development must be provided entirely on private property. Permanent objects (i.e. concrete steps, signage, etc.) must not encroach onto road right-of-way.

5) There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.

6) Any sidewalk or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Development Inspections, as per Section 15.5(f) of the Zoning Bylaw. All expenses incurred for repair are to be borne by the owner.

7) Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. OSCAM permit applications require Transportation Management Plan (TMP) information. The TMP must include:

- the start/finish date of project;
- accommodation of pedestrians and vehicles during construction;
- confirmation of lay down area within legal road right of way if required;
- and to confirm if crossing the sidewalk and/or boulevard is required to temporarily access the site.

It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at:

https://www.edmonton.ca/business_economy/licences_permits/oscam-permit-request.aspx

and,

<https://www.edmonton.ca/documents/ConstructionSafety.pdf>



Project Number: **348295101-002**
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Major Development Permit

Subject to the Following Adviseements

EPCOR ADVISEEMENTS:

- 1) The site is currently serviced by a 40mm copper service, located at 36.9m South of the south property line of 111 Ave on 156 St. The applicant is to contact EPCOR customer services at 780-412-4000 a minimum of four weeks prior to commencing any work on the site, including demolition, excavation, or grading for direction on the correct process to follow to have the service isolated and meter removed.
- 2) The site is currently serviced by a 40mm copper service, located at 36.9m South of the south property line of 111 Ave on 156 St. The applicant is to contact EPCOR customer services at 780-412-4000 a minimum of four weeks prior to commencing any work on the site, including demolition, excavation, or grading for direction on the correct process to follow to have the service isolated and meter removed.
- 3) For information on Service abandonments, and the provisioning of a new water service contact EPCOR Drainage, Water and Sewer Servicing at wass.drainage@epcor.com.
- 4) Prior to the turning on of the water service, the applicant must submit bacteriological test results to EPCOR Water Dispatch, and must have a water serviceman turn on the valve. Contact EPCOR Water Dispatch at 780-412-6800 for more information on how to provide the test results. Water Dispatch can provide information on the tie-in and commissioning procedure.
- 5) The depth of the site means that on-street fire protection will be unable to provide coverage over the complete site area. The applicant is advised to contact Fire Rescue Services for additional on-site fire protection requirements.
- 6) No contractor or private developer may operate any EPCOR valves and only an EPCOR employee or EPCOR authorized agent can remove, operate or maintain EPCOR infrastructure.

FIRE RESCUE SERVICES ADVISEEMENTS:

1) Hydrant-Entrance Distance

Confirm that the travel distance (not radius as shown on the site plan submissions) from principal entrance to fire hydrant does not exceed 90 meters (non-sprinklered building)

Reference: NBC(2019-AE) 3.2.5.5. Location of Access Routes

2) Access routes shall be provided to a building so that

- b) for a building not provided with a fire department connection, a fire department pumper vehicle can be located so that the length of the access route from a hydrant to the vehicle plus the unobstructed path of travel for the firefighter from the vehicle to the building is not more than 90m, and
- c) the unobstructed path of travel for the firefighter from the vehicle to the building is not more than 45m.

Ensure that the hydrant(s) identified on the site plan are fully functional prior to construction.

2) Fire Safety Plan

A formal submission of your Fire Safety Plan will be required for a Building Permit to be issued (please do not forward your Fire Safety Plan at this time). If you have any questions please contact Technical Services at cmsfpts@edmonton.ca.

Reference: NFC(2019-AE) 5.6.1.3. Fire Safety Plan

- 1) Except as required in Sentence (2), prior to the commencement of construction, alteration or demolition operations, a fire safety plan, accepted in writing by the fire department and the authority having jurisdiction, shall be prepared for the site.



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Major Development Permit

Construction Site Fire Safety Plan Template:
https://www.edmonton.ca/programs_services/fire_rescue/fire-safety-planning-for-const.aspx

3) A permit is required for all flammable and/or combustible liquid storage tanks, above or below ground, prior to any installation, removal or alteration. This includes temporary tanks at construction sites.

