

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
March 13, 2019**

**Hearing Room No. 2
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 2**

I	9:00 A.M.	SDAB-D-19-033	Change the use of the main floor from Professional, Financial and Office Support Service to General Retail Store and to construct interior and exterior alterations (Flowers By Merle) 12320 - 105 Avenue NW Project No.: 289798215-001
<hr/>			
II	1:00 P.M.	SDAB-D-19-034	Acquire a Development Permit for Lodging House (Congregate Living) before March 15, 2019 or decommission the Lodging House (Congregate Living) before March 15, 2019 11233 - 78 Avenue NW Project No.: 292479452-001
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III	1:00 P.M.	SDAB-D-19-035	Acquire a Development Permit for Lodging House (Congregate Living) before March 15, 2019 or decommission the Lodging House (Congregate Living) before March 15, 2019 11235 - 78 Avenue NW Project No.: 292479452-002
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NOTE: *Unless otherwise stated, all references to "Section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-033

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 289798215-001

APPLICATION TO: Change the use of the main floor from Professional, Financial and Office Support Service to General Retail Store and to construct interior and exterior alterations (Flowers By Merle)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 14, 2019

DATE OF APPEAL: February 19, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12320 - 105 Avenue NW

LEGAL DESCRIPTION: Plan 2616CL Blk 23 Lots A,B

ZONE: (CB1) Low Intensity Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

Flowers by Merle has been in business for 53 years and been located in the general area around 124 street for all those years. It re located to 127st and Stony Plain Road about 1994. We purchased the business from the family in 2013 and they chose to keep the building and we became tenants. Our 5-year lease was up in August 2018.

In late 2017 the matters of the LRT coming down Stony Plain Road came to the forefront. It became apparent to us that the many issues such as building expropriations, a final location of a station in the 124 Street area, a new bridge over Groat Road and a long construction project that might take up to 3 years to complete would create havoc on the continued business opportunity in the flower shops existing location.

We felt we could not wait for those outcomes to happen and had to look for a new locational opportunity in the neighborhood.

After looking for something with good customer access we found this location at 12320 105 Avenue. On reviewing the Zoning Bylaw 12800 we saw that the building allowed for multiple permitted uses including a general retail store. This building was built in 1962 as a 6-unit apartment building. In 2007 the new owner demolished the apartments and installed 1 new office on the second floor, another new office on the main floor and an general office/retail space on other side of the main floor. The other 2 apartment spaces on the second floor were left in a demolished state. At that time a graveled front driveway was placed on the east side of the building and some additional landscaping was done and all the grass in front of the site was removed.

We approached the parking department in June for consideration of a 15-minute passenger loading zone and a 30-minute commercial loading drop zone in front of the location. We felt that this was a reasonable request since we had provided similar parking examples in the area and another on 109 St south of 104 Avenue. The parking department rejected that request. (Email attached) As a note the majority of our customers drop in for up to 15 minutes to pick up pre-made floral arrangements and other misc. items. The immediacy of parking is paramount to our business. As the front east side of the location had this graveled portion on site, we felt paving it and installing grass would be an alternative to the negative request of the parking department.

On another note the electronic meters are on the south side of 105 Avenue in front of the Synagogue and ½ a block away in front of the building next door at 12310 105 Avenue.

Parking in front of premises.

This property was developed as an apartment building in 1962 and re purposed in 2007 under zoning by law 12800. Subsequent to the re purposing of the building in 2007, bylaw 15735 of June 2011 and Bylaw 17672 of June 27, 2016 were adopted into the bylaw 12800 restricting parking, trash collection etc. Enclosed photos (1) (1A) will show the condition of the property in June 2018 from the 2007 re purposing.

The property just next door at 10507- 124 Street has a City of Edmonton garbage container on the city right of way in violation of 330.4, note 5, that states that no trash collection shall be permitted in a setback (see enclosed photo (2) (2A)(2B). The parking department has also put a restriction from the access to this container on the east side of the cross-boulevard access to the container.

The garbage dumpster picks up this container from the west side of that access and also does not have the similar parking restriction as the east side. This has also taken another parking spot from in front of the premises during business hours leaving only 2 metered parking stalls.

Of further issue is the long-term parking allowed by the City of Edmonton to the firm POGO. Frequently their vehicles are left for days in front of the location leaving only 1 metered parking stall for direct access to the store. (see enclosed photo (3 (3A))).

The property directly across the street at 12321 105 Avenue has surface parking to the edge of the sidewalk with no screening. We are told that because this parking lot is to the side of the building and it is ok. It is exposed to 105 Ave, not screened so we don't see how this fits the Main Street Overlay to encourage and strengthen definition. (see enclosed photo (4) (4A))

The property at 12225-105 Avenue has a front drive crossing with 5 cars parked in front of the building. (see enclosed photo (5)) The property at 10507-124 Street has one surface parking stall on the right of way between the sidewalk and their property on 123 Street. (see enclosed photo (6))

The liquor store at 10505 123 street has its parking lot located in front of its building on 123 street. (see enclosed photo (7)). Also note that there is no property landscaping on the 105Avenue side of the building except for the boulevard grass.

