## SUBDIVISION

## AND

## DEVELOPMENT APPEAL BOARD

## AGENDA

Wednesday, 9:00 A.M. March 18, 2015

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-15-040	TO BE RAISED
			Change a portion of an existing Religious Assembly Use to a Child Care Service (Out of School Care - 3 employees, 31 children)
			6104 - 172 Street NW Project No.: 162237902-001
II	9:00 A.M.	SDAB-D-15-041	TO BE RAISED
			Lessard Community League VS Play Care Daycare Ltd.
			Change a portion of an existing Religious Assembly Use to a Child Care Service (Daycare - 10 employees, 54 children) and construct interior / exterior alterations
			6104 - 172 Street NW Project No.: 162237902-002
		LUNCH BREAK:	12:00 P.M. TO 12:30 P.M.
III	12:30 P.M.	SDAB-D-15-054	Construct an Accessory Building (detached Garage, 8.53 metres by 7.32 metres) and to demolish an Accessory Building (detached Garage, 6.16 metres by 7.37 metres)
			15224 - 81 Avenue NW Project No.: 164675786-001
		BREAK: 2:0	00 P.M. TO 2:30 P.M.
IV	2:30 P.M.	SDAB-D-15-055	Construct exterior alterations to a Single Detached House (second front Driveway – 5.20 metres wide).
			7502 – 149 Street Project No.: 161891875-001
	NOTE:		ted, all references to "Section numbers" in this Agenda under the Edmonton Zoning Bylaw 12800.

TO BE RAISED ITEM I: 9:00 A.M.

FILE: SDAB-D-15-040

# AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY THE COMMUNITY LEAGUE

APPELLANT:

APPLICATION NO.: 162237902-001

APPLICATION TO: Change a portion of an existing Religious

Assembly Use to a Child Care Service (Out of School Care - 3 employees, 31

children)

**DECISION OF THE** 

DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: January 16, 2015

DATE OF APPEAL: February 3, 2015

NOTIFICATION PERIOD: January 22, 2015 to February 4, 2015

**RESPONDENT:** 

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 6104 - 172 Street NW

LEGAL DESCRIPTION: Plan 7722037 Blk 12 Lot 46

ZONE: DC2.697 Site Specific Development

**Control Provision** 

OVERLAY: N/A

STATUTORY PLAN: N/A

#### **DEVELOPMENT OFFICER'S DECISION**

APPROVED - The proposed development is approved for the following reasons:

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a DP Notification Fee of \$100.00.

The maximum Floor Area of any individual business premises for a Permitted Use shall not exceed 275 sq.m.

Exterior lighting of the facility shall provide for a well lit environment; Section 80(7).

Four on-site drop-off parking stalls shall be provided; Section 80(6).

The outdoor play space shall be located at ground level; Section 80(8)(b).

The outdoor play space shall be securely enclosed on all sides; Section 80(8)(c).

The outdoor play space shall have secure perimeter fencing that is at least 1.83 m in height; Section 80(8)(b)(i).

All activities or operations of the proposed development shall comply to the standards prescribed by the Province of Alberta pursuant to the Environmental Protection and Enhancement Act and the regulations pertaining thereto.

An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

#### Notes

- Signs require separate Development Applications.
- A Building Permit is required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.

#### DEVELOPMENT OFFICER'S DECISION CONTINUED

- The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.

#### APPELLANT'S SUBMISSION

The Lessard Community League hereby gives notice to appeal said proposed development on the grounds of increased traffic, noise, garbage pollution, as well as parking issues. MAC has continuously exceeded occupation numbers and has been fined and is currently under a standing order. City Bylaw enforcement officers now require an EPS escort to enforce said bylaws due to previous threats by congregants. We have had numerous complaints from area residents and the City of Edmonton advises us that it does not have the manpower to effectively enforce the bylaws.

#### SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This application is to change a portion of an existing Religious Assembly Use to a Child Care Service (out of school care - 3 employees, 31 children).

The site is located on the southwest corner of 172 Street and Callingwood Road and is zoned DC2.697 Site Specific Development Control Provision, Section 720 of the Edmonton Zoning Bylaw 12800. DC2.697 was signed and passed by Council on July 9, 2007, under Bylaw 14630. A copy of Bylaw 14630 is on file.

The Subdivision and Development Appeal Board at a hearing on February 26, 2015 made and passed the following motion:

"that the appeal hearing be TABLED TO MARCH 18 or 19, 2015."

Section 641(4) of the *Municipal Government Act*, Chapter M-26, states despite section 685, 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 following 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.

A Child Care Service is a listed Use in the DC2.697 District, Section DC2.697.3.h.

Under Section 7.8(2), **Child Care Services** means a development intended to provide care, educational activities and supervision for groups of seven or more children under 13 years of age during the day or evening, but does not generally include overnight accommodation. This Use Class typically includes daycare centres; out-of-school care centres; preschools; and dayhomes (providing child care within the care provider's residence).

This application was approved by the Development Officer subject to conditions.

The decision of approval by the Development Officer has been appealed by Lessard Community League.

