

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
March 9, 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-16-072	Construct 4 Dwellings of Row Housing with a rear detached Garage 12305 - 114 Avenue NW Project No.: 170550535-002
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TO BE RAISED

II	11:00 A.M.	SDAB-D-16-049	Develop a Parking Area Accessory to an existing Apartment House 9922 - 104 Street NW Project No.: 148392678-003
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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-16-072

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 170550535-002

ADDRESS OF APPELLANT: 12305 - 114 Avenue NW

APPLICATION TO: Construct 4 Dwellings of Row Housing with a rear detached Garage

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 9, 2016

DATE OF APPEAL: February 10, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12305 - 114 Avenue NW

LEGAL DESCRIPTION: Plan 747AF Blk 15 Lots 9-10

ZONE: RF3 Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

The development permit application has been declined on the basis of the Development Officer incorrectly applying of section 52.1.D of the current zoning bylaws provided by the City of Edmonton, claiming that the mid-point of the roof is above the 8.6m allowable limit. The proposed structure that we have submitted has a combination roof type; section 52.1.D states that for combination style roofs, the mid-point of the roof is to be calculated by the Development Officer in a way that would most appropriately balance the development rights of the land owner, and land use rights of the adjacent properties.

In the case of our building, 52.1.A should be used for calculating roof slope, as it most accurately reflects the overall structure of the building, while also most appropriately balancing the development rights of the owner and land use rights of the adjacent properties. We have been working with the City since April 2015, and submitted our development application form in early September 2015; it took over 2 months for the application to be reviewed by the Development Officer, who then changed positions within 1 month, resulting in a new development officer being assigned to the project. We have worked with this officer to address all his concerns, and he advised that he would grant the development and building permits with requested variances so long as the height of the building meets the bylaw guidelines. The proposed structure now does meet the bylaw guidelines, however, the development officer is still not approving the application. [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 9, 2016. The Notice of Appeal was filed on February 10, 2016.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 140.1 states that the **General Purpose** for 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.

Maximum Height

Section 814.3(13) states:

814.3 Development Regulations

...

13. The maximum Height shall not exceed [8.6 m](#), in accordance with Section 52.

Section 52.1 states:

52. Height and Grade

1. The Development Officer shall calculate building Height by determining the roof type, and applying the following:

a. For hip and gable roof types Height shall be determined by measuring from the horizontal plane through Grade to the midpoint of the highest roof. The midpoint is determined to be between the end of the eave (intersection of the fascia board and the top of the roof sheathing, or less, in accordance with Section 44), and the top of the roof; or

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

c. For mansard and gambrel roof types, Height shall be determined by measuring from the horizontal plane through Grade to the midpoint of the highest roof. The midpoint is determined to be between the deck line and the top of the roof; or

d. For all other roof types, including saddle, dome, dual-pitch, shed, butterfly or combination roofs, the Development Officer shall determine Height by applying one of the previous three types that is most appropriate for balancing the development rights and the land use impact on adjacent properties.

Development Officer's Determination

The maximum Height shall not exceed 8.6m, in accordance with Section 52. Reference Section 814.3(13).

The proposed Height of the building is 9.9m.

NOTE: In accordance with Section 52.1(d), the Development Officer has determined Height by applying the requirements for a gambrel roof type in accordance with Section 52.1(c). [unedited]

Rear Setback

Section 814.3(5) states:

814.3 Development Regulations

5. 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

The minimum Rear Setback shall be 40% of Site depth. Reference Section 814.3(5).
Minimum required Rear Setback = 40% of 45.67m = 18.3m
Proposed Rear Setback is 17.4m or 38.1% of the Site Depth. [unedited]

Maximum Width

Section 814.3(15) states:

814.3 Development Regulations

15. When a structure is more than 7.5 m in Height, the width of any one dormer shall not exceed 3.1 m. In the case of more than one dormer, the aggregate total width shall not exceed one third of the length of the building's wall in which the dormers are located, excluding attached Garage walls.

Development Officer's Determination

The maximum width of a dormer shall not exceed 3.1m. Reference Section 814.3(15).
The west dormer on the south facade 4.0m wide. [unedited]

Compatibility with Mature Neighbourhood Overlay

Section 814.1 states that the **General 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.

Development Officer's Determination

Part of the General Purpose of Mature Neighbourhood Overlay is to ensure that new development is sensitive in scale and ensures privacy of adjacent properties. Reference Section 814(1).