Conclusion

The renovations to the building were minor in nature, a replacement of the existing apartment windows on the main floor east side with a new store front to support the retail nature of the flower shop. (see enclosed photo(9)(9A)) The installation of a new flower cooler and a cleanup of the existing renovations on the lower east side of the main floor were also completed. We see these as enhancements to the building and neighborhood. Also, there are no comments or refusal from the City on these items.

We recognize that the area is under transition and is looking to its future as a pedestrian friendly neighborhood. Unfortunately, this statement currently is in conflict as people are still using cars to get to work and to their favorite shopping venues. Our location on Stony Plain Road was in the heart of the Glenora and Westmount Districts and in the majority local residents drove to our location. At this location besides the 9 parking stalls in front of the store there were 10 parking stalls on the street on the north side of the shop that at 8:00AM were taken up by people parking their cars to take the bus to the downtown for work.

This building somewhere in the near future will be a focus of a redevelopment and we recognize that the Main Street Overlay will become an important part of the redevelopment application.

We recognize that we have covered with asphalt some of the City of Edmonton's right of way and did provide a flower planter alternative for this area to the Development Branch as an alternative to grass which we believe will provide a better visual enhancement to the street.

As to the front parking, this site before the bylaw change in 2011 and 2016 did have a gravel parking area on this front of the building and that has now been covered ½ in grass.

We hereby request a front parking variance to the bylaw for the location at 12320 105 Ave. In absence of that approval we again request that the parking in front of the premises be given a restricted parking consideration by the Parking Department with the removal of the metered parking including the restricted parking to service the garbage container on the neighboring property.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

Hearing and Decision

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

...

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

- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;
- ...
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 330.2(7) states **General Retail Stores** (up to a maximum Floor Area of 1000 square metres) is a **Permitted Use** in the **(CB1) Low Intensity Business Zone**.

Under Section 7.4(24), **General Retail Stores** means development used for the retail or consignment sale of new goods or merchandise within an enclosed building, not including the sale of gasoline, heavy agricultural and industrial equipment, alcoholic beverages, or goods sold wholesale. Accessory Uses may include the assembly or repair of products sold on Site, or minor public services such as postal services or pharmacies. This Use does not include Aircraft Sales/Rentals, Automotive and Minor Recreation Vehicle Sales/Rentals, Cannabis Retail Sales, Flea Market, Gas Bars, Greenhouses, Plant Nurseries and Garden Centres, Pawn Stores, Major Alcohol Sales, Minor Alcohol Sales, Major Service Stations, Minor Service Stations, Secondhand Stores, and Warehouse Sales.


All surface parking and underground parking access shall be located at the rear of the building and be screened from view using methods such as Landscaping, public art, and Crime Prevention Through Environmental Design principles to enhance the appearance, natural surveillance and safety of the Lane. (Section 819.3(8))

Proposed: Hardsurfaced parking located at the front of the building abutting 105 Avenue NW contrary to Section 819.3(8). The surface parking was developed within the front yard without prior approval.

Upon review of the proposed development, the applicant has extended and developed the hardsurfaced parking on the road-right-of-way. The road-right-of-way is public property owned by the City of Edmonton. The City objects to the use of this road-right-of-way (landscaped boulevard) for the purpose of private parking, including the proposed installation of planters. The applicant must remove the parking area, including hardsurfacing located within City property, and restore the area back to the satisfaction of the City. [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: 289798215-001 Application Date: AUG 10, 2018 Printed: February 19, 2019 at 2:45 PM Page: 1 of 2		
<h2 style="margin: 0;">Application for Major Development Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
Applicant	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td data-bbox="836 432 1404 525"> Property Address(es) and Legal Description(s) 12320 - 105 AVENUE NW Plan 2616CL Blk 23 Lots A,B </td> </tr> <tr> <td data-bbox="836 535 1404 636"> Specific Address(es) Entryway: 12320 - 105 AVENUE NW Building: 12320 - 105 AVENUE NW </td> </tr> </table>	Property Address(es) and Legal Description(s) 12320 - 105 AVENUE NW Plan 2616CL Blk 23 Lots A,B	Specific Address(es) Entryway: 12320 - 105 AVENUE NW Building: 12320 - 105 AVENUE NW
Property Address(es) and Legal Description(s) 12320 - 105 AVENUE NW Plan 2616CL Blk 23 Lots A,B			
Specific Address(es) Entryway: 12320 - 105 AVENUE NW Building: 12320 - 105 AVENUE NW			
Scope of Application To change the use of the main floor from Professional, Financial and Office Support Service to General Retail Store and to construct interior and exterior alterations (Flowers By Merle).			
Permit Details <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td data-bbox="256 798 812 913"> Class of Permit: Class A Gross Floor Area (sq.m.): 135.26 New Sewer Service Required: N Site Area (sq. m.): 626.95 </td> <td data-bbox="820 798 1404 913"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: Main Street Overlay </td> </tr> </table>		Class of Permit: Class A Gross Floor Area (sq.m.): 135.26 New Sewer Service Required: N Site Area (sq. m.): 626.95	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: Main Street Overlay
Class of Permit: Class A Gross Floor Area (sq.m.): 135.26 New Sewer Service Required: N Site Area (sq. m.): 626.95	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: Main Street Overlay		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused Issue Date: Feb 14, 2019 Development Authority: KENNEDY, CLARK Reason for Refusal 1). The Site is located within the Main Streets Overlay. The purpose of the Main Streets Overlay is to encourage and strengthen the pedestrian-oriented character of Edmonton's main street commercial areas that are located in proximity to residential and transit-oriented areas, by providing visual interest, transparent storefront displays, and amenities for pedestrians (reference Section 819.1). All surface parking and underground parking access shall be located at the rear of the building and be screened from view using methods such as Landscaping, public art, and Crime Prevention Through Environmental Design principles to enhance the appearance, natural surveillance and safety of the Lane. (Section 819.3(8)) Proposed: Hardsurfaced parking located at the front of the building abutting 105 Avenue NW contrary to Section 819.3(8). The surface parking was developed within the front yard without prior approval. Upon review of the proposed development, the applicant has extended and developed the hardsurfaced parking on the road-right-of-way. The road-right-of-way is public property owned by the City of Edmonton. The City objects to the use of this road-right-of-way (landscaped boulevard) for the purpose of private parking, including the proposed installation of planters. The applicant must remove the parking area, including hardsurfacing located within City property, and restore the area back to the satisfaction of the City. 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.			
Fees			
THIS IS NOT A PERMIT			



