

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
March 17, 2016**

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

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

I	9:00 A.M.	SDAB-D-16-076	Leave as built a 4 Dwelling Row House 10104 - 120 Avenue NW Project No.: 185720143-002
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II	11:00 A.M.	SDAB-D-16-077	Adding an additional Dwelling unit to an 8 suite Apartment House (9th Dwelling existing without permits) 10223 - 116 Street NW Project No.: 185707771-003
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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-16-076

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.:	185720143-002
ADDRESS OF APPELLANT:	10104 - 120 Avenue NW
APPLICATION TO:	leave as built a 4 Dwelling Row House
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	February 17, 2016
DATE OF APPEAL:	February 18, 2016
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	10104 - 120 AVENUE NW
LEGAL DESCRIPTION:	Plan RN52 Blk 1 Lot 50
ZONE:	RF3 Small Scale Infill Development Zone
OVERLAY:	Mature Neighbourhood Overlay
STATUTORY PLAN:	N/A

Grounds for Appeal

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

As a novice developer I honestly didn't realize two main mistakes that caused other mistakes.

1. the basement being lifted and higher than it should have been
2. the foundation that was set is off the measurements from stakes.

When I realized these mistakes it was way too late in the construction process.

I now hope to come to the best solution so I can still complete the project for the community. [unedited]

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,

The Board is advised that the decision of refusal by the Development Officer is dated February 17, 2016. The Notice of Appeal was filed on February 18, 2016.

General Provisions from the *Edmonton Zoning Bylaw*:

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 Dwellings, and including Secondary Suites under certain conditions.”

Under Section 140.2(5), **Row Housing** is a **Permitted Use** in the RF3 Small Scale Infill Development Zone.

Section 7.2(6) states:

Row Housing means development consisting of a building containing a row of three or more Dwellings joined in whole or in part at the side only with no Dwelling being placed over another in whole or in part. Individual Dwellings are separated from one another by a Party Wall. Each Dwelling has separate, individual, and direct access to Grade. This Use Class does not include Stacked Row Housing or Blatchford Townhousing.

Height

Section 814.3(13) states:

The maximum Height shall not exceed 8.6m, in accordance with Section 52.

Development Officer's Determination

1) Height: The maximum Height shall not exceed 8.6 m

Proposed: 8.83m, exceeded by 0.23m

(Reference Section 814.3(13)) [unedited]

Basement elevation

Section 814.3(16) states:

The Basement elevation of structures of two or more Storeys in Height shall be no more than 1.2 m above Grade. The Basement elevation shall be measured as the distance between Grade level and the floor of the first Storey.

Development Officer's Determination

2) The Basement elevation of structures of two or more Storeys in Height shall be no more than 1.2 m above Grade.

Proposed: 1.58m, exceeded by 0.40m

(Reference Section 814.3(16))

Privacy Screening

Section 814.3(8) states:

Platform Structures greater than 1.0 m above Grade shall provide privacy screening to prevent visual intrusion into adjacent properties.

Development Officer's Determination

3) Platform Structures greater than 1.0 m above Grade shall provide privacy screening to prevent visual intrusion.

Proposed: side yard and rear yard decks do not have screening.

(Reference Section 814.3(8))

Site Coverage

Section 140.4(10)(e) states:

Maximum Site Coverage shall be as follows:

...

e. Row Housing	32%	17%	45%	45%
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Development Officer’s Determination

4) Site Coverage

The maximum Site Coverage for a Row Housing is 32%

Proposed: 33.8% or 2.8% over (19.65m²) over the maximum

(Reference Section 140.4.10(f)) This includes the flanking and front yard decks (higher than 1.0m). [unedited]

Maximum Height

Section 52.2(c) states:

Where the maximum Height as determined by Section 52.1 is measured to the midpoint, the ridge line of the roof shall not extend more than 1.5 m above the maximum permitted building Height of the Zone or overlay, or in the case of a Garage Suite the maximum permitted building Height in accordance with Section 87 of this Bylaw.