Section 80 states Child Care Services shall comply with the following regulations:

- 1. in all low density Residential Zones the Development Officer shall, when making a decision on the suitability of the Child Care Service for the location proposed, give preference to those facilities that are located:
  - a. abutting a collector or arterial road,
  - b. on a corner Site,
  - c. adjacent to or in community facilities such as a school, park, church or community centre; or
  - d. adjacent to commercial areas or multi-family development;
- 2. Child Care Services in the HDR, RA7, RA8, RA9, RF5, RF6, RMU, TMU or UCRH Zones shall be in a separate facility, either within the principal building on the Site or in an Accessory or secondary Building, with a separate access to ground level;
- 3. a Child Care Service in any Residential Zone shall not change the principal character or external appearance of the Dwelling in which it is located. If a new building is constructed, it must retain the character of a residential Dwelling. Any associated signage on the Dwelling must not detract from the residential character of the neighbourhood;
- 4. the Development Officer shall, when deciding whether to approve or refuse a Child Care Service in a Commercial Zone, take into account, among other matters, traffic, noise and proximity to hazardous uses to ensure the proposed Child Care Service is in a safe location;
- 5. no portion of a Child Care Service Use, including the building or bay of building and, where provided, on-site outdoor play space, shall be located within 50.0 metres of a Major or Minor Service Station or a Gas Bar. This distance shall be measured from the pump island, fill pipes, vent pipes, or service station or gas bar building, depending on whichever is closest to the child care facility;
- 6. parking shall be provided according to the regulations outlined in Schedule 1 to Section 54 of this Bylaw. In addition, drop-off parking shall be provided as follows:

- a. a separate on-site drop-off area shall be provided at the rate of 2 drop-off spaces for up to 10 children, plus 1 additional space for every 10 additional children;
- b. each drop-off space shall be a minimum of 2.6 metres in width and a minimum of 5.5 metres in length; and
- c. the drop-off area shall be located within 60.0 metres from the main entrance of the Child Care Service facility.
- 7. exterior lighting of the facility shall provide for a well lit environment;
- 8. where on-site outdoor play space is provided, pursuant to the Provincial *Child Care Licensing Regulation*, it shall comply with the following regulations:
  - a. noisy, noxious or hazardous adjacent Uses such as, but not limited to, loading/unloading areas, garbage bins, large parking lots, arterial roads, passenger drop-off areas, rail lines, Light Rail Transit lines or storm water lakes should either be avoided or their effects mitigated through landscaping, buffering, fencing, or other means;
  - b. outdoor play space shall be located at ground level. If no reasonable opportunity exists for at grade outdoor play space, the Development Officer may approve an above grade outdoor play space provided that the following conditions are met:
    - i. secure perimeter fencing is provided that is at least 1.83 metres in height and is located a reasonable distance from the edge of the building;
    - ii. roof top mechanical equipment is located a reasonable distance away from the play space to avoid sources of noise and fumes unless the mechanical equipment is designed so that it does not create adverse effects related to noise and fumes and can be integrated into the play area;
  - c. outdoor play space shall be securely enclosed on all sides with the exception of developments proposed on zoned Sites US and AP where existing play fields are proposed as outdoor play space;
  - d. in a Residential Zone, outdoor play space may be allowed in any Yard, providing it is designed to limit any interference with other Uses, or the peaceful enjoyment of the properties of nearby residents, through fencing, landscaping, buffering and the placement of fixed play equipment;
  - e. in any Non-residential Zone, the outdoor play space shall not be located in any Yard that abuts a public roadway unless the design, size and other characteristics of the proposed play space mitigate the potential impact from the roadway traffic upon children using the play space; and
- 9. all Development Permit applications for Child Care Services shall include: plans that show all elevations; floor plans that show indoor play and rest areas, including the location of windows; a Site plan that shows the required on-site parking, drop-off facilities, and, where provided, on-site outdoor play areas, including the location and type of fixed play equipment, as well as fencing, landscaping and any buffering to be provided.

DC2.697.1 states the purpose of this Site Specific Development Control Provision is to accommodate Professional, Financial and Office Support Services, Convenience Commercial uses, Personal Service uses and Public Libraries and Cultural Exhibits which are intended to serve the day to day needs of residents within new or established neighbourhoods.

The following permit applications are listed in the Sustainable Development Department POSSE system:

Application	Description	Decision
Number	Bescription	Decision
162237902-006	To change a portion of an	February 26, 2015; Hearing scheduled.
SDAB-D-15-041	existing Religious	1 Columny 20, 2013, Hearing scheduled.
SDAD-D-13-041	1	
	Assembly Use to a Childcare Service (daycare	
	- 10 employees, 54	
	children) and construct	
	interior / exterior	
	alterations.	
162237902-002	To change a portion of an	January 16, 2015; Approved with
102237902-002	existing Religious	conditions.
	Assembly Use to a	Conditions.
	Childcare Service (daycare	
162237902-002	- 10 employees, 54	
(continued)	children) and construct	
(continued)	interior / exterior	
	alterations.	
156022405-001	To change the Use of a	June 26, 2014; Approved with
	Restaurant to a Health	conditions.
	Services and construct	
	interior alterations.	
140950485-001	To change the use from a	July 31, 2013; Approved with
	Personal Service Shops Use	condition and the following variance:
	to a Health Services Use	
	and to construct interior	Section 54.2, Schedule 1 relaxed - The
	alterations - Lessard Centre	overall number of required vehicular
	Dental.	parking spaces for the site is reduced
		from 168 to 165.
139693958-001	To operate a General Retail	June 18, 2013; Approved with
	Store and to construct	conditions.
	interior alterations	
	((Yasmeen's Boutique,	
	tenant improvements).	

# $\frac{\text{SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS}}{(\text{CONTINUED})}$

Application	Description	Decision
Number 94742909-005	Order	June 5, 2013;
		LAND USE INFRACTION:
		This property is a Site Specific Development Control Provision and is zoned DC2 (697).
		Our investigation has established that you have not complied with the conditions of Development Permit Number 94742909-002, issued August 24, 2010:
		"To increase the number of seats / occupants in a Religious Assembly from 200 to 400 and to change the use on the second floor from a Professional, Financial and Office Support Service to accessory uses to the Religous Assembly."
		The condition of approved Development Permit Number 94742909-002 that has been contravened is:
		"The maximum occupancy for the Religious Assembly (main and second floors) shall NOT exceed 400 at any time".
		The City of Edmonton has not issued a development permit to amend Development Permit Number 94742909-002 regarding this condition, which is contrary to Section 683 of the Municipal Government Act, R.S.A. 2000, c.M-26.1.
		ORDER:
		Pursuant to Section 645 of the Municipal Government Act, R.S.A.