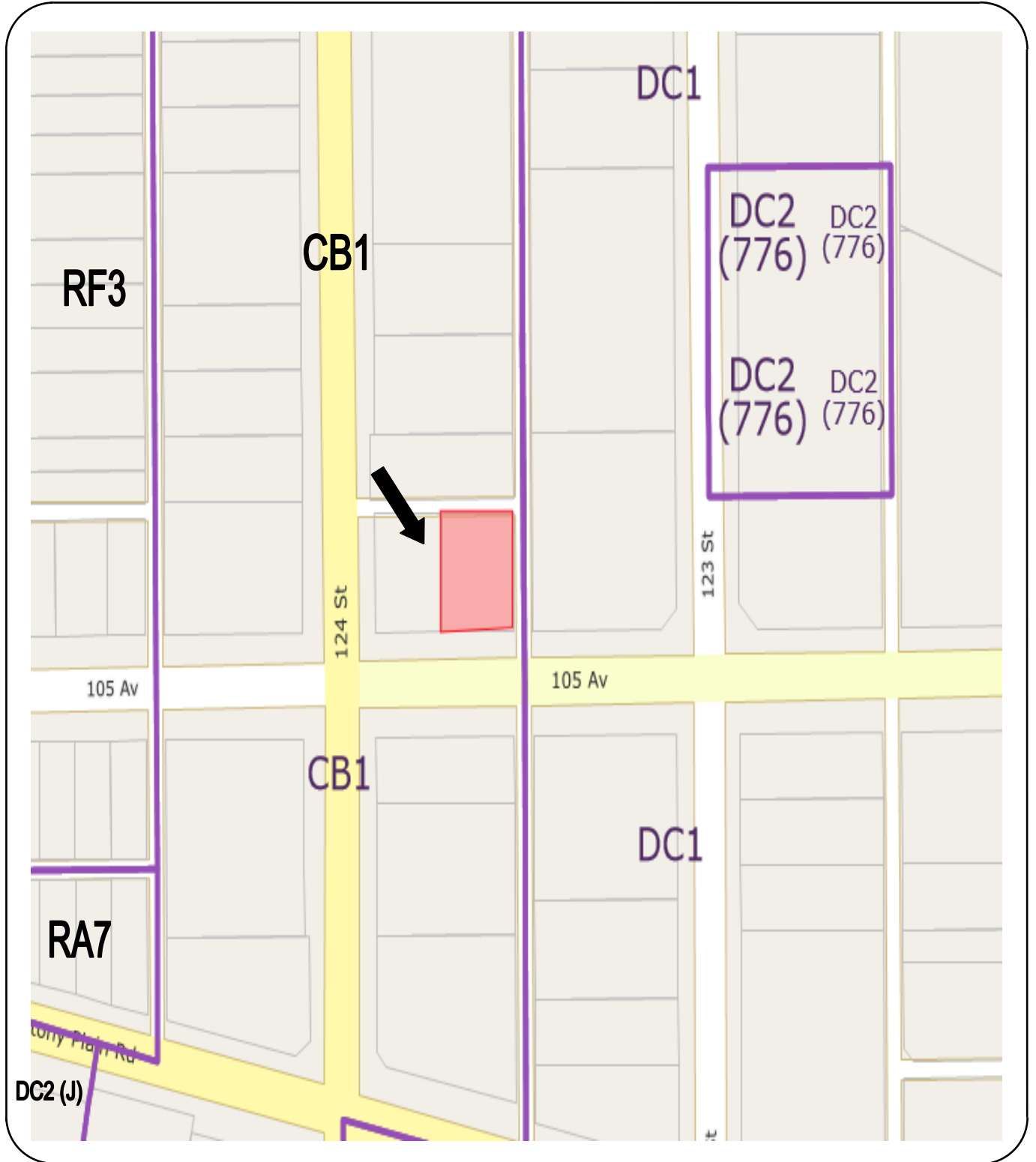
Application for Major Development Permit