4) An application for permit can be submitted at: https://www.edmonton.ca/programs_services/fire_rescue/fuel-tank-permits.aspx

Variances

- 1) Landscaping - The site has 58 trees, instead of 73 (Section 55.3(1)).
- 2) Parking - The site has 12 parking stalls, instead of 8 (Section 54.2, Schedule 1).
- 3) Reduced Setback - The distance from the gas bar to the south drive aisle is 0.73m instead of 6m (Section 72.2(6)(a)).
- 4) Reduced Side Setback - The width of the landscaped area abutting the property line along 111 Avenue (flanking side lot line) is 2.94m instead of 7.5m (Section 350.4(5)).
- 5) Reduced Side Setback - The width of the landscaped area abutting the property line shared with 11072, 11076, 11077, and 11078-155 Street (side lot line) is 1.22m instead of 7.5m (Section 350.4(3)).
- 6) Use of a Setback Area - The drive-thru queuing spaces are located in the setback, 2.94m from the property line facing 111 Avenue (Section 350.4(5)).

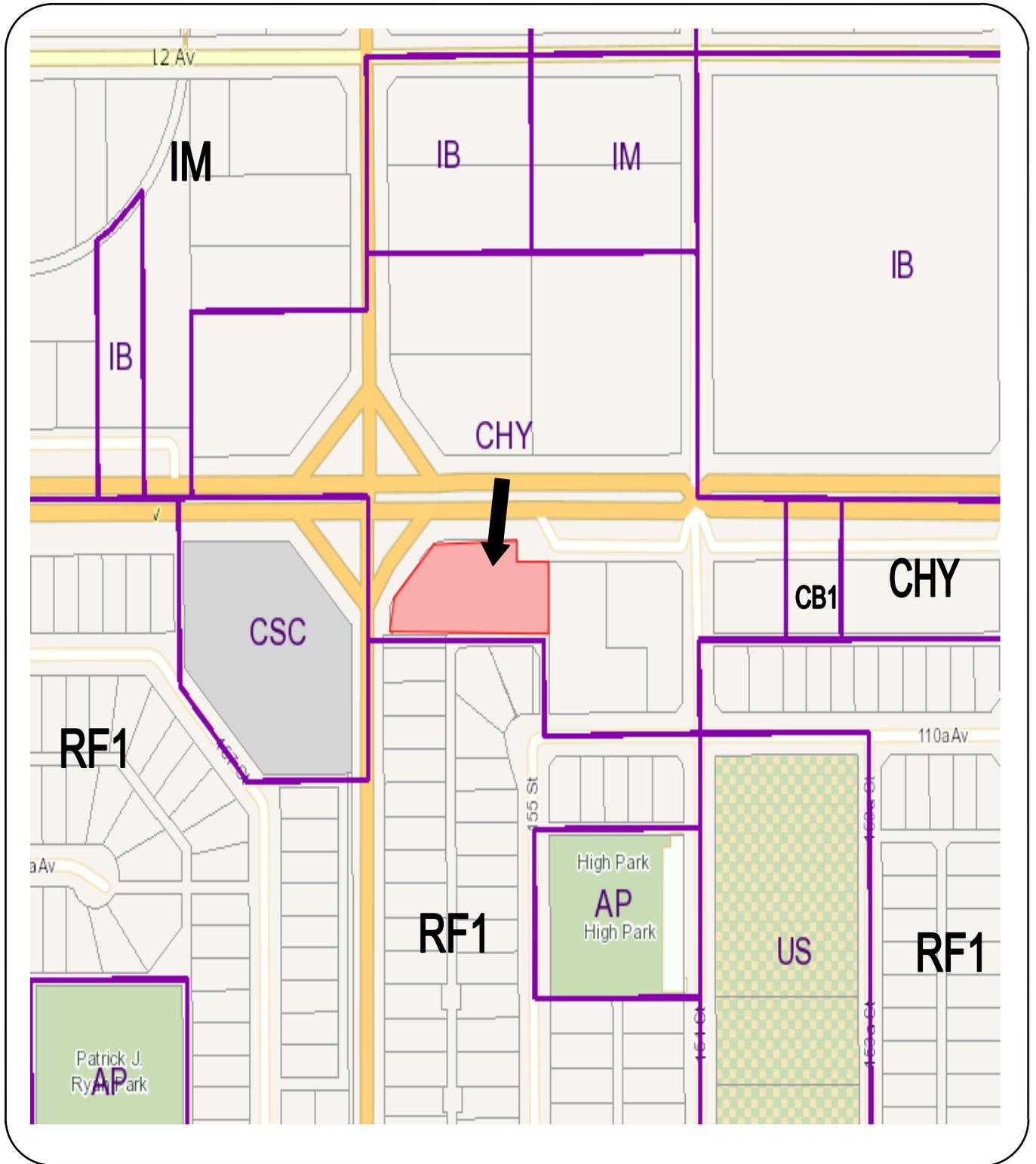
Rights of Appeal

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: Apr 28, 2020 **Ends:** May 19, 2020