Development Officer’s Determination

5) Where the maximum Height as determined by Section 52.1 is measured to the midpoint, the ridge line of the roof shall not extend more than 1.5m above the maximum permitted building Height of the Zone.

Maximum ridge height to be 8.6m + 1.50 = 10.1m

Proposed: 10.47m, exceeds by 0.37m

(Reference Section 52.2(c)) [unedited]

Floor Area

Section 814.3(14) states:

The Floor Area of the upper half Storey of a 2 1/2 Storey building shall not exceed 50% of the structure’s second Storey Floor Area.

Development Officer's Determination

6) The Floor Area of the upper half Storey of a 2 1/2 Storey building shall not exceed 50% of the structure's second Storey Floor

Area

Maximum allowable:

Interior units: 27.50m² (second floor area: 55.28m² x 50%)

Exterior units: 28.0m² (second floor area: 55.93m² x 50%)

Proposed:

Interior units: 30.1m², exceeded by 2.6m²

Exterior units: 31.3m², exceeded by 3.3m²

(Reference Section 814.3(14)) Information on the drawings was incorrect. [unedited]

Front Setback

Section 814.3(1) states:

The Front Setback shall be consistent within 1.5 m of the Front Setback on Abutting Lots and with the general context of the blockface. However, the Front Setback shall not be less than 3.0 m. Separation Space and Privacy Zone shall be reduced to accommodate the Front Setback requirement where a Principal Living Room Window faces directly onto a local public roadway, other than a Lane.

Development Officer's Determination

7) Front setback

Required +/- 1.5m of the Average block face 7.29m. Was varied to 5.79m.

Propose: 5.30m, deficient by 0.49

(Reference Section 814.3(1)) [unedited]

Rear Yard

Section 814.3(5) states:

The minimum Rear Setback shall be 40% of Site depth. Row Housing not oriented to a public roadway is exempt from this Overlay requirement.

Development Officer's Determination

8) Rear Yard

The minimum Rear Setback shall be 40% of Site depth. Was varied to 17.39m.

Required: 18.28m

Proposed: 16.68m, deficient by 1.60m.

(Reference Section 814.3(5)) [unedited]

Landscaping

Development Officer's Determination

9) Landscaping

Proposed plan shows sidewalks, Platform Structures and plants located within the reduced Side Yard and reduced Front Setback. [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. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.



Project Number: **185720143-002**
 Application Date: JAN 19, 2016
 Printed: February 26, 2016 at 4:05 PM
 Page: 1 of 3

Application for Major Development Permit

This document is a Development Permit Decision for the development application described below.

<p>Applicant</p> <p>LIAW, ALLEN</p> <div style="background-color: black; width: 200px; height: 20px; margin-top: 5px;"></div>	<p>Property Address(es) and Legal Description(s)</p> <p>10104 - 120 AVENUE NW Plan RN52 Blk 1 Lot 50</p> <hr/> <p>Specific Address(es)</p> <p>Suite: 10104 - 120 AVENUE NW Suite: 10106 - 120 AVENUE NW Suite: 10108 - 120 AVENUE NW Suite: 10110 - 120 AVENUE NW Entryway: 10104 - 120 AVENUE NW Entryway: 10106 - 120 AVENUE NW Entryway: 10108 - 120 AVENUE NW Entryway: 10110 - 120 AVENUE NW Building: 10104 - 120 AVENUE NW</p>
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Scope of Application
 To leave as built a 4 Dwelling Row House.