Project Number: **289798215-001**
Application Date: AUG 10, 2018
Printed: February 19, 2019 at 2:45 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$362.00	\$362.00	05251641	Aug 10, 2018
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$362.00	\$362.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-033



ITEM II / III: 1:00 P.M.

FILE: SDAB-D-19-034 / 035

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 292479452-001
292479452-002

APPLICATION TO: Acquire a Development Permit for Lodging House (Congregate Living) before March 15, 2019 or decommission the Lodging House (Congregate Living) before March 15, 2019

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: January 24, 2019

DATE OF APPEAL: February 14, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11233 - 78 Avenue NW
11235 - 78 Avenue NW

LEGAL DESCRIPTION: Plan 1822556 Blk 11 Lot 2F
Plan 1822556 Blk 11 Lot 1F

ZONE: (RF3) Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: McKernan / Belgravia Station Area Redevelopment Plan

Grounds for Appeal

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

- 1) No complaint has ever been made regarding these properties; the developments are brand new, well-maintained, and there have been no complaints be neighbors or otherwise.

- 2) A Development Permit was issued for the above properties on March 20/2017 —this Permit was issued based on submitted drawings showing 3 bedrooms, 1 guest bedroom, 1 office, and 1 library at each address.
- 3) Though multiple inspections had taken place during the building process (with no unrectified concerns), Mr. Colin Poitras issued a Notice to Enter Property document, claiming that a secondary suite existed in the properties. He inspected the premises on November 29/2018 and confirmed there were no secondary suites.
- 4) When asked by Poitras on November 29/2018, Hunt stated there were 5 people living in each of the properties; Poitras informed Hunt that only 3 people were allowed so Hunt agreed to rectify the situation by having 2 people vacate the premises
- 5) Hunt complied with Poitras' request fully. During the Jan 22'd inspection, though Hunt had reduced the number of people living in the premises to 3, Poitras claimed there were still 4 people living on site since a fourth room was set up as a guest room (including clothes stored in the guest room closet, belonging to the other tenants).
- 6) Poitras said he did not believe Hunt; Poitras then asked one of the tenants how many people were in the house and the tenant confirmed there were 3. Poitras did not believe the tenant either so Hunt asked if he could provide documentation to substantiate the number of people living in the house (ie. a lease) but Poitras refused. He issued Hunt a \$1000 fine and these Orders
- 7) Hunt shook Poitras' hand and expressed disappointment that they had not been able to resolved the matter even though Hunt had done everything requested and was in compliance; Poitras wouldn't accept this or any other offered information.

Hunt asks that the SDAB overturn Orders 292479452-001 and 292479452-002. Furthermore, Hunt asks that the SDAB direct the City to cease the harassment of Hunt by requesting inspections every couple of months. These continued inspections put Hunt's ability to provide peaceful tenancy in jeopardy and further inspections will likely cause Hunt to incur financial damage as his tenants have threatened to move out if this behaviour persists. Hunt will be forced to seek legally remedy and compensation for financial losses if this matter is not resolved at the SDAB Hearing.

<i>General Matters</i>

Appeal Information:

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

Stop order

645(1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Permit

683 Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

- (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, [...]

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 140.2(9), **Semi-detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development Zone**.

Under section 7.2(7), **Semi-detached Housing** means:

development consisting of a building containing two principal Dwellings joined in whole or in part at the side or rear with neither of those Dwellings being placed over another in whole or in part. Each principal Dwelling has separate, individual, and direct access to ground level. 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 Duplexes.

Under section 140.3(1), **Lodging Houses** is a **Discretionary Use** in the **(RF3) Small Scale Infill Development Zone**.

Under section 7.3(6), **Lodging Houses** means:

a building or part of building, used for Congregate Living, containing Sleeping Units and four or more persons, and where there is no provision of on-site care, treatment or professional services of a physical or mental health nature. This Use does not include Extended Medical Treatment Services, Detention and Correction Facilities, Fraternity and Sorority Housing, Group Homes, and Limited Group Homes.

Under section 6.1, **Congregate Living** means:

four or more individuals occupying Sleeping Units in a building where the occupants share access to facilities such as cooking, dining, laundry, or sanitary facilities. Typical Uses where Congregate Living is found include Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses.

Under section 6.1, **Dwelling** means:

a self contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household.