Fees

| | Fee Amount | Amount Paid | Receipt # | Date Paid |
|-----------------------------------|------------|-------------|-----------|--------------|
| Major Dev. Application Fee | \$963.00 | \$963.00 | 06313082 | Dec 03, 2019 |
| Lot Grading Fee | \$236.00 | \$236.00 | 06313082 | Dec 03, 2019 |
| Sanitary Sewer Trunk Fund 2012+ | \$3,188.10 | | | |
| Development Permit Inspection Fee | \$518.00 | | | |
| Total GST Amount: | \$0.00 | | | |
| Totals for Permit: | \$4,905.10 | \$1,199.00 | | |
| (\$3,706.10 outstanding) | | | | |



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-065



ITEM II

FILE: SDAB-D-20-066

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 355064516-001

APPLICATION TO: Construct a Single Detached House with an Unenclosed Front Porch, rear uncovered deck (7.32m x 3.66m), balconies and fireplace, and to demolish an existing Single Detached House and rear detached Garage

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 27, 2020

DATE OF APPEAL: May 11, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9625 - 101 Street NW

LEGAL DESCRIPTION: Plan Q Blk 4 Lot 8

ZONE: (RF3) Small Scale Infill Development Zone

OVERLAY(S): Mature Neighbourhood Overlay
Floodplain Protection Overlay
North Saskatchewan River Valley and Ravine System Protection Overlay

STATUTORY PLAN: Rossdale Area Redevelopment Plan

Grounds for Appeal

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

*See Attachment in SDAB file.

| |
|------------------------|
| <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

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- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, [...]

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any land use bylaw in effect;

- (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 140.2(8), **Single Detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development 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 140.1 states that the **General Purpose** of the **(RF3) Small Scale Infill Development Zone** is “to provide for a mix of small scale 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.

Section 812.1 states that the **General Purpose** of the **Floodplain Protection Overlay** is:

to provide for the safe and efficient use of lands which may be within the defined floodplains of the North Saskatchewan River and its tributaries within the City of Edmonton. The Overlay regulates building Height, the location and geodetic elevation of openings into buildings, the Use in portions of buildings, the design Grade of the Site, and Landscaping, to mitigate the potential negative effects of a flood event.

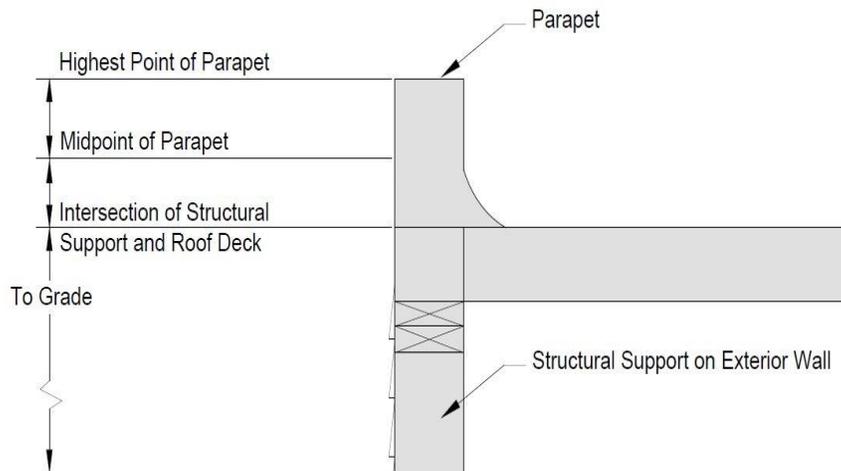
Section 811.1 states that the **General Purpose** of the **North Saskatchewan River Valley and Ravine System Protection Overlay** is “to provide a development Setback from the North Saskatchewan River Valley and Ravine System.”