The Development Officer has concerns with the top floor windows and rooftop terraces facing the interior south Side Setback and their privacy impacts on the neighbour to the south. [unedited]

Notice to Applicant/Appellant

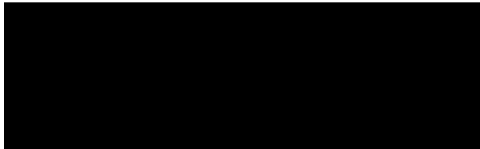
Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of 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: 170550535-002
Application Date: SEP 24, 2015
Printed: February 10, 2016 at 3:44 PM
Page: 1 of 2

Application for Major Development Permit

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

Applicant 	Property Address(es) and Legal Description(s) 12305 - 114 AVENUE NW Plan 747AF Blk 15 Lots 9-10
	Specific Address(es) Entryway: 12305 - 114 AVENUE NW Entryway: 12307 - 114 AVENUE NW Entryway: 12309 - 114 AVENUE NW Entryway: 12311 - 114 AVENUE NW Building: 12305 - 114 AVENUE NW

Scope of Application
To construct 4 Dwellings of Row Housing with a rear detached Garage.

Permit Details								
<table border="0"> <tr> <td>Class of Permit:</td> <td>Contact Person:</td> </tr> <tr> <td>Gross Floor Area (sq.m.): 630.63</td> <td>Lot Grading Needed?: Y</td> </tr> <tr> <td>New Sewer Service Required: N/A</td> <td>NumberOfMainFloorDwellings: 4</td> </tr> <tr> <td>Site Area (sq. m.): 932.71</td> <td>Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay</td> </tr> </table>	Class of Permit:	Contact Person:	Gross Floor Area (sq.m.): 630.63	Lot Grading Needed?: Y	New Sewer Service Required: N/A	NumberOfMainFloorDwellings: 4	Site Area (sq. m.): 932.71	Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
Class of Permit:	Contact Person:							
Gross Floor Area (sq.m.): 630.63	Lot Grading Needed?: Y							
New Sewer Service Required: N/A	NumberOfMainFloorDwellings: 4							
Site Area (sq. m.): 932.71	Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay							

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

Applicant signature: _____

Development Application Decision
Refused

THIS IS NOT A PERMIT



Project Number: **170550535-002**
 Application Date: SEP 24, 2015
 Printed: February 10, 2016 at 3:44 PM
 Page: 2 of 2

Application for Major Development Permit

Reason for Refusal

The maximum Height shall not exceed 8.6m, in accordance with Section 52. Reference Section 814.3(13).

The proposed Height of the building is 9.9m.

NOTE: In accordance with Section 52.1(d), the Development Officer has determined Height by applying the requirements for a gambrel roof type in accordance with Section 52.1(c).

The minimum Rear Setback shall be 40% of Site depth. Reference Section 814.3(5).

Minimum required Rear Setback = 40% of 45.67m = 18.3m

Proposed Rear Setback is 17.4m or 38.1% of the Site Depth.

The maximum width of a dormer shall not exceed 3.1m. Reference Section 814.3(15).

The west dormer on the south facade 4.0m wide.

Part of the General Purpose of Mature Neighbourhood Overlay is to ensure that new development is sensitive in scale and ensures privacy of adjacent properties. Reference Section 814(1).

The Development Officer has concerns with the top floor windows and rooftop terraces facing the interior south Side Setback and their privacy impacts on the neighbour to the south.

NOTE: It is strongly advised that the applicant meet the requirements of Section 814.3(23) as follows:

- 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.
- 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.