Under section 6.1, **Household** means:

- i. one or more persons related by blood, adoption, foster care, marriage relationship; or
- ii. a maximum of three unrelated persons; all living together as a single social and economic housekeeping group and using cooking facilities shared in common.

For the purposes of this definition, two people living together in an adult interdependence relationship shall be deemed to be in a marriage relationship and each of the relatives of the parties to an adult interdependence relationship shall be considered to be related to the partners and to the other relatives thereof. One domestic worker or one boarder may be deemed the equivalent of a blood relative.

Under section 6.1, **Sleeping Unit** means:

a Habitable Room in a building used for Congregate Living in which the room is occupied by a person under any form of accommodation agreement providing remuneration for the room, and the room:

- a. does not include provision for cooking or food preparation except as provided for in Section 76 and 79 of this Bylaw;
- b. may or may not be equipped with sanitary facilities; and
- c. provides accommodation for a maximum of two persons.

Under section 6.1, **Use** means “the purposes or activities for which a piece of land or its buildings are designed, arranged, developed or intended, or for which it is occupied or maintained.”

Section 7 provides the following with respect to *Use Definitions*:

7.1 General

1. Uses, as set out in subsections 7.2 through 7.9 inclusive, are grouped according to common functional or physical impact characteristics.
2. Use definitions are used to define the range of Uses, which are Permitted Uses or Discretionary Uses, within the various Zones of this Bylaw.
3. The following guidelines shall be applied in interpreting the Use definitions:
 - a. the typical purposes or activities, which may be listed in the definitions, are not intended to be exclusive or restrictive;
 - b. where specific purposes or activities do not conform to any Use definition or generally conform to the wording of two or more Use definitions, the Development Officer may, at their discretion, deem that the purposes or activities conform to and are included in that Use which they consider to be the most appropriate.

In such a case, the Use shall be considered a Discretionary Use, whether or not the Use is listed as a Permitted Use or Discretionary Use within the applicable Zone; and

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

Section 140.1 states that the **General Purpose** of the **(RF3) Small Scale Infill Development Zone** is:

to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four principal Dwellings under certain conditions, including Secondary Suites and Garden Suites.

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

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.

<i>Requirement for a Development Permit</i>
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Section 5.1 states:

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-16-300	To construct a Semi-detached House with rear uncovered decks (2.13m x 1.22m), 2nd floor balcony, and Basement development (NOT to be used as an additional Dwelling), and to demolish an existing Single Detached House and an Accessory Building (rear detached Garage).	December 9, 2016; The appeal is ALLOWED and the decision of the Development Authority is REVOKED . The development is GRANTED as applied for to the Development Authority subject to Conditions, Advisements and Variances.

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.

City of Edmonton
Development and Zoning Services
Development Compliance & Inquiries

5th Floor, Edmonton Tower
10111 104 Avenue NW
Edmonton, AB T5J 0J4
Canada
edmonton.ca/developmentcompliance



Our File: 292479452-001

MUNICIPAL GOVERNMENT ACT ORDER

Dear Sir/Madam:

An Alberta Land Titles search identifies you as the registered owner(s) of the property located at 11233 - 78 AVENUE NW in Edmonton, Alberta, legally described as Plan 1822556 Blk 11 Lot 2F.

This Property was inspected by Development Compliance Officer Colin Poitras, on January 22, 2019. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 and 624 of the Municipal Government Act.

ZONING BYLAW INFRACTION:

This property is zoned RF3 (Small Scale Infill Development Zone) in accordance with Section 140 of Edmonton Zoning Bylaw 12800. Our investigation revealed a Lodging House Use (Congregate Living) has been developed without a Development Permit.

The City of Edmonton has not issued a Development Permit to develop Lodging House (Congregate Living) which is contrary to Section 5.1 of Edmonton Zoning Bylaw 12800, and Section 683 of the Municipal Government Act.

Section 5.1 of Edmonton Zoning Bylaw 12800 states:
Requirement for a Development Permit

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

Lodging House means:

a building or part of building, used for Congregate Living, containing Sleeping Units and four or more persons, and where there is no provision of on-site care, treatment or professional services of a physical or mental health nature. This Use does not include Extended Medical Treatment Services, Detention and Correction Facilities, Fraternity and Sorority Housing, Group Homes, and Limited Group Homes.

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four or more individuals occupying Sleeping Units in a building where the occupants share access to facilities such as cooking, dining, laundry, or sanitary facilities. Typical Uses where Congregate Living is found include Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, you are hereby ordered to:

1. Acquire a Development Permit for Lodging House (Congregate Living) before March 15, 2019.

OR

2. Decommission the Lodging House (Congregate Living) before March 15, 2019. this includes:
-Ensure the occupancy of the house does not exceed a single Household as defined in Section 6 of the Edmonton Zoning Bylaw 12800. The full definition of a Household has been included with this Order for your reference.

CONSEQUENCES FOR NON-COMPLIANCE:

If you choose Option 2 the property will be inspected after March 15, 2019 to determine compliance with this Order. An inspection must be scheduled before March 15, 2019 to confirm the Lodging House (Congregate Living) has been decommissioned. Please contact Development Compliance by phone at 780-944-1420 or email at developmentcompliance@edmonton.ca to schedule this inspection.