94742909-005		2000, YOU ARE HEREBY
(continued)		ORDERED TO:
		Refrain from allowing occupancy at
		the Religious Assembly from
		exceeding 400 occupants at any time.
		Prevent the reccurrence of occupancy
		that exceeds the maximum allowable
		limits.
		mints.
		This order is to be complied with on or
		before June 27, 2013.
112605254 002	Change the year from a	
113605354-003	Change the use from a Commercial Schools Use to	October 7, 2011; that the appeal be ALLOWED and the DEVELOPMENT
SDAB-D-11-207		
	a Minor Eating and	GRANTED and the deficiency of eight
	Drinking Establishments	parking spaces in the total number of
	Use (Public Space: 20.9	required parking spaces on site be
	square metres/Occupants:	permitted, subject to conditions.
	17) - Curry Kebab &	
	Noodle House.	
113605354-001	To change the use from a	August 25, 2011; Refused.
	Commercial Schools Use to	
	a Minor Eating and	
	Drinking Establishments	
	Use (Public Space: 20.9	
	m2/Occupants: 17) - Curry	
	Kebab & Noodle House	
107809670-001	To change the Use from a	April 26, 2011; Approved with
	Religious Assembly to a	conditions.
	Health Service.	
106820211-001	To operate a Restaurant	March 23, 2011; Approved with
	(Fritou), having a Public	conditions.
	Space of 46 square metres	
	and construct interior	
	alterations.	
94742909-002	To increase the number of	August 24, 2010; Approved with
74142707 002	seats/occupants in a	conditions.
	Religious Assembly from	Conditions.
	200 to 400 and to change	
	the use on the second floor	
	from a Professional,	
	Financial, and Office	
	· · · · · · · · · · · · · · · · · · ·	
	Support Service to	
	accessory uses to the	
	Religious Assembly.	

Application Number	Description	Decision
99471796-001	To operate a Child Care Service within a Religious Assembly building for 25 preschool aged children (3 1/2 to 5 yrs) - preschool program.	June 28, 2010; Approved with conditions.
94742909-001	To change the use from a Public Libraries and Cultural Exhibits to a Religious Assembly. (200 Seats).	February 11, 2010; Approved.
86854381-001	To change the use from Indoor Participant Recreation Services to a Commercial School.	June 9, 2009; Approved.
59551057-001	To operate a Personal Service Shop (message) with accessory wellness product sales/services.	July 25, 2006; Approved.
37379900-001	To operate an Indoor Participant Recreation Service (The Circuit Club Inc.).	February 4, 2004; Approved with conditions.
*39 other		
Development		
Permit		
Applications		
continue prior to 2000.		

### 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.



## SURROUNDING LAND USE DISTRICTS

Site Location

File: SDAB-D-15-040



### TO BE RAISED

<u>ITEM II: 9:00 A.M.</u> <u>FILE: SDAB-D-15-041</u>

# AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY THE COMMUNITY LEAGUE

APPELLANT:

APPLICATION NO.: 162237902-002

APPLICATION TO: To change a portion of an existing

Religious Assembly Use to a Child Care Service (Daycare - 10 employees, 54 children) and construct interior / exterior

alterations

**DECISION OF THE** 

DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: January 16, 2015

DATE OF APPEAL: February 3, 2015

NOTIFICATION PERIOD: January 22, 2015 to February 4, 2015

RESPONDENT:

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 6104 - 172 Street NW

LEGAL DESCRIPTION: Plan 7722037 Blk 12 Lot 46

ZONE: DC2.697 Site Specific Development

**Control Provision** 

OVERLAY: N/A

STATUTORY PLAN: N/A

#### **DEVELOPMENT OFFICER'S DECISION**

APPROVED - The proposed development is approved for the following reasons:

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a DP Notification Fee of \$100.00.

The maximum Floor Area of any individual business premises for a Permitted Use shall not exceed 275 sq.m.

Exterior lighting of the facility shall provide for a well lit environment; Section 80(7).

Six on-site drop-off parking stalls shall be provided; Section 80(6).

The outdoor play space shall be located at ground level; Section 80(8)(b).

The outdoor play space shall be securely enclosed on all sides; Section 80(8)(c).

The outdoor play space shall have secure perimeter fencing that is at least 1.83 m in height; Section 80(8)(b)(i).

All activities or operations of the proposed development shall comply to the standards prescribed by the Province of Alberta pursuant to the Environmental Protection and Enhancement Act and the regulations pertaining thereto.

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#### DEVELOPMENT OFFICER'S DECISION CONTINUED

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#### APPELLANT'S SUBMISSION

The Lessard Community League hereby gives notice to appeal said proposed development on the grounds of increased traffic, noise, garbage pollution, as well as parking issues. MAC has continuously exceeded occupation numbers and has been fined and is currently under a standing order. City Bylaw enforcement officers now require an EPS escort to enforce said bylaws due to previous threats by congregants. We have had numerous complaints from area residents and the City of Edmonton advises us that it does not have the manpower to effectively enforce the bylaws.

#### SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This application is to change a portion of an existing Religious Assembly Use to a Child Care Service (daycare - 10 employees, 54 children) and construct interior / exterior alterations.

The site is located on the southwest corner of 172 Street and Callingwood Road and is zoned DC2.697 Site Specific Development Control Provision, Section 720 of the Edmonton Zoning Bylaw 12800. DC2.697 was signed and passed by Council on July 9, 2007, under Bylaw 14630. A copy of Bylaw 14630 is on file.

