

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
March 16, 2017**

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

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

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I	9:00 A.M.	SDAB-D-17-055	Construct a 3 Dwelling Apartment House with a front veranda, a rear detached Garage, and to demolish the existing Single Detached House and rear detached Garage
			11131 - 85 Avenue NW Project No.: 232611273-005

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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-17-055

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 232611273-005

APPLICATION TO: Construct a 3 Dwelling Apartment House with a front veranda, a rear detached Garage, and to demolish the existing Single Detached House and rear detached Garage

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 17, 2017

DATE OF APPEAL: February 17, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11131 - 85 Avenue NW

LEGAL DESCRIPTION: Plan I23A Blk 162 Lot 25

ZONE: (RA9) High Rise Apartment Zone

OVERLAY: High Rise Residential Overlay

STATUTORY PLAN: Garneau Area Redevelopment Plan

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***Grounds for Appeal***

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

Community Support has been obtained and extensive effort was made to meet the City of Edmonton request for revisions. Formal Package to follow.

***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

...

**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*:**

Under section 230.2(1), **Apartment Housing** on a Site of 1.0 ha or less, that does not isolate another Site within this Zone of less than 800 m<sup>2</sup>, is a **Permitted Use** in the (RA9) High Rise Apartment Zone.

Under section 7.2(1), **Apartment Housing** means:

development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use.

Under section 6.1(30), **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(99), **Site** means “an area of land consisting of one or more abutting Lots.”

Section 230.1 states that the **General Purpose** of the (RA9) **High Rise Apartment Zone** is “to provide for High Rise Apartment buildings.”

Section 816.1 states that the **General Purpose** of the **High Rise Residential Overlay** is:

to accommodate the development of high density housing in established areas of the City that is compatible, in mass and scale, with existing forms of lower and medium density development and maintains the pedestrian friendly character and streetscape of these established areas.

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<b><i>Site Area</i></b>
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Section 230.4(2) states “The minimum Site Area shall be 800 m<sup>2</sup>.”

**Development Officer’s Determination:**

**1. Site Area - The area of the Site is 404 m<sup>2</sup> instead of the minimum 800 m<sup>2</sup> for the proposed Use (Section 230.4(2)). [unedited].**

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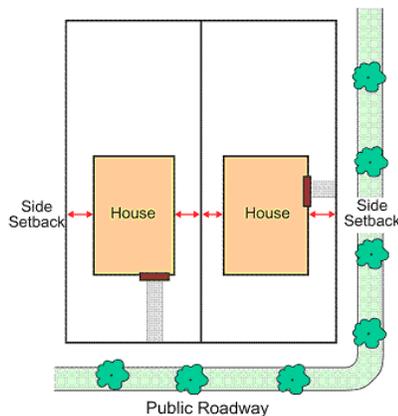
***Side Setback***

Section 816.3(9) states:

A minimum Side Setback of 2.0 m shall be required. Where the Side Yard abuts a flanking public roadway, other than a Lane, a minimum Side Setback of 3.0 m shall be required. Where the Side Yard abuts an arterial roadway, a minimum Side Setback of 4.5 m shall be required. Separation Space shall be reduced to accommodate these Side Setback requirements, except where a Principal Living Room Window faces an interior Side Yard.

Under section 6.1(97), **Side Setback** means:

the distance that a development or a specified portion of it, must be set back from a Side Lot Line. A Side Setback is not a Side Yard, Amenity Space or Separation Space.



**Development Officer’s Determination:**

**2. Side Setback - The interior side Setback is 1.68m instead of the minimum 2.0m (Section 816.3(9)). [unedited].**

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***Amenity Area and Separation Space***

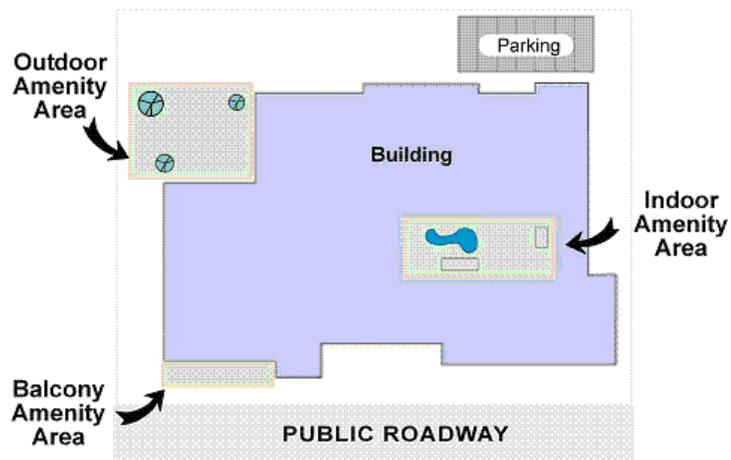
Section 230.4(9) states “A minimum Amenity Area of 7.5 m<sup>2</sup> per Dwelling shall be provided.”