<p>Permit Details</p> <p>Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):</p>	<p>Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay</p>
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision
 Refused

THIS IS NOT A PERMIT



Project Number: **185720143-002**
 Application Date: JAN 19, 2016
 Printed: February 26, 2016 at 4:05 PM
 Page: 2 of 3

Application for Major Development Permit

Reason for Refusal

This building is non-conforming for the following reasons:

- 1) Height: The maximum Height shall not exceed 8.6 m
 Proposed: 8.83m, exceeded by 0.23m
 (Reference Section 814.3(13))

- 2) The Basement elevation of structures of two or more Storeys in Height shall be no more than 1.2 m above Grade.
 Proposed: 1.58m, exceeded by 0.40m
 (Reference Section 814.3(16))

- 3) Platform Structures greater than 1.0 m above Grade shall provide privacy screening to prevent visual intrusion.
 Proposed: side yard and rear yard decks do not have screening.
 (Reference Section 814.3(8))

- 4) Site Coverage
 The maximum Site Coverage for a Row Housing is 32%
 Proposed: 33.8% or 2.8% over (19.65m²) over the maximum
 (Reference Section 140.4.10(f)) This includes the flanking and front yard decks (higher than 1.0m).

- 5) Where the maximum Height as determined by Section 52.1 is measured to the midpoint, the ridge line of the roof shall not extend more than 1.5m above the maximum permitted building Height of the Zone.
 Maximum ridge height to be 8.6m + 1.50 = 10.1m
 Proposed: 10.47m, exceeds by 0.37m
 (Reference Section 52.2(c))

- 6) The Floor Area of the upper half Storey of a 2 1/2 Storey building shall not exceed 50% of the structure's second Storey Floor Area
 Maximum allowable:
 Interior units: 27.50m² (second floor area: 55.28m² x 50%)
 Exterior units: 28.0m² (second floor area: 55.93m² x 50%)
 Proposed:
 Interior units: 30.1m², exceeded by 2.6m²
 Exterior units: 31.3m², exceeded by 3.3m²
 (Reference Section 814.3(14)) Information on the drawings was incorrect.

- 7) Front setback
 Required +/- 1.5m of the Average block face 7.29m. Was varied to 5.79m.
 Propose: 5.30m, deficient by 0.49
 (Reference Section 814.3(1))

- 8) Rear Yard
 The minimum Rear Setback shall be 40% of Site depth. Was varied to 17.39m.
 Required: 18.28m
 Proposed: 16.68m, deficient by 1.60m.
 (Reference Section 814.3(5))

- 9) Landscaping
 Proposed plan shows sidewalks, Platform Structures and plants located within the reduced Side Yard and reduced Front Setback.

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.

THIS IS NOT A PERMIT



Project Number: **185720143-002**
Application Date: JAN 19, 2016
Printed: February 26, 2016 at 4:05 PM
Page: 3 of 3