The Subdivision and Development Appeal Board at a hearing on February 26, 2015 made and passed the following motion:

"that the appeal hearing be TABLED TO MARCH 18 or 19, 2015."

Section 641(4) of the *Municipal Government Act*, Chapter M-26, states despite section 685, 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 following 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.

A Child Care Service is a listed Use in the DC2.697 District, Section DC2.697.3.h.

Under Section 7.8(2), **Child Care Services** means a development intended to provide care, educational activities and supervision for groups of seven or more children under 13 years of age during the day or evening, but does not generally include overnight accommodation. This Use Class typically includes daycare centres; out-of-school care centres; preschools; and dayhomes (providing child care within the care provider's residence).

This application was approved by the Development Officer subject to conditions.

The decision of approval by the Development Officer has been appealed by Lessard Community League.

Section 80 states Child Care Services shall comply with the following regulations:

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  - a. on a corner Site,
  - b. adjacent to or in community facilities such as a school, park, church or community centre; or
  - c. adjacent to commercial areas or multi-family development;
- 2. Child Care Services in the HDR, RA7, RA8, RA9, RF5, RF6, RMU, TMU or UCRH Zones shall be in a separate facility, either within the principal building on the Site or in an Accessory or secondary Building, with a separate access to ground level;
- 3. a Child Care Service in any Residential Zone shall not change the principal character or external appearance of the Dwelling in which it is located. If a new building is constructed, it must retain the character of a residential Dwelling. Any associated signage on the Dwelling must not detract from the residential character of the neighbourhood;
- 4. the Development Officer shall, when deciding whether to approve or refuse a Child Care Service in a Commercial Zone, take into account, among other matters, traffic, noise and proximity to hazardous uses to ensure the proposed Child Care Service is in a safe location;
- 5. no portion of a Child Care Service Use, including the building or bay of building and, where provided, on-site outdoor play space, shall be located within 50.0 metres of a Major or Minor Service Station or a Gas Bar. This distance shall be measured from the pump island, fill pipes, vent pipes, or service station or gas bar building, depending on whichever is closest to the child care facility;
- 6. parking shall be provided according to the regulations outlined in Schedule 1 to Section 54 of this Bylaw. In addition, drop-off parking shall be provided as follows:

- a. a separate on-site drop-off area shall be provided at the rate of 2 drop-off spaces for up to 10 children, plus 1 additional space for every 10 additional children;
- b. each drop-off space shall be a minimum of 2.6 metres in width and a minimum of 5.5 metres in length; and
- c. the drop-off area shall be located within 60.0 metres from the main entrance of the Child Care Service facility.
- 7. exterior lighting of the facility shall provide for a well lit environment;
- 8. where on-site outdoor play space is provided, pursuant to the Provincial *Child Care Licensing Regulation*, it shall comply with the following regulations:
  - a. noisy, noxious or hazardous adjacent Uses such as, but not limited to, loading/unloading areas, garbage bins, large parking lots, arterial roads, passenger drop-off areas, rail lines, Light Rail Transit lines or storm water lakes should either be avoided or their effects mitigated through landscaping, buffering, fencing, or other means;
  - b. outdoor play space shall be located at ground level. If no reasonable opportunity exists for at grade outdoor play space, the Development Officer may approve an above grade outdoor play space provided that the following conditions are met:
    - i. secure perimeter fencing is provided that is at least 1.83 metres in height and is located a reasonable distance from the edge of the building;
    - ii. roof top mechanical equipment is located a reasonable distance away from the play space to avoid sources of noise and fumes unless the mechanical equipment is designed so that it does not create adverse effects related to noise and fumes and can be integrated into the play area;
  - c. outdoor play space shall be securely enclosed on all sides with the exception of developments proposed on zoned Sites US and AP where existing play fields are proposed as outdoor play space;
  - d. in a Residential Zone, outdoor play space may be allowed in any Yard, providing it is designed to limit any interference with other Uses, or the peaceful enjoyment of the properties of nearby residents, through fencing, landscaping, buffering and the placement of fixed play equipment;
  - e. in any Non-residential Zone, the outdoor play space shall not be located in any Yard that abuts a public roadway unless the design, size and other characteristics of the proposed play space mitigate the potential impact from the roadway traffic upon children using the play space; and
- 9. all Development Permit applications for Child Care Services shall include: plans that show all elevations; floor plans that show indoor play and rest areas, including the location of windows; a Site plan that shows the required on-site parking, drop-off facilities, and, where provided, on-site outdoor play areas, including the location and type of fixed play equipment, as well as fencing, landscaping and any buffering to be provided.

DC2.697.1 states the purpose of this Site Specific Development Control Provision is to accommodate Professional, Financial and Office Support Services, Convenience Commercial uses, Personal Service uses and Public Libraries and Cultural Exhibits which are intended to serve the day to day needs of residents within new or established neighbourhoods.

The following permit applications are listed in the Sustainable Development Department POSSE system:

Application	Description	Decision
Number		
162237902-005	To change a portion of an	February 26, 2015; Hearing scheduled.
SDAB-D-14-040	existing Religious	
	Assembly Use to a	
	Childcare Service (Out of	
	School Care - 3 employees,	
	31 children).	
162237902-001	To change a portion of an	January 16, 2015; Approved with
	existing Religious	conditions.
	Assembly Use to a	
	Childcare Service (Out of	
	School Care - 3 employees,	
	31 children).	
162237902-002	To change a portion of an	January 16, 2015; Approved with
	existing Religious	conditions.
	Assembly Use to a	
	Childcare Service (daycare	
	- 10 employees, 54	
	children) and construct	
	interior / exterior	
	alterations.	
156022405-001	To change the Use of a	June 26, 2014; Approved with
	Restaurant to a Health	conditions.
	Services and construct	
	interior alterations.	
140950485-001	To change the use from a	July 31, 2013; Approved with
	Personal Service Shops Use	condition and the following variance:
	to a Health Services Use	Section 54.2, Schedule 1 relaxed - The
	and to construct interior	overall number of required vehicular
	alterations - Lessard Centre	parking spaces for the site is reduced
	Dental.	from 168 to 165.
139693958-001	To operate a General Retail	June 18, 2013; Approved with
	Store and to construct	conditions.
	interior alterations	
	(Yasmeen's Boutique,	
	tenant improvements).	
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# $\frac{\text{SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS}}{\text{CONTINUED}}$