Rights of Appeal

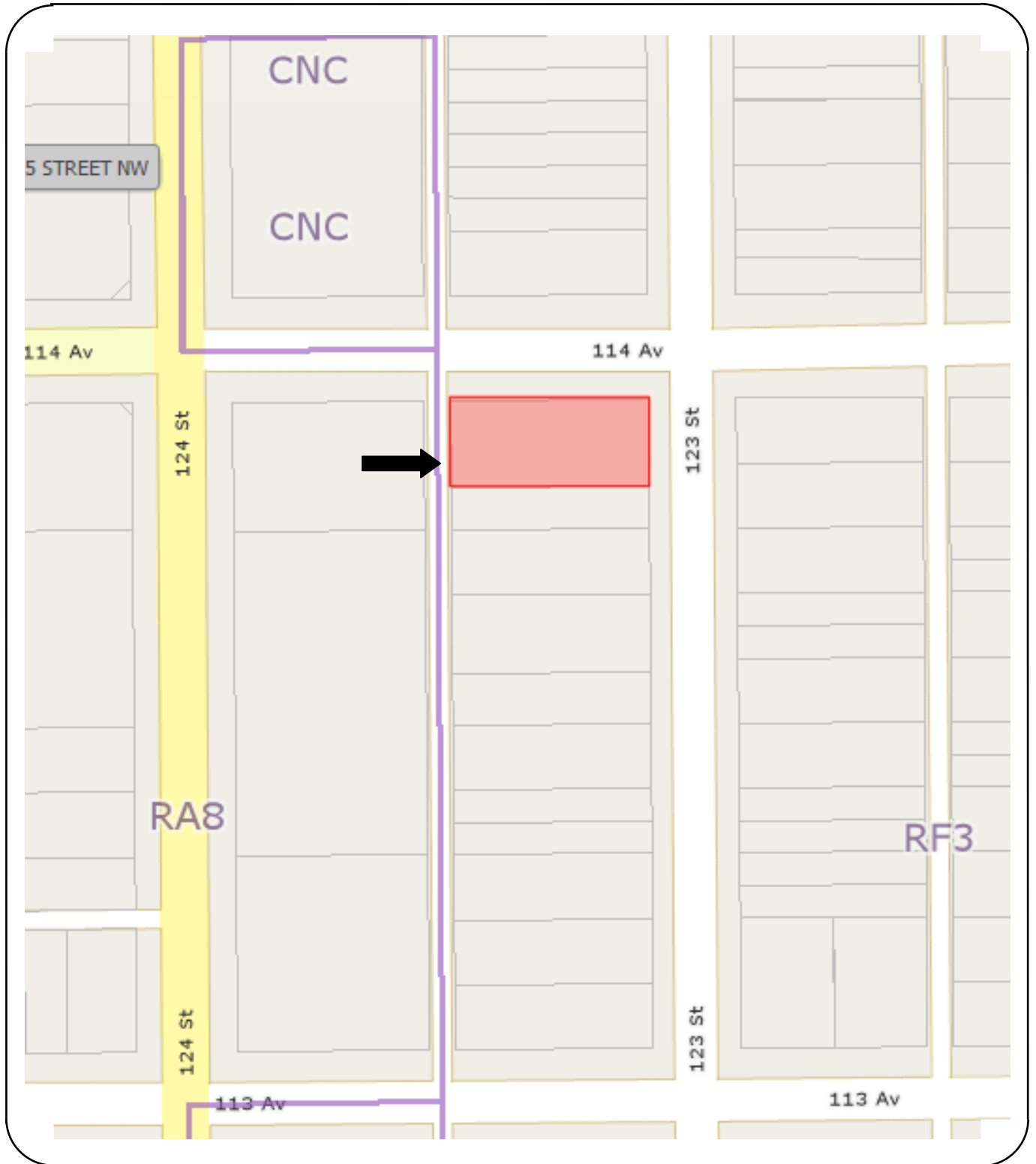
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Feb 09, 2016 Development Authority: BACON, KIRK Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Lot Grading Fee	\$440.00	\$440.00	02774096	Sep 25, 2015
Major Dev. Application Fee	\$770.00	\$770.00	02774096	Sep 25, 2015
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,210.00	\$1,210.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-072



TO BE RAISED
ITEM II: 11:00 A.M.

FILE: SDAB-D-16-049

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 148392678-003

ADDRESS OF APPELLANT: 9922 - 104 Street NW

APPLICATION TO: Develop a Parking Area Accessory to an existing Apartment House

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 6, 2016

DATE OF APPEAL: January 15, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9922 - 104 Street NW

LEGAL DESCRIPTION: Plan NB Blk 4 Lot 82

ZONE: HDR High Density Residential Zone

OVERLAY: Special Area Downtown Overlay

STATUTORY PLAN: Capital City Downtown Plan

Grounds for Appeal

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

The Dunedin House is an older, existing apartment building located on 104 Street and 99 Avenue. On-site there are 67 surface parking stalls to serve 130 residential units as well as the customers of the Mac's convenience store located on the ground floor. Without sufficient accessory parking it is difficult to attract tenants to the building. The landowner wishes to develop the adjoining lot for surface parking, which is consistent with the existing conditions (surface parking) on the site, and are requesting that the SDAB grant the required variances.

