

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
May 28, 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-15-104	Construct exterior alterations to an existing Single Detached House, existing without permits (front paved area, 3.20m x 8.05m) 6040 - 106 Street NW Project No.: 163482172-002
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II	10:30 A.M.	SDAB-D-15-105	Construct exterior alterations (front parking pad, 3.04m x 9.75m) to an existing Single Detached House, existing without permits 16311 - 98 Street NW Project No.: 154014087-002
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LUNCH BREAK: 11:45 A.M. TO 12:45 P.M.			
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III	12:45 P.M.	SDAB-D-15-106	Construct an addition to a Single Detached House (sunroom 3.6m x 7.1m, existing without permits) 15438 - 98 Street NW Project No.: 169912743-001
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NOTE: *Unless otherwise stated, all references to "Section numbers" in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-15-104

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPLICATION NO.:	163482172-002
APPLICATION TO:	Construct exterior alterations to an existing Single Detached House, existing without permits (front paved area, 3.20m x 8.05m)
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	April 16, 2015
DATE OF APPEAL:	April 29, 2015
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	6040 – 106 Street NW
LEGAL DESCRIPTION:	Plan 2814HW Blk 31 Lot 5
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. 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

The front yard of this property used for parking, does NOT lead to an overhead garage door or parking area. (Section 6.1(26)).

2. Section 814.3(10): Regardless of whether a Site has existing vehicular access from the front or flanking public roadway, there shall be no such access where an abutting Lane exists, and fewer than 50% of principal Dwellings on the blockface have vehicular access from the front or flanking roadway.

Front access garage/driveways are not allowed under the Mature Neighbourhood Overlay. Where a rear lane exists, all vehicular access must be from the lane.

3. Section 55.4(1): 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.

The front yard of this property is being used for parking. Based on the landscaping regulations, front yards/front setbacks must be landscaped. (Section 55.4(1)) (Section 6.1(55))

4. Section 54.2(2(e)): 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.

Due to the roll face curb, the hardsurfaced front yard of this property is being used for illegal parking. This area should be landscaped and parking is also not allowed within these yards.

5. Section 11.3(1): 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.

The parking spot on the front yard is unsightly. The entire front yard must be landscaped. Parking on areas that should be landscaped also takes away from desirable curb appeal.

6. Section 44(6): A Parking Area when comprised of parking spaces required under this Bylaw, provided that no Parking Area in any Zone shall be located within the Front Yard. This shall not prohibit the use of a Front Yard for Driveways.

Parking on the front yard of this property does not lead to a garage or parking area, therefore it is not a driveway. Parking on the front yard is prohibited other than provision of driveways.

NOTES:

This Development Permit application "To construct exterior alterations to an existing Single Detached House, existing without permits (front paved area, 3.20m x 8.05m)" originated as a Development Compliance Complaint.

Site inspection photos show illegal parking on the front yard of the property, existing without permits.

Section 17.1(1)(a) When an application for a Development Permit has been approved by the Development Officer, the Development Permit shall not be valid unless and until any conditions of approval, except those of a continuing nature, have been fulfilled.

The development permit condition attached to Development Permit #156108830-002 for the Secondary Suite approval has not been fulfilled:

- "According to 54.2 (2)(e)(i) parking spaces shall not be located within a Front Yard. There shall be no parking on this property in the front yard. "

Sufficient on-site parking is provided through the provision of a rear detached garage and additional parking spaces in the rear yard, parking on the front yard creates negative impact to the site and the surrounding neighbourhood.

This sort of driveway extension is not characteristic of the neighbourhood, nor allowed in the City of Edmonton.

Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.

APPELLANT'S SUBMISSION

This side/front parking lot is located on owner premise property and this development permit refusal is impacting owner's right of using a front/side parking lot.

It is an heritage existing front/side house parking without permit since 1951 (more than 60 years existing) or before the construction of the sidewalk and afterward 'due to front roll face curb' provided by The City of Edmonton property side during sidewalk construction estimate around 1951 when Edmonton City zone Bylaw front parking lot was allowing the use of house front parking lot at that time. It is clear that this dwelling family house got a vested right since 1951 due to existing sidewalk curb on Edmonton City property side and Edm. City not showing adequate Bylaw when this house was built.

Reasons for appeal of Development Officer Refusal decision:

Let's take each reason for refusal from City of Edmonton Development Officer document with project# 163482172-002 and check when this Bylaw 12800 code or sub-section was applied and add a comment to the refusal.

1. From page 2 of 3 #1. Section 6.1(26) is referring to Bylaw 15634 from Sept. 26, 2011. Because of vested right and before the creation of this Bylaw code it doesn't apply.