Application Number	Description	Decision
94742909-005	Order	June 5, 2013;
		LAND USE INFRACTION:
		This property is a Site Specific Development Control Provision and is zoned DC2 (697).
		Our investigation has established that you have not complied with the conditions of Development Permit Number 94742909-002, issued August 24, 2010:
		"To increase the number of seats / occupants in a Religious Assembly from 200 to 400 and to change the use on the second floor from a Professional, Financial and Office Support Service to accessory uses to the Religious Assembly."
		The condition of approved Development Permit Number 94742909-002 that has been contravened is:
		"The maximum occupancy for the Religious Assembly (main and second floors) shall NOT exceed 400 at any time".
		The City of Edmonton has not issued a development permit to amend Development Permit Number 94742909-002 regarding this condition, which is contrary to Section 683 of the Municipal Government Act, R.S.A. 2000, c.M-26.1.
		ORDER:
		Pursuant to Section 645 of the Municipal Government Act, R.S.A.

94742909-005		2000, YOU ARE HEREBY
(continued)		ORDERED TO:
		Refrain from allowing occupancy at the Religious Assembly from exceeding 400 occupants at any time.
		Prevent the recurrence of occupancy that exceeds the maximum allowable limits.
		This order is to be complied with on or before June 27, 2013.
113605354-003	Change the use from a	October 7, 2011; that the appeal be
SDAB-D-11-207	Commercial Schools Use to a Minor Eating and	ALLOWED and the DEVELOPMENT GRANTED and the deficiency of eight
	Drinking Establishments	parking spaces in the total number of
	Use (Public Space: 20.9	required parking spaces on site be
	square metres/Occupants: 17) - Curry Kebab &	permitted, subject to conditions.
	Noodle House.	
113605354-001	To change the use from a	August 25, 2011; Refused.
	Commercial Schools Use to a Minor Eating and	
	Drinking Establishments	
	Use (Public Space: 20.9	
	m2/Occupants: 17) - Curry Kebab & Noodle House	
107809670-001	To change the Use from a	April 26, 2011; Approved with
	Religious Assembly to a	conditions.
	Health Service.	
106820211-001	To operate a Restaurant	March 23, 2011; Approved with
	(Fritou), having a Public	conditions.
	Space of 46 square metres and construct interior	
	alterations.	
94742909-002	To increase the number of	August 24, 2010; Approved with
	seats/occupants in a Religious Assembly from	conditions.
	200 to 400 and to change	
	the use on the second floor	
	from a Professional,	
	Financial, and Office Support Service to	
	accessory uses to the	
	Religious Assembly.	

Application	Description	Decision
Number		
99471796-001	To operate a Child Care Service within a Religious Assembly building for 25 preschool aged children (3 1/2 to 5 yrs) - preschool program.	June 28, 2010; Approved with conditions.
94742909-001	To change the use from a Public Libraries and Cultural Exhibits to a Religious Assembly. (200 Seats).	February 11, 2010; Approved.
86854381-001	To change the use from Indoor Participant Recreation Services to a Commercial School.	June 9, 2009; Approved.
59551057-001	To operate a Personal Service Shop (message) with accessory wellness product sales/services.	July 25, 2006; Approved.
37379900-001	To operate an Indoor Participant Recreation Service (The Circuit Club Inc.).	February 4, 2004; Approved with conditions.
*39 other		
Development		
Permit		
Applications		
continue prior to 2000.		

### 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.



## SURROUNDING LAND USE DISTRICTS

Site Location

File: SDAB-D-15-041



### <u>ITEM III: 12:30 P.M.</u> <u>FILE: SDAB-D-15-054</u>

### AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 164675786-001

APPLICATION TO: Construct an Accessory Building

(detached Garage, 8.53 metres by 7.32 metres) and to demolish an Accessory Building (detached Garage, 6.16 metres

by 7.37 metres)

**DECISION OF THE** 

DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 6, 2015

DATE OF APPEAL: February 19, 2015

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 15224 - 81 Avenue NW

LEGAL DESCRIPTION: Plan 5580KS Blk 1 Lot 17

ZONE: RF1 Single Detached Residential Zone

OVERLAYS: Mature Neighbourhood Overlay

North Saskatchewan River Valley and Ravine System Protection Overlay

STATUTORY PLAN: N/A

#### **DEVELOPMENT OFFICER'S DECISION**

REFUSED - The proposed development is refused for the following reason:

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

Proposed: 7.19m Minimum: 7.50m Deficient by: 0.31m

#### **APPELLANT'S SUBMISSION**

We are trying to replace our pre-existing garage that burnt down on March 12th, 2014. The standard 24x20 two car garage sat behind our house for approximately 50 years. We are requesting a relaxation of 0.31 meters from 7.5 meter minimum setback (as out lined in bylaw 811.3(1)) from the Lynnwood gully/ravine behind our house. Without the relaxation we only have two options to get our development permit.

- 1) build closer to the house. You need to drive past our house and swerve to get our vehicles in the garage. If we shorten the distance (was 4.2 meters) between the house and garage. Parking and exiting without hitting the house or the other car would become even more difficult (see picture 1). We would also have the additional expense of replacing the fence between the garage and house.
- 2) build a 23 foot garage. A 23 foot garage would require a custom garage building package (smallest standard double car garage is 20 X 24) and drastically increase the cost of the build. The new building standards (2x6 walls rather than 2x4) will already take away interior space for parking that we used to have. A 23 foot garage would leave very limited usable space for storage or small workbench.