Height and Grade

Section 814.4(5) states “The maximum Height shall not exceed 10.0 m [...]”

Section 52.1(b) states:

For the flat roof type, Height shall be determined by measuring from the horizontal plane through Grade to the midpoint of the highest parapet, provided the resulting top of the parapet is no more than 0.4 metres above the maximum Height allowed in the zone or overlay; or



Under section 6.1, **Height** means “a vertical distance between two points.”

Development Officers Determination

1) Building Height To Midpoint - The maximum Height to midpoint shall not exceed 8.9m. (Section 814.3.5 and Section 52.1.b)

- The proposed building Height to midpoint is 9.6m instead of 8.9m; exceeded by 0.7m.

2) Building Height To Peak - The maximum Height to peak shall be 9.3m, provided the resulting top of the parapet is no more than 0.4 meters above the maximum Height allowed in the zone or overlay. (Section 814.3.5 and Section 52.1.b)

- The proposed building Height to peak is 9.9m instead of 9.3m; exceeded by 0.6m.

Note: The Grade was determined by calculating the average elevations of the corners of the buildings on all properties abutting the Site.

[unedited]

Setback

Section 811.3(1) states “All developments shall maintain a minimum 7.5 m Setback from the North Saskatchewan River Valley and Ravine System, as shown on Appendix I to this Overlay.”

Under section 6.1, **Setback** means “the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space.”

Development Officers Determination

- 3) All developments shall maintain a minimum 7.5 m Setback from the North Saskatchewan River Valley and Ravine System. (Section 811.3.1)
- The proposed Single Detached House is within the 7.5m of the North Saskatchewan River Valley and Ravine System. [unedited]

Development Officer’s Note

Note: This property is governed by Caveat # 882 198 534 which regulates the architectural guidelines for properties within Rossdale and Cloverdale. Ensure architectural guidelines are met prior to the issuance of the permit; requires River Valley Stamp from Windward Land Tech Associates. [unedited]

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(5) – Height |

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: 355064516-001 Application Date: FEB 14, 2020 Printed: May 11, 2020 at 12:40 PM 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) 9625 - 101 STREET NW Plan Q Blk 4 Lot 8 Specific Address(es) Entryway: 9625 - 101 STREET NW Building: 9625 - 101 STREET NW | | |
| Scope of Application To construct a Single Detached House with an Unenclosed Front Porch, rear uncovered deck (7.32m x 3.66m), balconies and fireplace, and to demolish an existing Single Detached House and rear detached Garage. | | | |
| Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> # of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N </td> <td style="width: 50%; vertical-align: top;"> # of Primary Dwelling Units To Construct: 1 Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table> | | # of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N | # of Primary Dwelling Units To Construct: 1 Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay |
| # of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N | # of Primary Dwelling Units To Construct: 1 Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay | | |
| Development Application Decision Refused Issue Date: Apr 27, 2020 Development Authority: LAI, ECHO Reason for Refusal 1) Building Height: The maximum Height to midpoint shall not exceed 8.9m, provided the resulting top of the parapet is no more than 0.4 metres above the maximum Height allowed in the zone or overlay. (Section 814.3.5 and Section 52.1.b) - Proposed building Height to midpoint: 9.6m instead of 8.9m; exceeded by 0.7m. - Proposed building Height to peak: 9.9m instead of 9.3m; exceeded by 0.6m Note: The Grade was determined by calculating the average elevation of the corners of the buildings on all properties abutting the Site or separated from the Site by a Lane. 2) The proposed Single Detached House is within the 7.5m of the North Saskatchewan River Valley and Ravine System. (Section 811.3.1) NOTE: This property is governed by Caveat # 882 198 534 which regulates the architectural guidelines for properties within Rosedale and Cloverdale. Ensure architectural guidelines are met prior to the issuance of the permit. Requires River Valley Stamp from Windward Land Tech Associates. 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. | | | |
| THIS IS NOT A PERMIT | | | |