Section 46(5) states:

Required Amenity Area may be located within a required Separation Space, but only if it is intended for the private use of the Dwelling for which the Separation Space is provided.

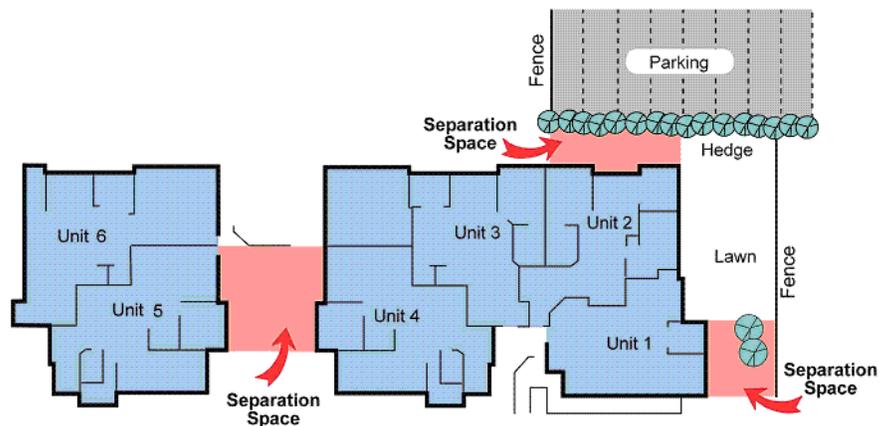
Under section 6.1(5), **Amenity Area** means:

- a. with respect to Residential Uses, space provided for the active or passive recreation and enjoyment of the occupants of a residential development, which may be for private or communal use and owned individually or in common, subject to the regulations of this Bylaw; and
- b. ...



Under section 6.1(94), **Separation Space** means:

open space around Dwellings separating them from adjacent buildings or activities, and providing daylight, ventilation, and privacy. Separation Space is not a Yard;



**Development Officer's Determination:**

**3. Amenity Area - The proposed Amenity Area is 20.8 m<sup>2</sup> instead of the minimum 22.5 m<sup>2</sup> (Section 230.4(9)).**

**4. Amenity Area Location - The proposed Amenity Area is located within a required Separation Space (Section 46(5)). [unedited].**

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<i>Separation Space</i>
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Section 230.4(8) states:

Separation Space shall be provided in accordance with Section 48 of this Bylaw, except that it shall not be required between a Garage Suite or a Garden Suite and the associated principal Dwelling on the same Site.

**Principal Living Room Window**

Section 48.2(1) states:

In front of a Principal Living Room Window, a Separation Space, with a minimum depth of 7.5 m or half the Height of any wall opposite the said Window, whichever is greater, to a maximum of 10.0 m shall be provided.

Under section 6.1(80), **Principal Living Room Windows** means “the main or largest glazed area of a Living Room.”

**Development Officer's Determination:**

**5. Separation Space - The proposed Separation Space between the Principal Living Room Window and the property line is 1.68m instead of the minimum 2.0m (Section 48.2(1)). [unedited].**

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**Habitable Room Window**

Section 48.3(1) states:

In front of a required Habitable Room Window other than the Principal Living Room Window, a Separation Space, with a minimum depth of 5.0 m or half the Height of any wall opposite the said Window, whichever is greater, to a maximum of 7.5 m shall be provided.

Under section 6.1(50), **Habitable Room** means “any room in a Dwelling other than a Non-habitable Room.”

Under section 6.1(68), **Non-habitable Room** means “a space in a Dwelling providing a service function and not intended primarily for human occupancy, including bathrooms, entry ways, corridors, or storage areas.”

**Development Officer’s Determination:**

**6. Separation Space - The proposed Separation Space between the Habitable Room Window and the property line is 1.68m instead of the minimum 2.0m (Section 48.3(1)). [unedited].**

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**Privacy Zone**

Section 48.3(3)(e) states:

The following facilities or activity areas may be located within a required Separation Space adjacent to a Habitable Room Window where a Privacy Zone of at least 4.5 m is provided between the window and facility/activity area:

- e. on-site Amenity Area.

...

This Privacy Zone shall be measured from the window to the nearest edge of the specified activity area. For local public roadways, the Privacy Zone shall be measured from the Window to the edge of the sidewalk or to the space reserved for a future sidewalk.

Under section 6.1(82), **Privacy Zone** means:

an area within the minimum Separation Space which shall be free of buildings, public roadways, walkways, on-site roadways, communal parking areas and communal Amenity Areas.