We are not asking for special treatment. Both our closest neighbour's garages extend 2 - 3 meters past our garage (see picture 2). There are 14 backyard garages on the south side (our side) of the Lynnwood gully (see picture 3). According to Google Maps, there are 10 other garages that are closer to the ravine than our garage was and would be upon successful appeal (we used the power line as we were told this is a good property line indicator).

We understand that two of those garages have had development permits issued recently. The first one (see picture 4) received a variance to be allowed to build closer to the back alley (we don't have a back alley). The second, a complete new garage (see picture 5), did not require a variance. It was just granted a standard development permit and they are within 1 - 2 meters of the power line.

#### APPELLANT'S SUBMISSION CONTINUED

All we are asking for is to be allowed to rebuild our garage where it was before it burnt down. We have been instructed by the City of Edmonton Development Services Branch that they will not oppose our appeal.

### SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This is an application to construct an Accessory Building (detached Garage, 8.53 metres by 7.32 metres) and to demolish an Accessory Building (detached Garage 6.16 metres by 7.37 metres).

The site is located north of 81 Avenue, east of 154 Street and is RF1 Single Detached Residential Zone, Section 110 of the Edmonton Zoning Bylaw 12800. The site is within the Mature Neighbourhood Overlay, Section 814 of the Edmonton Zoning Bylaw and abuts the North Saskatchewan River Valley and Ravine System Protection Overlay, Section 811 of the Edmonton Zoning Bylaw.

**Single Detached Housing** is a Permitted Use in the RF1 Single Detached Residential Zone, Section 110.2(4).

Under Section 50.1(2) Accessory Uses and Buildings are permitted in a Zone when Accessory to a principal Use which is a Permitted Use in that same Zone and for which a Development Permit has been issued.

The submitted Site Plan shows that the subject site has a Site Width of 18.29 metres and a Site depth of 36.58 metres. The proposed detached Garage is 8.53 metres by 7.32 metres in size and is located 7.19 metres from the (north) Rear Lot Line, 0.90 metres from the (east) Side Lot Line, and 4 metres from the Principal Building to the south. Vehicular access to the Garage is from 81 Avenue.

The Development Officer has provided the following information:

Site Area:	668.04 square metres
<ul><li>12 percent Allowable Site Coverage:</li><li>28 percent Allowable Site Coverage:</li><li>40 percent Allowable Site Coverage:</li></ul>	80.16 square metres 187.05 square metres 267.22 square metres
Existing Principal Building: Existing storage shed: Proposed detached Garage:	109.95 square metres 7.92 square metres 62.44 square metres
Proposed Total Site Coverage:	180.31 square metres

Section 110.4(6)(a) states that maximum total Site Coverage shall not exceed 40 percent, with a maximum of 28 percent for the Principal Building and a maximum of 12 percent for Accessory Buildings. Where a Garage is attached to the Principal Building, the maximum Site Coverage for the Principal Building shall be 40 percent.

Section 811.2(1)(b) states the North Saskatchewan River Valley and Ravine System Protection Overlay applies to all lands within 7.5 metres of the North Saskatchewan River Valley and Ravine System as shown on Appendix I to that Overlay.

Section 811.3(1) states all developments shall maintain a minimum 7.5 metre Setback from the North Saskatchewan River Valley and Ravine System, as shown on Appendix I to that Overlay.

The Development Officer determined a Setback of 7.5 metres from the North Saskatchewan River Valley and Ravine System is required. The proposed development provides a Setback of 7.19 metres from the North Saskatchewan River Valley and Ravine System, which is deficient by 0.31 metres.

Under Section 6.1(2), **Accessory** means, when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.

Under Section 6.1(88), **Setback** means the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space.

Section 811.1 states the purpose of the North Saskatchewan River Valley and Ravine System Protection Overlay is to provide a development setback from the North Saskatchewan River Valley and Ravine System.

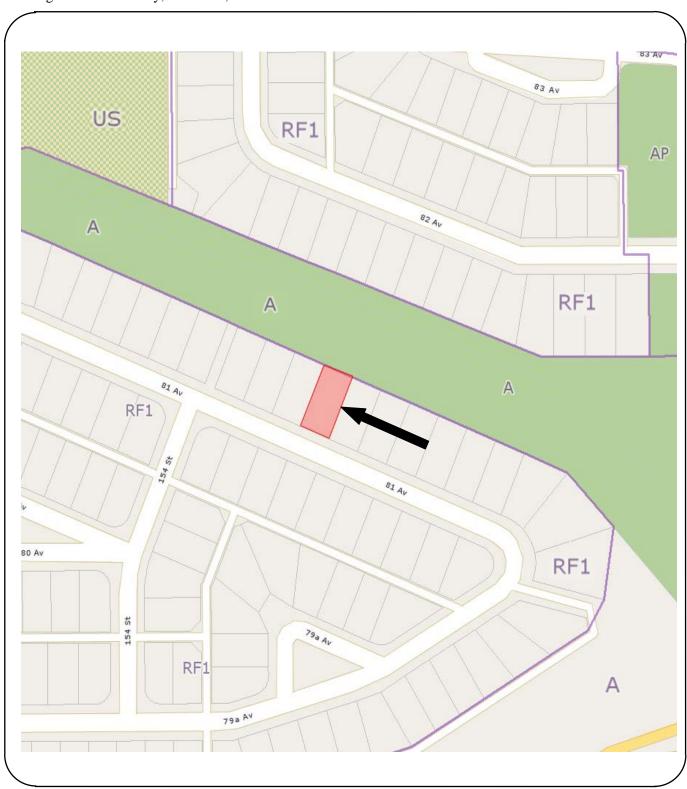
Section 814.1 states the purpose of the Mature Neighbourhood Overlay is to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

Section 110.1 states the purpose of the RF1 Single Detached Housing Zone is to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

Included in the Sustainable Development Department's POSSE system, under "Docs", is an e-mail dated January 8, 2015 from Paul R. Lach, Senior Geotechnical Engineer, Engineering Services, Transportation Services. A copy of the e-mail from Transportation Services is on file.