In the event that a person fails to comply with this Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter the land and take any action necessary to carry out the Order. Section 646 authorizes the City to register a caveat under the Land Titles Act.

Section 553(1)(h.1) of the Municipal Government Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to 566(2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment.

Affected persons may appeal this Order by filing within the prescribed time to the Subdivision and Development Appeal Board. Visit the website at <https://sdab.edmonton.ca> or call 780-496-6079 for more information on how to file an appeal.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, R.S.A. 2000, c.M-26.1, which provides you with the right to appeal this Order and enables the City to add all costs associated with this action to the tax roll of the property.

If you have any questions in regards to this matter, please contact the writer at 780-944-5475.

Regards,



Colin Poitras
Development and Zoning
Development Services
Phone Number: 780-944-5475
Email Address: colin.poitras@edmonton.ca

**Adding Amounts
Owing to tax roll**

- 553(1)** A council may add the following amounts to the tax roll of a parcel of land:
- (a) unpaid costs referred to in section 35(4) or 39(2) relating to service connections of a municipal public utility that are owing by the owner of the parcel;
 - (b) unpaid charges referred to in section 42 for a municipal utility service provided to the parcel by a municipal public utility that are owing by the owner of the parcel;
 - (c) unpaid expenses and costs referred to in section 549(3), if the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or a part of the parcel;
 - (d), (e) repealed 1999 c11 s35;
 - (f) costs associated with tax recovery proceedings related to the parcel;
 - (g) if the municipality has passed a bylaw making the owner of a parcel liable for expenses and costs related to the municipality extinguishing fires on the parcel, unpaid costs and expenses for extinguishing fires on the parcel;
 - (g.1) if the municipality has passed a bylaw requiring the owner or occupant of a parcel to keep the sidewalks adjacent to the parcel clear of snow and ice, unpaid expenses and costs incurred by the municipality for removing the snow and ice in respect of the parcel;
 - (h) Unpaid costs awarded by a composite assessment review board under section 468.1 or the Municipal Government Board under section 501, if the composite assessment review board or the Municipal Government Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the composite assessment review board or the Municipal Government Board
 - (h.1) the expenses and costs of carrying out an order under section 646;
 - (i) any other amount that may be added to the tax roll under an enactment.

Stop order

- 645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
- (a) this Part or a land use bylaw or regulations under this Part, or
 - (b) a development permit or subdivision approval,
- the development authority may act under subsection (2).
- (2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
 - (b) demolish, remove or replace the development, or
 - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,
- within the time set out in the notice.
- (2.1)** A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.
- (3)** A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Enforcement of stop order

- 646(1)** If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.
- (2)** A municipality may register a caveat under the Land Titles Act in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.
- (3)** If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.

Permit

- 683** Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

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.
- (3)** Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted or the application for the development permit was deemed to be refused under section 683.1(8).
- (4)** Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district
- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
 - (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

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) within 21 days after the date on which the decision is made under section 642, or
 - (A) The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
 - (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) if no decision is made with respect to the application within the 40-day period or within any extension under section 684, the date the period or extension expires,

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.
- (2)** The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
- (3)** The subdivision and development appeal board must give at least 5 days notice in writing of the hearing
 - (a) to the appellant,
 - (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
 - (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.
- (4)** The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
 - (a) the application for the development permit, the decision and the notice of appeal, or
 - (b) the order under section 645.
- (4.1)** Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).
- (5)** In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.

Household means:

1. one or more persons related by blood, adoption, foster care, marriage relationship; or
2. a maximum of three unrelated persons;

all living together as a single social and economic housekeeping group and using cooking facilities shared in common.

For the purposes of this definition, two people living together in an adult interdependence relationship shall be deemed to be in a marriage relationship and each of the relatives of the parties to an adult interdependence relationship shall be considered to be related to the partners and to the other relatives thereof. One domestic worker or one boarder may be deemed the equivalent of a blood relative.

City of Edmonton
Development and Zoning Services
Development Compliance & Inquiries

5th Floor, Edmonton Tower
10111 104 Avenue NW
Edmonton, AB T5J 0J4
Canada



edmonton.ca/developmentcompliance

Our File: 292479452-002

MUNICIPAL GOVERNMENT ACT ORDER

Dear Sir/Madam:

An Alberta Land Titles search identifies you as the registered owner(s) of the property located at 11235 - 78 AVENUE NW in Edmonton, Alberta, legally described as Plan 1822556 Blk 11 Lot 1F.

This Property was inspected by Development Compliance Officer Colin Poitras, on January 22, 2019. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 and 624 of the Municipal Government Act.

ZONING BYLAW INFRACTION:

This property is zoned RF3 (Small Scale Infill Development Zone) in accordance with Section 140 of Edmonton Zoning Bylaw 12800. Our investigation revealed a Lodging House Use (Congregate Living) has been developed without a Development Permit.