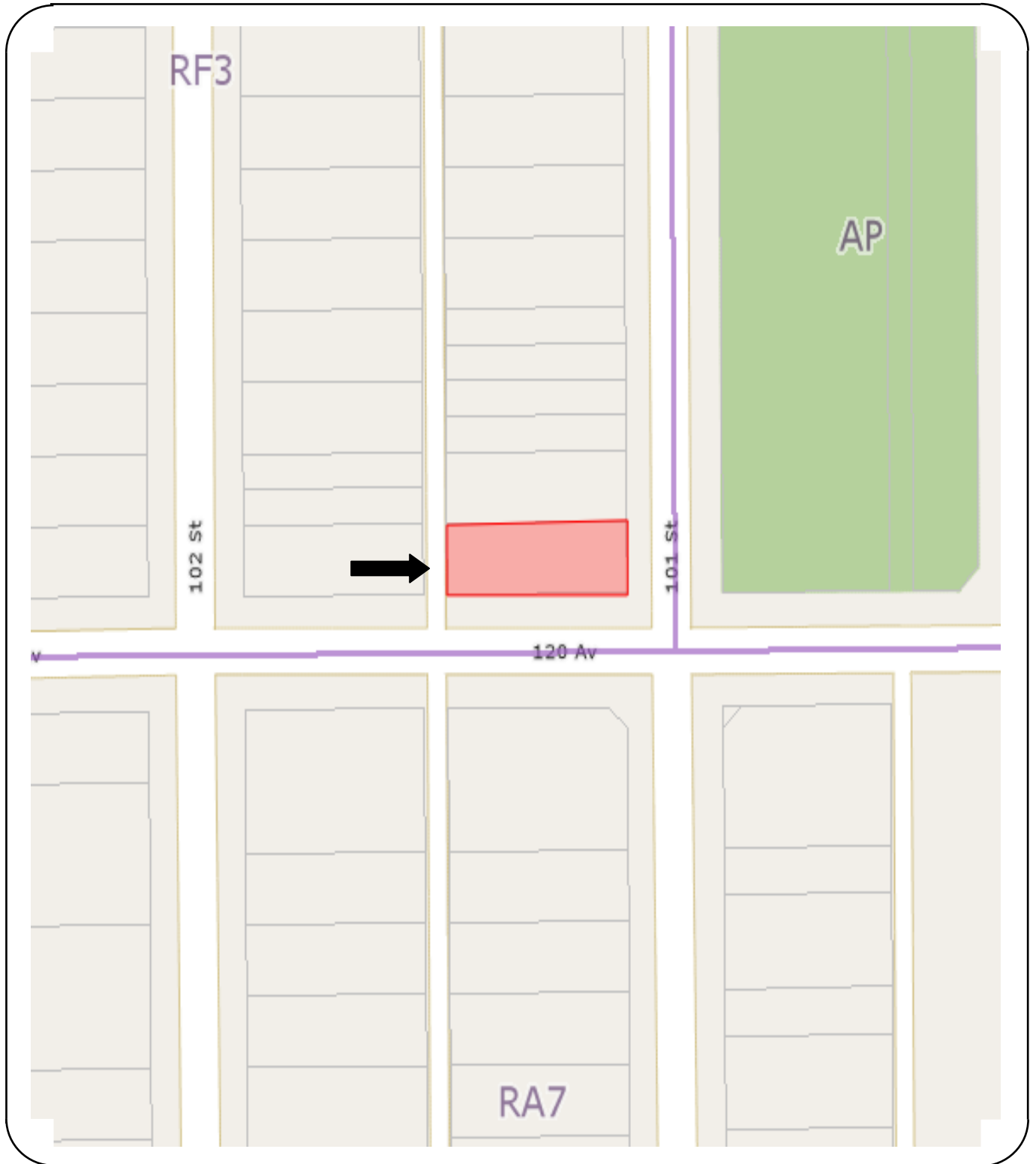
Application for Major Development Permit

Issue Date: Feb 17, 2016 Development Authority: BAUER, KERRY Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$102.00	\$102.00	03016238	Jan 20, 2016
Major Dev. Application Fee	\$357.00	\$357.00	03016238	Jan 20, 2016
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$459.00	\$459.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-076



ITEM II: 11:00 A.M.

FILE: SDAB-D-16-077

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 185707771-003

ADDRESS OF APPELLANT: 10223 - 116 Street NW

APPLICATION TO: Adding an additional Dwelling unit to an 8 suite Apartment House (9th Dwelling existing without permits)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 9, 2016

DATE OF APPEAL: February 22, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10223 - 116 Street NW

LEGAL DESCRIPTION: Plan B3 Blk 15 Lot 97

ZONE: RA7 Low Rise Apartment Zone

OVERLAY: Medium Scale Residential Infill Overlay

STATUTORY PLAN: Oliver Area Redevelopment Plan

Grounds for Appeal

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

Building has existed as a nine-unit apartment building for the past 45 years with no complaints and has contributed positively to neighbourhood as such. Density of building is in line with the character of the existing street (116 St) and neighbourhood (Oliver). Number of parking stalls has been sufficient to meet building's parking demand. Building is additionally located within 300 m of bus stops on two major transit corridors (104 Ave and Jasper Ave). Ample on-street parking and car-sharing service is also available in the neighbourhood.