### 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.



## SURROUNDING LAND USE DISTRICTS

Site Location

File: SDAB-D-15-054



### <u>ITEM IV: 2:30 P.M.</u> <u>FILE: SDAB-D-15-055</u>

### AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 161891875-001

APPLICATION TO: Construct exterior alterations to a Single

Detached House (second front Driveway -

5.20 metres wide)

**DECISION OF THE** 

DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 3, 2015

DATE OF APPEAL: February 24, 2015

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 7502 - 149 Street NW

LEGAL DESCRIPTION: Plan 6253KS Blk 12 Lot 12

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

#### **DEVELOPMENT OFFICER'S DECISION**

REFUSED - The proposed development is refused for the following reasons:

- 1) The Front Yard of any at-grade Dwelling unit in any Residential Zone, or in the case of a corner Site, the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The area hardsurfaced for a Driveway, not including the area used as a walkway, shall have:
- a) a minimum width of 3.1 m; and
- b) a maximum width that shall be calculated as the product of 3.1 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage.
- -The Driveway shall lead directly from the roadway to the required Garage or Parking Area. (Section 54.1(4))

Maximum allowable number of driveway: 1 Proposed: 2

Maximum allowable width of driveway(s):  $3.1 \text{m} \times 2 = 6.2 \text{ m}$ Proposed: 5.2 m + 5.18 m = 10.38 mExceed by 4.18 m

- 2) Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, that are required in accordance with the minimum standards of this Bylaw shall be located in accordance with the following:
  a) parking spaces shall not be located within a Front Yard; and
- b) on a Corner Lot in a Residential Zone, parking spaces, in addition to complying with the other provisions of this Bylaw, shall not be located within the Side Yard abutting the flanking public roadway, other than a Lane. Where the amount of parking provided on a Corner Lot is in excess of the minimum requirements of this Bylaw, the Development Officer shall have the discretion to allow such additional spaces within a Side Yard flanking a public roadway, other than a Lane. (Section 54.2 (2)(e))
- 3) The proposed concrete driveway extension does not lead to the garage or parking area. (Section 6.1(26) and Section 54.1(4)(b))
- 4) The proposed driveway is in the front of the property and based on the landscaping regulations, front yards/front setbacks must be landscaped. Concrete is not considered a form of landscaping. (Section 55.4(1) and (Section 6.1(55))
- 5) Sufficient on site parking is provided through the front attached garage and additional parking space provided on the driveway leading to the garage. Front Attached Garage: 7.32m x 13.87m (can fit 4 cars) Existing Driveway: 5.18m x 11.88m (can fit at least 2 cars)
- 6) This sort of driveway extension is not characteristic of this mature established neighbourhood.

#### DEVELOPMENT OFFICER'S DECISION (CONTINUED)

Given the above observations, the proposed development would unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring properties in the opinion of the Development Officer.

### **APPELLANT'S SUBMISSION**

- Extra parking as the lot is on a bus route with a seasonal parking ban.
- To remain in keeping with the aesthetics of new construction.
- Facilitate snow clearing by City employees.
- There are other such driveways in the neighbourhood. Closest one being 2 doors to the north.

#### SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This is an application to construct alterations to a Single Detached House (second front Driveway - 5.20 metres wide).

The site is located west of 149 Street and south of 76 Avenue and is zoned RF1 Single Detached Residential Zone, Section 110 of the Edmonton Zoning Bylaw 12800. The site is within the Mature Neighbourhood Overlay, Section 814 of the Edmonton Zoning Bylaw 814.

Section 686(1)(a)(i) of the *Municipal Government Act* states "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....after the date on which the person is notified of the order or decision or the issuance of the development permit."

The decision of refusal by the Development Officer is dated February 3, 2015. Fourteen days from the decision date is February 17, 2015 and the Notice of Appeal was filed on February 24, 2015.

**It should be noted,** included in the Sustainable Development Department's POSSE system, under "SDAB", is a Canada Post Registered Mail Delivery, dated February 9, 2015 that confirms the notice of refusal was delivered on February 6, 2015. **A copy of the Canada Post Registered Mail Delivery is on file.** 

**Single Detached Housing** is a Permitted Use in the RF1 Single Detached Residential Zone, Section 110.2(4).

Under Section 7.2(9), **Single Detached Housing** means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use Class in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use Class includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 54.1(4) states the Front Yard of any at-grade Dwelling unit in any Residential Zone, or in the case of a corner Site, the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The area hardsurfaced for a Driveway not including the area used as a walkway, shall have:

- a. a minimum width of 3.1 metres; and
- b. a maximum width that shall be calculated as the product of 3.1 metres multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage.

The Driveway shall lead directly from the roadway to the required Garage or Parking Area.

The Development Officer determined a maximum of one Driveway is permitted in the Front Yard. The proposed development provides two Driveways in the Front Yard, which is in excess of the maximum by one.

The Development Officer determined the maximum width of all Driveways is 6.2 metres. The proposed development provides a total width of 10.38 metres between the two Driveways, which is in excess of the maximum by 4.18 metres.

The Development Officer determined the Driveway must lead directly from the roadway to the Garage. The proposed Driveway does not lead directly from the roadway to the Garage.