The City of Edmonton has not issued a Development Permit to develop Lodging House (Congregate Living) which is contrary to Section 5.1 of Edmonton Zoning Bylaw 12800, and Section 683 of the Municipal Government Act.

Section 5.1 of Edmonton Zoning Bylaw 12800 states:
Requirement for a Development Permit

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

Lodging House means:

a building or part of building, used for Congregate Living, containing Sleeping Units and four or more persons, and where there is no provision of on-site care, treatment or professional services of a physical or mental health nature. This Use does not include Extended Medical Treatment Services, Detention and Correction Facilities, Fraternity and Sorority Housing, Group Homes, and Limited Group Homes.

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ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, you are hereby ordered to:

1. Acquire a Development Permit for Lodging House (Congregate Living) before March 15, 2019.

OR

2. Decommission the Lodging House (Congregate Living) before March 15, 2019. this includes:
-Ensure the occupancy of the house does not exceed a single Household as defined in Section 6 of the Edmonton Zoning Bylaw 12800. The full definition of a Household has been included with this Order for your reference.

CONSEQUENCES FOR NON-COMPLIANCE:

If you choose Option 2 the property will be inspected after March 15, 2019 to determine compliance with this Order. An inspection must be scheduled before March 15, 2019 to confirm the Lodging House (Congregate Living) has been decommissioned. Please contact Development Compliance by phone at 780-944-1420 or email at developmentcompliance@edmonton.ca to schedule this inspection.

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Affected persons may appeal this Order by filing within the prescribed time to the Subdivision and Development Appeal Board. Visit the website at <https://sdab.edmonton.ca> or call 780-496-6079 for more information on how to file an appeal.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, R.S.A. 2000, c.M-26.1, which provides you with the right to appeal this Order and enables the City to add all costs associated with this action to the tax roll of the property.

If you have any questions in regards to this matter, please contact the writer at 780-944-5475.

Regards,



Colin Poitras
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Development Services
Phone Number: 780-944-5475
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Owing to tax roll**

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Stop order

- 645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
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- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
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- Enforcement of stop order**
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- Permit**
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- Grounds for appeal**
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or