Three parks (Kitchener Park, Oliver Park, Oliver School park) within 300 m and the river valley within 500 m provide plentiful outdoor amenity space for residents. [unedited]

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,

The Board is advised that the decision of approval by the Development Officer is dated February 9, 2016. The Notice of Appeal was filed on February 22, 2016.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 210.1 states that the **General Purpose** of the **RA7 Low Rise Apartment Zone** is “to provide a Zone for Low Rise Apartments”.

Under Section 210.2(1), **Apartment Housing** is a **Permitted Use** in the RA7 Low Rise Apartment Zone.

Section 7.2(1) states:

Apartment Housing means a 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 Class.

Section 823.1 states that the **General Purpose** of the **Medium Scale Residential Infill Overlay** is:

to accommodate the development of medium-scale infill housing in Edmonton’s mature residential neighbourhoods in a manner that ensures compatibility with adjacent properties while maintaining or enhancing a pedestrian-friendly streetscape.

Maximum Density

Section 210.4(1) states that “the maximum Density shall be 125 Dwellings/ha.”

Development Officer’s Determination

The additional Dwelling to an existing Apartment will create a total of 9 Dwellings in the Apartment House.

The property is Zoned RA7 that has a Density Regulation of 125 Dwellings per hectare.

The 9 Dwelling Apartment House will have a Density of $9/0.0696\text{ha} = 129.29$ Dwellings / ha. This exceeded the maximum allowed Density requirement.

As per Section 11.4(2), the Development Officer does not have the authority to vary Density regulations. Therefore the application for development permit is REFUSED.
[unedited]

Parking

Schedule 1(A)(1) of Section 54.2 sets out the parking space requirements for Apartment Housing, Row Housing and Stacked Row Housing as follows:

	Minimum	Maximum	TOD minimum	TOD maximum
Bed Sitting Room	1	N/A	0.7	1
Bachelor Suite	1	N/A	0.7	1
1 Bedroom Dwelling	1	N/A	0.8	1
2 Bedroom Dwelling	1.5	N/A	1	1.5
3 or more Bedroom Dwelling	1.7	N/A	1.25	1.75
Visitor Parking	1 per 7 Dwellings	N/A	1 per 7 Dwellings	N/A

Development Officer’s Determination

2. Required parking (Section 54.2 Schedule 1(1)) for 9 Dwelling Apartment based on the number of bedrooms per Dwelling is 14 spaces. Proposed is 9 spaces only.

Notes:

Required minimum parking width is 2.6 m, proposed is 2.5 m.

No visitor parking provided. [unedited]

Site Area

Section 210.4(2) states that “the minimum Site Area shall be 800 m2.”

Development Officer’s Determination

Section 210.4(2): The minimum Site Area shall be 800 m2.; Existing: 696.13 sm

Side Setback

Section 823.3(1)(d) states:

The minimum Side Setback shall be 3.0 m. except as provided in subsection 823.3(1)(e). Where the Side Yard abuts an arterial road, the minimum Side Setback shall be 4.5 m. Separation Space and Privacy Zone as outlined in Section 48 of this Bylaw shall be reduced to accommodate these Side Setback requirements, except where a Principal Living Room Window faces an interior Side Yard.

Development Officer’s Determination

Section 823.3(1)(d)- The minimum Side Setback shall be 3.0 m.; Existing: 1.83 m [unedited]

Private Outdoor Amenity Area

Section 823.3(3)(a) states:

A minimum Private Outdoor Amenity Area of 7.5 m2 shall be provided for each Apartment Housing Dwelling except that for ground Storey Dwellings a minimum of 15.0 m2 of Private Outdoor Amenity Area shall be provided.