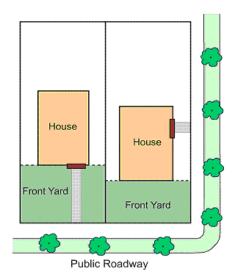
Section 55.4(1) states all open space including Front Yards, Rear Yards, Side Yards and Yards, at grade Amenity Areas, Private Outdoor Amenity Areas, Setback areas and Separation Spaces shall be landscaped with trees, shrubs, flower beds, grass, ground cover or suitable decorative hardsurfacing, in accordance with the Landscape Plan submitted pursuant to subsection 55.3 and approved by the Development Officer. This requirement shall not apply to those areas designated for parking and circulation, which shall be landscaped in accordance with subsection 55.8 of this Bylaw. The Development Officer may require Landscaping of areas within a Site that are intended for future development if, in the opinion of the Development Officer, the lack of Landscaping creates a potential negative visual impact, given the visibility of these areas from adjacent properties and public roadways.

The Development Officer determined the Front Yard shall be landscaped. The proposed development provides concrete in the Front Yard, which the Development Officer determined is insufficient pursuant to Section 55.4(1).

Under Section 6.1(26), **Driveway** means an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area.

Under Section 6.1(69), **Parking Area** means an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.

Under Section 6.1(40), **Front Yard** means the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



Under Section 6.1(55), **Landscaping** means the preservation or modification of the natural features of a Site through the placement or addition of any or a combination of the following:

- a. soft landscaping elements such as trees, shrubs, plants, lawns and ornamental plantings;
- b. decorative hardsurfacing elements such as bricks, pavers, shale, crushed rock or other suitable materials, excluding monolithic concrete and asphalt, in the form of patios, walkways and paths; and
- c. architectural elements such as decorative fencing, walls and sculpture.

Section 814.1 states the purpose of the Mature Neighbourhood Overlay is ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

Section 110.1 states the purpose of the RF1 Single Detached Residential Overlay is to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

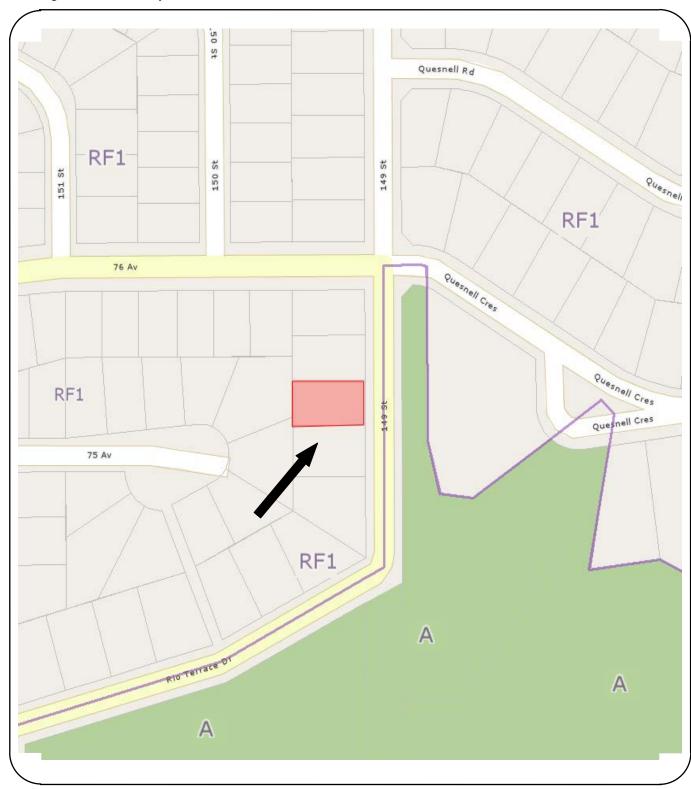
Included in the Sustainable Development Department's POSSE system, under "Docs", is a Memorandum dated December 4, 2015 from Karen Haromy, Senior Transportation Technician, Development Planning, Transportation Planning Branch which indicates that Transportation Services has reviewed the development application and has provided conditions if approved. A copy of the Memorandum from Transportation Services is on file.

The following permit application is listed in the Sustainable Development POSSE system:

Application Number	Description	Decision
128353219-001	To construct an addition to a Single Detached House (two storey addition/front attached gage, master bedroom with walk in closet/ensuite/office and rear covered deck) and to construct exterior and Interior alterations and to demolish an existing detached garage (6.85m x 7.43m) existing without permits.	Issued May 23, 2013.

#### 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.



## SURROUNDING LAND USE DISTRICTS

Site Location

File: SDAB-D-15-055



## **BUSINESS LAID OVER**

SDAB-D-15-036	An appeal to change the use from Convenience Retail Stores to a Restaurant	
	(79.15 square metres of Public Space) and construct interior alterations	
	March 19, 2015	
SDAB-D-15-047	An appeal to operate a Major Home Based Business (administration office	
	for a home renovation contactor)	
	March 25 or 26, 2015	

## APPEAL HEARINGS TO BE SCHEDULED

161821680-001	An appeal to construct four Dwellings of Stacked Row Housing with front
	verandas (four at 2.13 metres by 6.10 metres) and uncovered rear decks (two
	irregulars at 3.66 metres by 6.10 metres) and to demolish the existing Single
	Detached House and Accessory Building (rear detached Garage)
	March 25 or 26, 2015
166420267-001	An appeal to construct a Single Detached House with a front attached Garage,
	front balcony, front veranda, fireplace, Secondary Suite development in the
	Basement, rear partially covered balcony and rear uncovered deck (3.05)
	metres by 7.62 metres)
	April 9, 2015
84287777-004	An appeal to convert an existing Semi-Detached House into a 4 Dwelling
	Apartment (existing without permits)
	April 1, 2015