**Development Officer’s Determination:**

**7. Privacy Zone - On-site Amenity Area is located within the required 4.5m Privacy Zone in front of a Habitable Room Window (Section 48.3(3)(e)). [unedited].**

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<b><i>Parking</i></b>
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**Tandem Parking**

Section 54.2, Schedule 1(A)(1) states:

[...] The Development Officer may accept Tandem Parking spaces of a number that is equivalent to the total required parking minus the total number of Dwellings and minus visitor parking. Visitor parking spaces shall not be in tandem.

Under section 6.1(108), **Tandem Parking** means “two parking spaces, one behind the other, with a common or shared point of access to the manoeuvring aisle.”

**Development Officer’s Determination:**

**8. Tandem Parking - One (1) of the required parking stalls is being provided in tandem (Section 54.2, Schedule 1(A)). [unedited].**

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**Vehicular Parking Dimensions and Configuration**

Section 54.2(4)(a)(iv) states:

All required parking spaces shall be clear of any access driveways, aisles, ramps, columns, Signs or other similar obstructions, and shall conform to the following minimum dimensions:

- iv. where the use of a parking space is limited on both sides by a wall or a column, the unobstructed width from face to face of the obstructions shall be 3.0 m, and if in this case, a building door opens into the parking space on its long side, the unobstructed width shall be 3.3 m.

...

**Development Officer’s Determination:**

**9. Parking Stall Size - One (1) of the required parking stalls is obstructed on both sides and is proposed at 2.7m in width instead of the required 3.0m (Section 54.2(4)(a)(iv)). [unedited].**

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<i>Landscaping</i>
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**General Planting Requirements**

Section 55.3(1)(c)(i) states:

- c. new trees and shrubs shall be provided on the following basis:
  - i. the proportion of deciduous to coniferous trees and shrubs shall be approximately 50:50;

...

**The Development Officer's Determination:**

**10. Landscaping - The proposed ratio of deciduous to coniferous trees and shrubs is 60:40 instead of the required 50:50 (Section 55.3(1)(c)(i)). [unedited].**

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***Community Consultation***

Section 816.3(11) states:

Where an application for a Development Permit 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, at least 21 days prior to submission of a Development Application;
- 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 as part of the Development Application.

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**Notice to Applicant/Appellant**

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

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	Project Number: <b>232611273-005</b> Application Date: OCT 25, 2016 Printed: February 17, 2017 at 10:15 AM 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.	
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 11131 - 85 AVENUE NW Plan I23A Blk 162 Lot 25  <b>Specific Address(es)</b> Suite: 101, 11131 - 85 AVENUE NW Suite: 201, 11131 - 85 AVENUE NW Suite: BSMT, 11131 - 85 AVENUE NW Entryway: 11131 - 85 AVENUE NW
<b>Scope of Application</b> To construct a 3 Dwelling Apartment House with a front veranda, a rear detached Garage, and to demolish the existing Single Detached House and rear detached Garage.	
<b>Permit Details</b>	
Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: Y Site Area (sq. m.): 407.39	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: 3 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
I/We certify that the above noted details are correct.  Applicant signature: _____	
<b>Development Application Decision</b> Refused	
<b>THIS IS NOT A PERMIT</b>	



Project Number: **232611273-005**  
 Application Date: OCT 25, 2016  
 Printed: February 17, 2017 at 10:15 AM  
 Page: 2 of 2

## Application for Major Development Permit

**Reason for Refusal**

1. Site Area - The area of the Site is 404 m<sup>2</sup> instead of the minimum 800 m<sup>2</sup> for the proposed Use (Section 230.4(2)).
2. Side Setback - The interior side Setback is 1.68m instead of the minimum 2.0m (Section 816.3(9)).
3. Amenity Area - The proposed Amenity Area is 20.8 m<sup>2</sup> instead of the minimum 22.5 m<sup>2</sup> (Section 230.4(9)).
4. Amenity Area Location - The proposed Amenity Area is located within a required Separation Space (Section 46(5)).
5. Separation Space - The proposed Separation Space between the Principal Living Room Window and the property line is 1.68m instead of the minimum 2.0m (Section 48.2(1)).
6. Separation Space - The proposed Separation Space between the Habitable Room Window and the property line is 1.68m instead of the minimum 2.0m (Section 48.3(1)).
7. Privacy Zone - On-site Amenity Area is located within the required 4.5m Privacy Zone in front of a Habitable Room Window (Section 48.3(3)(e)).
8. Tandem Parking - One (1) of the required parking stalls is being provided in tandem (Section 54.2, Schedule 1(A)).
9. Parking Stall Size - One (1) of the required parking stalls is obstructed on both sides and is proposed at 2.7m in width instead of the required 3.0m (Section 54.2(4)(a)(iv)).
10. Landscaping - The proposed ratio of deciduous to coniferous trees and shrubs is 60:40 instead of the required 50:50 (Section 55.3(1)(c)(i)).