We have revised the site plan for the parking lot to address the comments provided by transportation on January 6. The revised plans will be presented at the hearing. The proposed development would result in a net gain of only 14-15 parking stalls for the site. Without the requested variances developing the parking lot to City standards would create an economic hardship on the landowner and making the proposed development unfeasible.

The appeal should be allowed and the variances granted, as the proposed development will not unduly interfere with the amenities of the neighbourhood or reduce the use, value or enjoyment of neighbouring lands. [unedited from Notice of Appeal]

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
 - ...

The decision of the Development Authority is dated January 6, 2016. The Notice of Appeal was filed on January 15, 2016.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 910.8 states the following with respect to the **General Purpose** of the **HDR High Density Residential Zone**:

... to accommodate high density housing with minor local commercial uses in a predominantly residential environment and to support the concept of a livable urban village with a strong sense of identity and place, where community activities and amenities are focused on a neighbourhood main street.

Under section 910.8(2)(b), **Apartment Housing** is a **Permitted Use** in the HDR High Density Residential Zone.

Under section 7.2(1), **Apartment Housing** is defined as follows:

... 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 910.1 states that the **General Purpose** of the **Special Area Downtown Overlay** is “To designate the Downtown area as a Special Area and to adopt the following land use regulations to achieve the objectives of the Capital City Downtown Plan.”

Minimum Setback

Section 910.8(4)(e) states in part:

The following regulations shall apply to Permitted and Discretionary Uses.

...

e. Setbacks

i. the minimum Front Setback shall be 3.0 m, except that buildings fronting onto 99 Avenue and 104 Street (the "local main street") shall not require a Front Setback;

ii. ...

iii. the minimum Rear Setback shall be 3 m;

Development Officer’s Determination

Minimum Front Setback is deficient by 2.10m. (Section 910.8.4.e.i)
Minimum Rear Setback is deficient by 2.10m. (Section 910.8.4.e.iii)
[unedited]

Surface Parking

Section 910.4(1)(e)(i) states that “No surface parking shall be allowed, other than accessory parking that is located at the rear of a building and is accessed from the abutting alley”.

Development Officer’s Determination

Surface Parking is not located at the rear of the building. (Section 910.4.1.e.i) [unedited]

Minimum Landscaped Setback

Section 910.4(1)(e)(ii) states that “A minimum 4m landscaped setback shall be provided from any property line abutting a Public Roadway, other than a lane, for any surface parking area”.

Development Officer’s Determination

Minimum Landscaped Setback is deficient by 3.10m. (Section 910.4.1.e.ii) [unedited]

Parking Spaces

Section 54.2(2)(e)(i) states:

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: ... parking spaces shall not be located within a Front Yard;

Development Officer’s Determination

2 Parking Spaces provided in the Front Yard. (Section 54.2.2.e.i) [unedited]

Landscaping

Section 55.8(3)(a) states that “All planting shall conform to the following: the proportion of deciduous to coniferous trees and shrubs shall be approximately 50:50”.

Development Officer’s Determination

Required Amount of Coniferous Trees is deficient by 7 Trees. (Section 55.8.3.a) [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: **148392678-003**
Application Date: SEP 24, 2015
Printed: February 2, 2016 at 3:49 PM
Page: 1 of 2

Application for Major Development Permit

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

Applicant 	Property Address(es) and Legal Description(s) 9922 - 104 STREET NW Plan NB Blk 4 Lot 82
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Scope of Application
To develop a Parking Area Accessory to an existing Apartment House.

Permit Details Class of Permit: Gross Floor Area (sq.m.): 0 New Sewer Service Required: N Site Area (sq. m.): 3514.28	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision
Refused

Reason for Refusal

- Minimum Front Setback is deficient by 2.10m. (Section 910.8.4.e.i)
- Minimum Rear Setback is deficient by 2.10m. (Section 910.8.4.e.iii)
- Surface Parking is not located at the rear of the building. (Section 910.4.1.e.i)
- Minimum Landscaped Setback is deficient by 3.10m. (Section 910.4.1.e.ii)
- 2 Parking Spaces provided in the Front Yard. (Section 54.2.2.e.i)
- Required Amount of Coniferous Trees is deficient by 7 Trees. (Section 55.8.3.a)

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: Jan 06, 2016 **Development Authority:** HARRISON, MARK **Signature:** _____