Development Officer's Determination

1. No Private Outdoor Amenity Area provided for the additional Dwelling. (Section 823.3(3)) [unedited]

-Section 823.3(3)(a)- A minimum Private Outdoor Amenity Area of 7.5 m2 shall be provided for each Apartment Housing Dwelling except that for ground Storey Dwellings a minimum of 15.0 m2 of Private Outdoor Amenity Area shall be provided.;
Only 4 Amenity areas exist for the existing Dwellings units. [unedited]

Notice to Applicant/Appellant

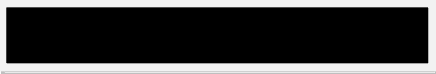
Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of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



Project Number: 185707771-003
Application Date: FEB 03, 2016
Printed: February 23, 2016 at 10:51 AM
Page: 1 of 2

Application for Major Development Permit

This document is a Development Permit Decision for the development application described below.

Applicant HYSHKA, CRISTEL 	Property Address(es) and Legal Description(s) 10223 - 116 STREET NW Plan B3 Blk 15 Lot 97
	Specific Address(es) Entryway: 10223 - 116 STREET NW Building: 10223 - 116 STREET NW

Scope of Application
Adding an additional Dwelling unit to an 8 suite Apartment House (9th Dwelling existing without permits)

Permit Details	
Class of Permit: (none) Gross Floor Area (sq.m.): New Sewer Service Required: Y Site Area (sq. m.): 696.1	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)

I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision
Refused

THIS IS NOT A PERMIT



Project Number: **185707771-003**
 Application Date: FEB 03, 2016
 Printed: February 23, 2016 at 10:51 AM
 Page: 2 of 2

Application for Major Development Permit

Reason for Refusal

The additional Dwelling to an existing Apartment will create a total of 9 Dwellings in the Apartment House.
 The property is Zoned RA7 that has a Density Regulation of 125 Dwellings per hectare.
 The 9 Dwelling Apartment House will have a Density of $9/0.0696\text{ha} = 129.29$ Dwellings / ha. This exceeded the maximum allowed Density requirement.
 As per Section 11.4(2), the Development Officer does not have the authority to vary Density regulations. Therefore the application for development permit is REFUSED.

Other issues associated with this application are as follows:

1. No Private Outdoor Amenity Area provided for the additional Dwelling. (Section 823.3(3))
2. Required parking (Section 54.2 Schedule 1(1)) for 9 Dwelling Apartment based on the number of bedrooms per Dwelling is 14 spaces. Proposed is 9 spaces only.

Notes:

Required minimum parking width is 2.6 m, proposed is 2.5 m.
 No visitor parking provided.

3. The building is a non-conforming building
 - Section 210.4(2): The minimum Site Area shall be 800 m²; Existing: 696.13 sm
 - Section 823.3(1)(d)- The minimum Side Setback shall be 3.0 m.; Existing: 1.83 m
 - Section 823.3(3)(a)- A minimum Private Outdoor Amenity Area of 7.5 m² shall be provided for each Apartment Housing Dwelling except that for ground Storey Dwellings a minimum of 15.0 m² of Private Outdoor Amenity Area shall be provided.; Only 4 Amenity areas exist for the existing Dwellings units.
4. Items 1 & 2 above will add to the non-conformity of the building.