**Rights of Appeal**

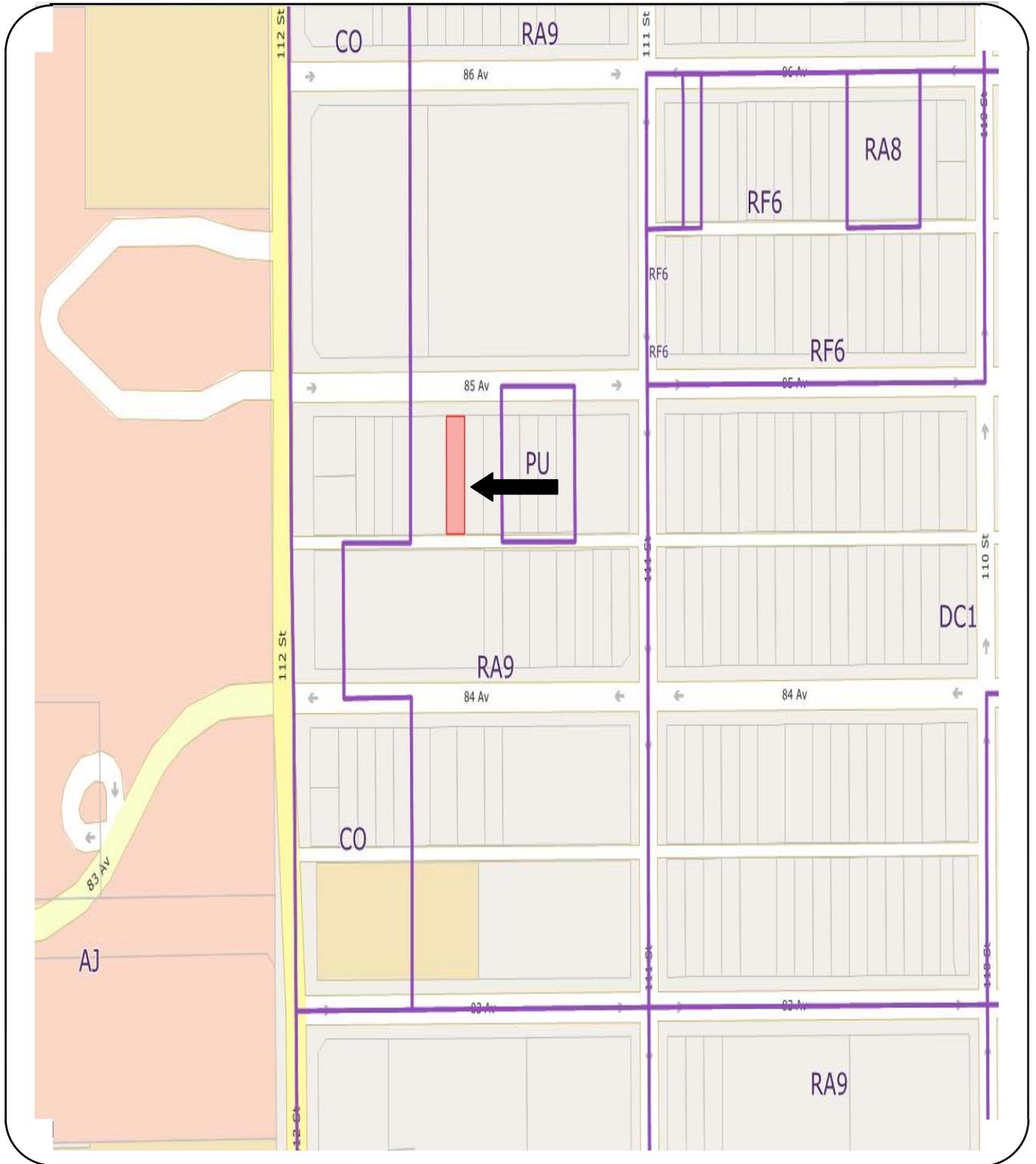
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

**Issue Date:** Feb 17, 2017    **Development Authority:** LEE, CHRISTIAN    **Signature:** \_\_\_\_\_

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sanitary Sewer Trunk Fund 2012+	\$2,439.00			
Lot Grading Fee	\$250.00			
Major Dev. Application Fee	\$0.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,689.00	\$0.00		
(\$2,689.00 outstanding)				

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ← File: SDAB-D-17-055 ▲  
N