THIS IS NOT A PERMIT



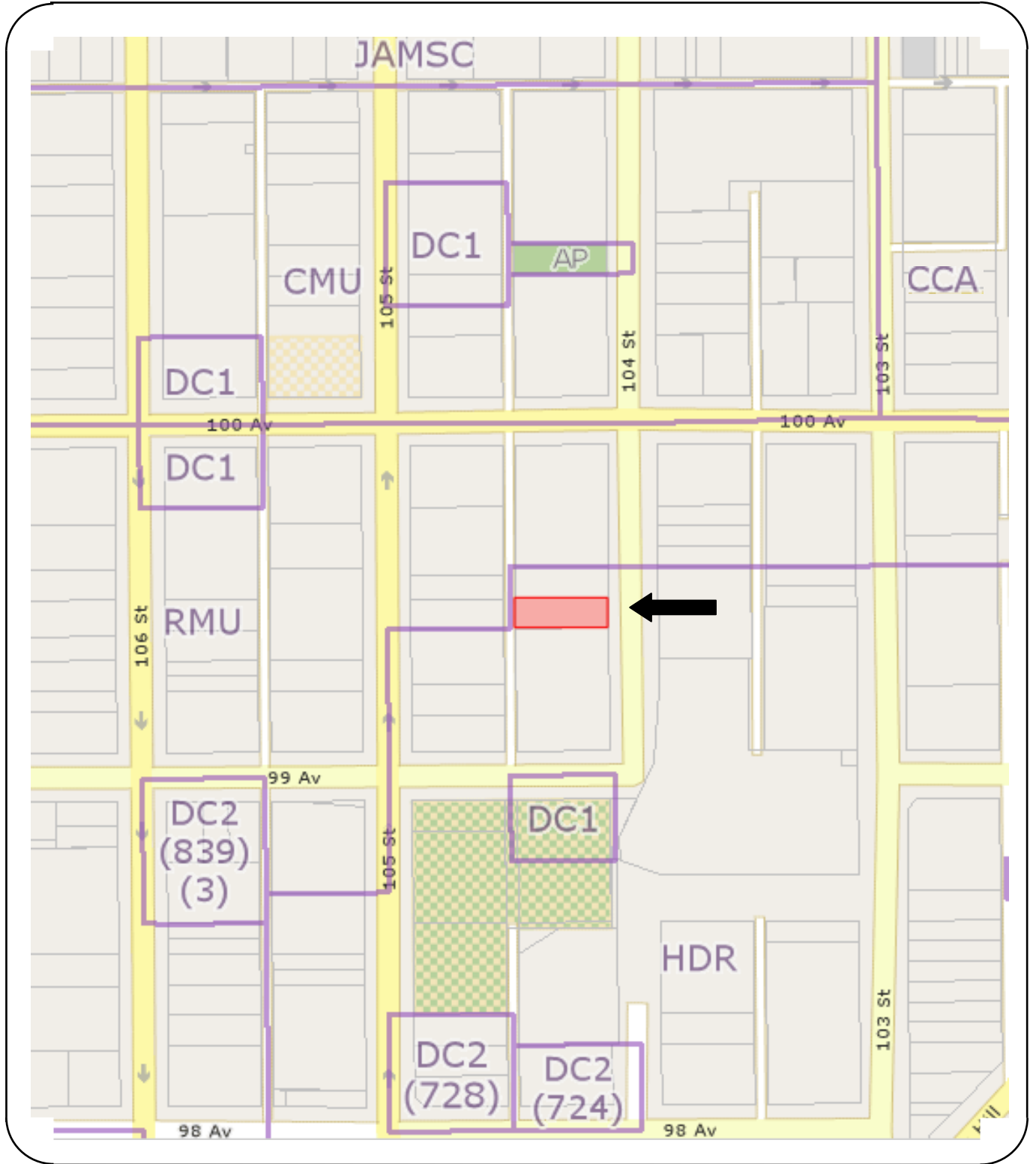
Project Number: **148392678-003**
Application Date: SEP 24, 2015
Printed: February 2, 2016 at 3:49 PM
Page: 2 of 2

Application for Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Lot Grading Fee	\$220.00			
Major Dev. Application Fee	\$333.00	\$333.00	02771553	Sep 24, 2015
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$553.00	\$333.00		
(\$220.00 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-049



BUSINESS LAID OVER

SDAB-D-16-050	An appeal by <u>Permit Solutions Inc.</u> to install (1) Fascia On-premises Sign (Boardwalk) <i>March 16, 2016</i>
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>

APPEAL HEARINGS TO BE SCHEDULED

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