Rights of Appeal

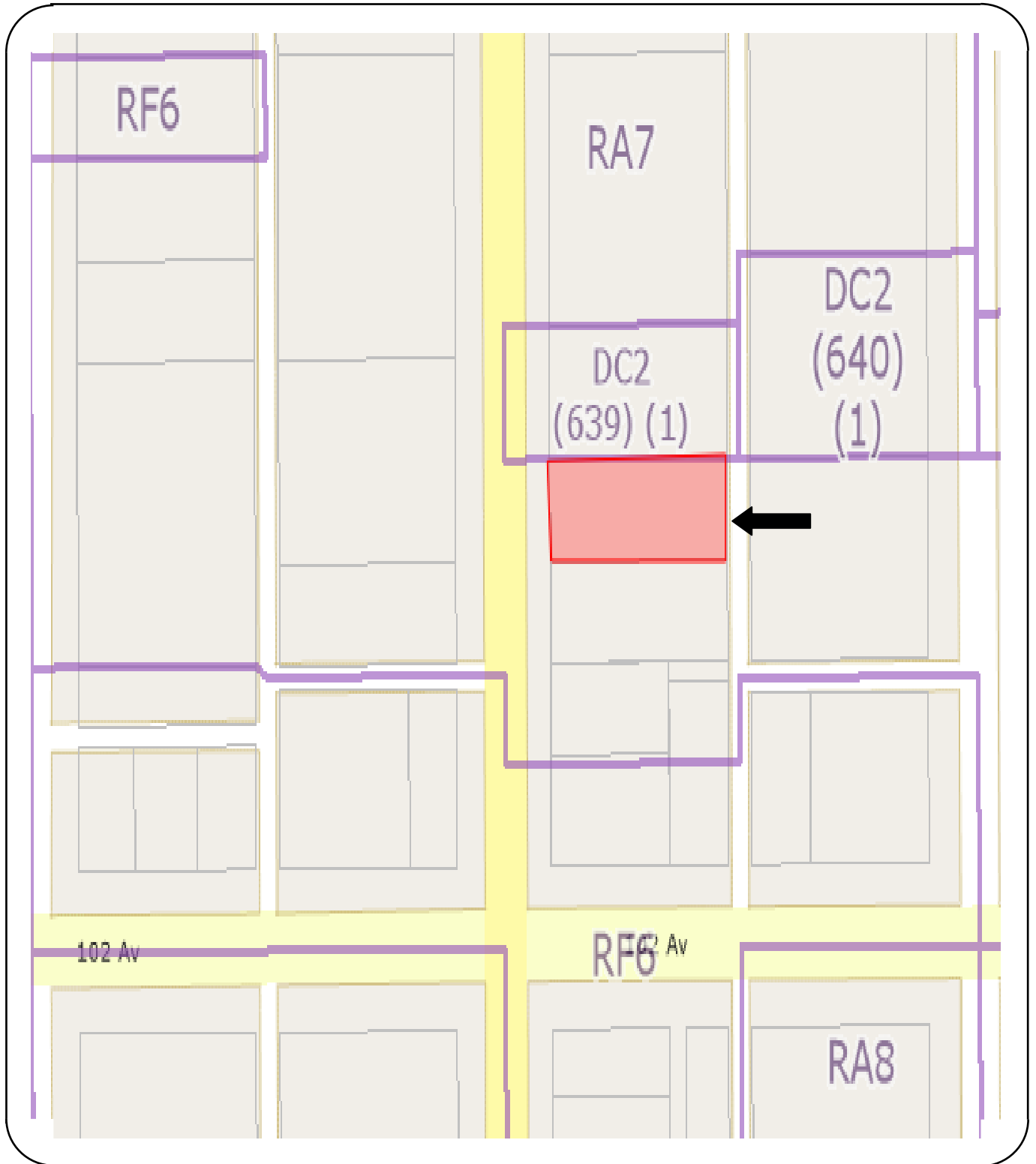
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Feb 09, 2016 Development Authority: ANGELES, JOSELITO Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$260.00	\$260.00	03045264	Feb 03, 2016
Sanitary Sewer Trunk Fund 2012+	\$1,118.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,378.00	\$260.00		
(\$1,118.00 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-077



BUSINESS LAID OVER

SDAB-D-16-501	An appeal by <u>Darren Crocker / Brownlee LLP</u> to demolish an existing building. <i>March 30 or 31, 2016</i>
SDAB-D-16-048	An appeal by <u>Pattison Outdoor Advertising</u> to construct a Freestanding Off-premises Sign. <i>April 6 or 7, 2016</i>

APPEAL HEARINGS TO BE SCHEDULED

180917066-001	An appeal by <u>Leston Holdings (1980) Ltd.</u> to construct interior alterations (add 1 unit, increase from a 21 unit to a 22 unit building) to an existing Apartment Housing building, existing without permits. <i>April 6 or 7, 2016</i>
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