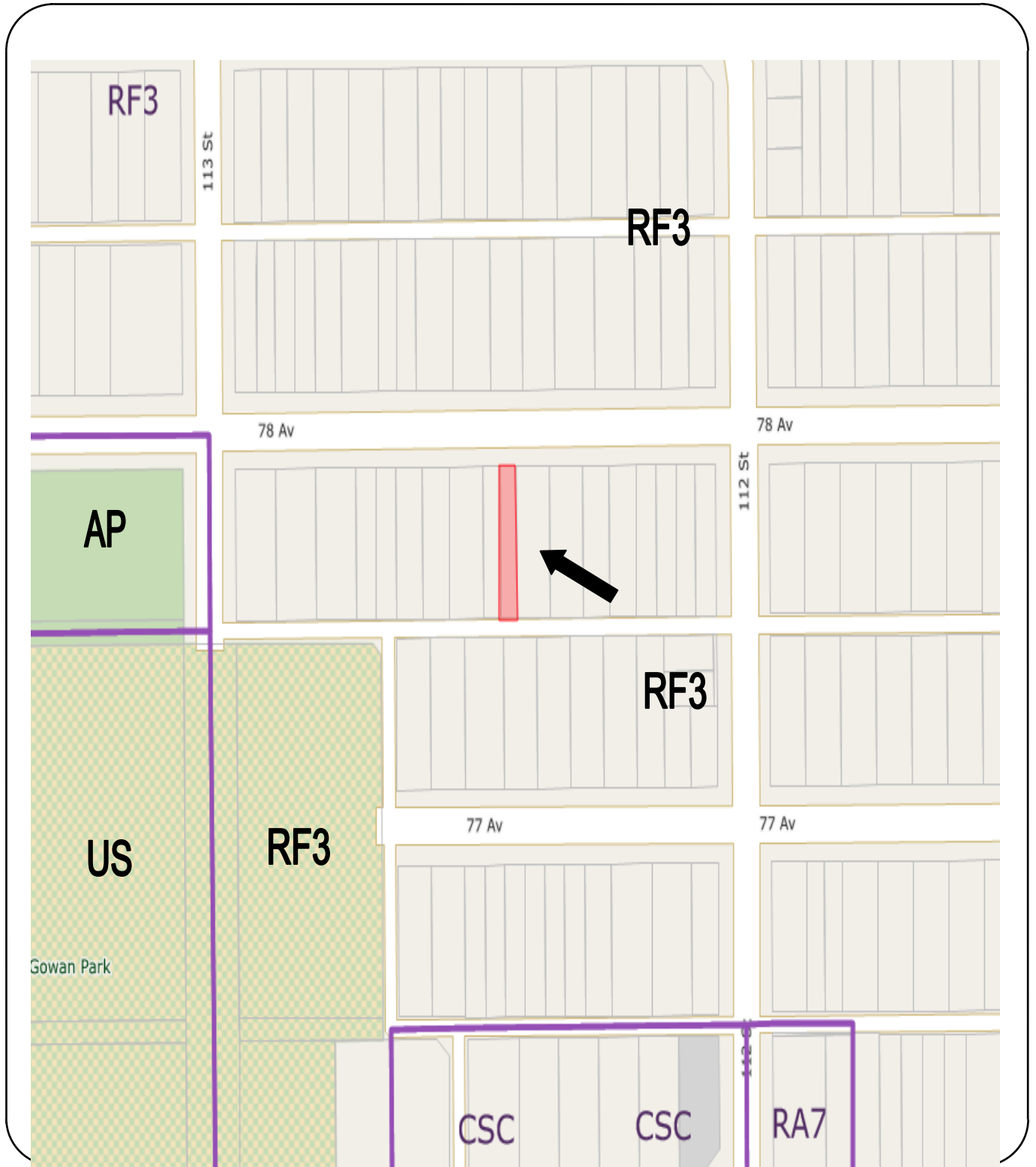
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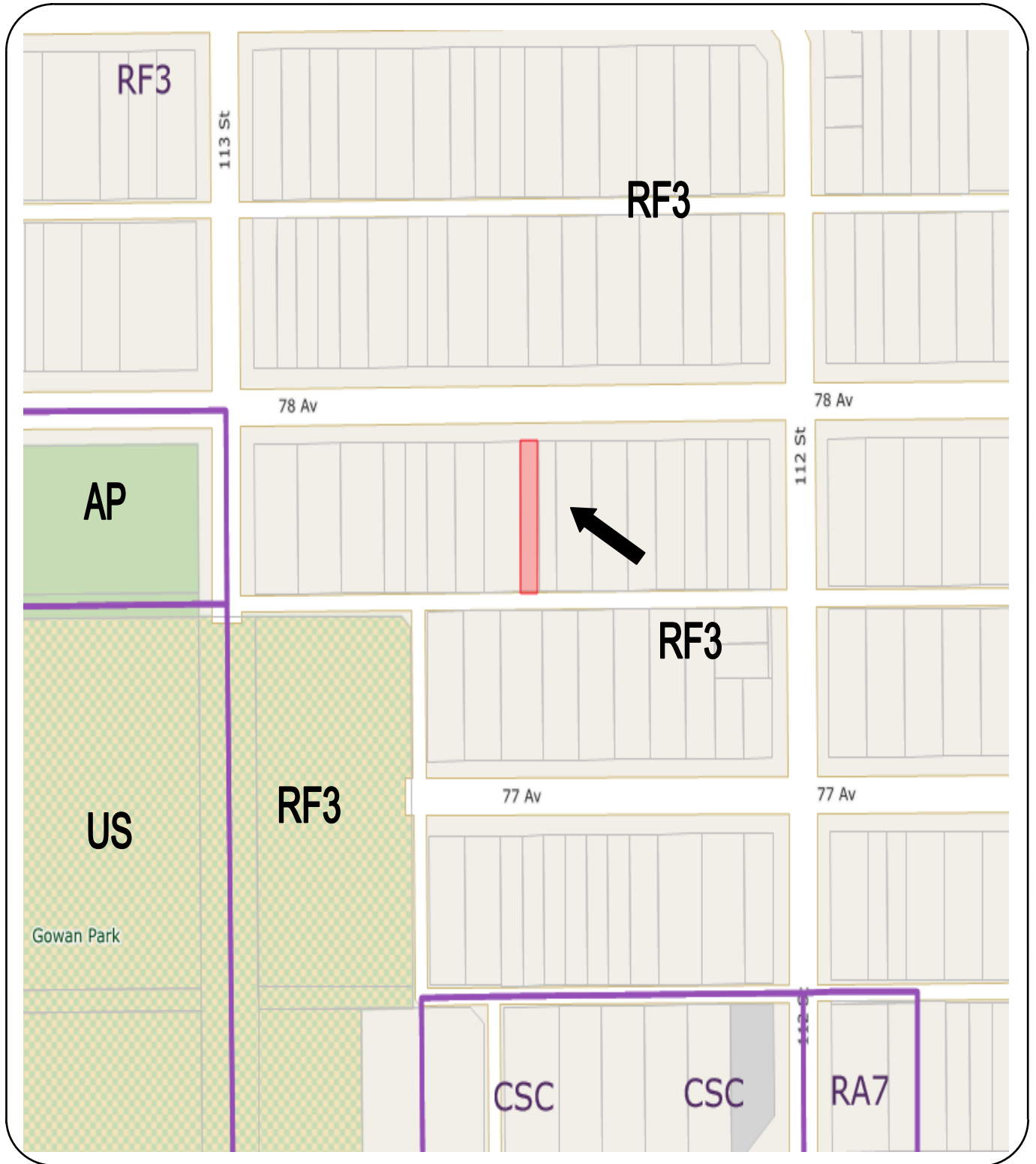


SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-034





SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-035