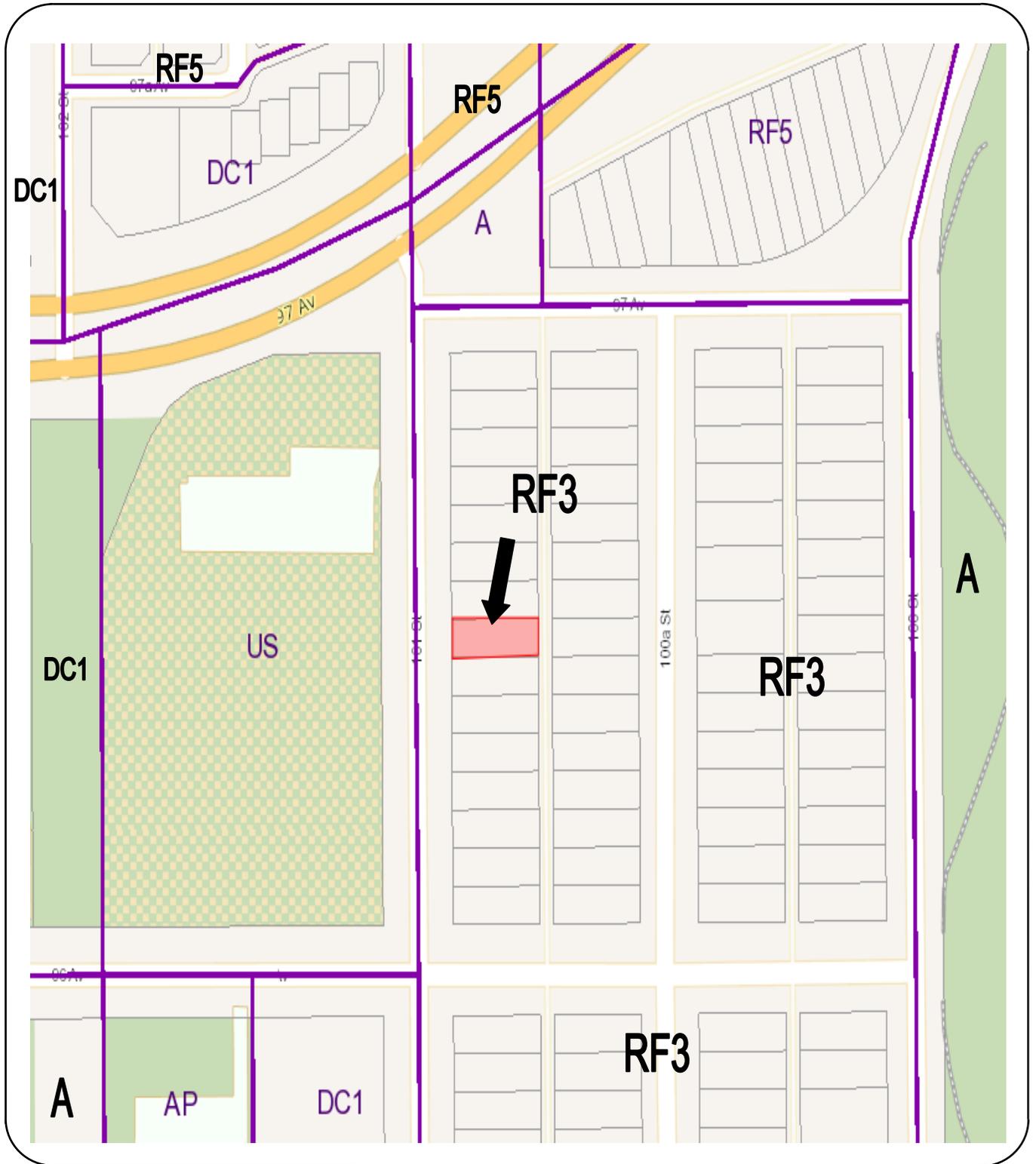
Application for Minor Development Permit

Project Number: **355064516-001**
Application Date: FEB 14, 2020
Printed: May 11, 2020 at 12:40 PM
Page: 2 of 2

Fees

| | Fee Amount | Amount Paid | Receipt # | Date Paid |
|-----------------------------------|-------------------|--------------------|------------------|------------------|
| Lot Grading Fee | \$148.00 | \$148.00 | 06429253 | Feb 14, 2020 |
| Dev. Application Fee | \$502.00 | \$502.00 | 06429253 | Feb 14, 2020 |
| Development Permit Inspection Fee | \$211.00 | \$211.00 | 06429253 | Feb 14, 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-20-066