2. From page 2 of 3 #2. Section 814.3(10) is referring to Bylaw 15271 from March 18, 2013. Because of vested right and before the creation of this Bylaw code it doesn't apply.
3. From page 2 of 3 # 3. Section 55.4(1) is referring to Bylaw 15735 from June 20, 2011. Because of vested right and before the creation of this Bylaw code it doesn't apply. This parking lot is not completely in front but on the front/side of this house.
4. From page 2 of 3 # 3. Section 54.2(2(e)) is referring to Bylaw 15735 from June 20, 2011. Because of vested right and before the creation of this Bylaw code it doesn't apply. Roll face curb is located on City of Edmonton premise since 1951 and the construction of this sidewalk is their responsibility, and it is showing that the City of Edmonton has allowed parking lot in front of this house since 1951.
5. From page 2 of 3 #3. Section 11.3(1) is referring to Bylaw 13117 from June 8, 2002. Because of vested right and before the creation of this Bylaw code it doesn't apply. There is many existing parking lots completely in front (located not on the front/side of the house) of the house locating at door #6060 106 Street (built in 1954), at door #6064 (built in 1952), at door #6016 (built in 1971) and I believe it doesn't unduly interfere with the amenities of the neighborhood or it value because the City of Edmonton granted a permit for front parking lot used. On the contrary a front parking lot is making faster access to this house (because it is only 28 feet away) to reach the front house door especially during winter for handicapped people (my spouse and owner is getting arthritic problem and it is better to use the front access for her conditions), and this front/side parking is adding value to the neighborhood and this house by an estimation of \$20,000. Because it is not completely in front but on the front/side of the house it is allowing the front house to be landscaped with nice trees (see picture attach). We have shown that removing this front/side parking lot will reduce the value of this house and the existing front/side parking has really minor impact on the neighborhood.
6. From page 2 of 3 # 3. Section 44(6) is referring to Bylaw 15735 from June 20,2011 and Bylaw 15634 from September 26, 2011. Because of vested right and before the creation of this Bylaw code it doesn't apply. The City of Edmonton with roll face curb access has allowed front yard parking located at the following address 6064 106 street Edmonton, AB T6H 217.
7. Refer to page 2 of 3 showing notes section at the bottom of Development Officer document, project# 163482172-002, Section 17.1(1)(a): The development permit #156108830-002 condition has been fulfilled because the front door and side/front parking is only used for family dwelling purpose (28 feet away allowing access to front door). Independent entrance of secondary suite is located on the back side yard of the house (back parking lot at 75 feet is closer to reach the back door access). The remark of the City of Edmonton representative is creating confusion in the way they want to promote their point by associating this front/side parking lot to the secondary suite while access is in the back yard through one independent door.

To conclude: The Development Appeal Board for the City of Edmonton shall accept this Development permit for many reasons:

- This front/side parking lot is existing since 1951 and it is a family dwelling vested right when front parking lot access was granted by the City of Edmonton at that time.

- The City of Edmonton has provided a roll face curb access on their premise since 1951.
- This document is also showing 3 other house front parking lots that are allowed in close proximity of 6040 – 106 Street house and not impacting this neighbourhood.
- This house front/side parking lot represents minor impact to this neighborhood.
- This house front/side parking lot is adding value to this house and this neighborhood.
- Secondary suite independent access door is located on the back side yard of the house.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

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

Section 50.1(2) states 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.

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.

The Development Officer determined the proposed development does not lead to an overhead Garage door or Parking Area.

Section 814.3(10) states regardless of whether a Site has existing vehicular access from the front or flanking public roadway, there shall be no such access where an abutting Lane exists, and

- a. a Treed Landscaped Boulevard is present along the roadway adjacent to the property line;
- b. the Site Width is less than 15.5 metres; or
- c. fewer than 50% of principal Dwellings on the blockface have vehicular access from the front or flanking roadway.

The Development Officer determined front access Garage/Driveways are not allowed under the Mature Neighbourhood Overlay and where a rear Lane exists, all vehicular access must be from the Lane.

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 is being used for parking.

Section 54.2(2)(e) 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:

- i. parking spaces shall not be located within a Front Yard; and
- ii. 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.

The Development Officer determined the Front Yard is being used for parking.

Section 11.3(1) states the Development Officer may approve, with or without conditions as a Class B Development, an application for development that does not comply with this Bylaw where the proposed development would not, in his opinion:

- a. unduly interfere with the amenities of the neighbourhood; or
- b. materially interfere with or affect the use, enjoyment or value of neighbouring properties.

The Development Officer determined the parking spot on the Front Yard is unsightly, the Front Yard must be landscaped, and parking in the Front Yard takes away from desirable curb appeal.

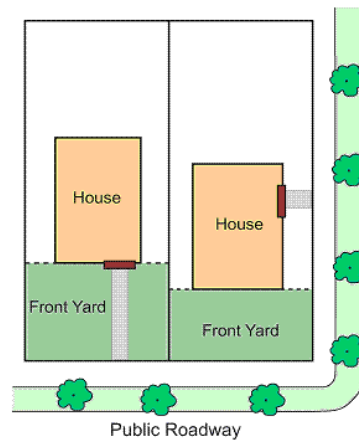
Section 44(6) states no Parking Area in any Zone shall be located within the Front Yard. This shall not prohibit the use of a Front Yard for Driveways.

The Development Officer determined the parking on the Front Yard does not lead to a Garage or Parking Area and, therefore, is not a Driveway.

Section 814.3(24) states when a Development Permit application is made and the Development Officer determines that the proposed development does not comply with the regulations contained in this Overlay:

- a. the applicant shall contact the affected parties, being each assessed owner of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development and the President of each affected Community League;
- 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 to the Development Officer no sooner than twenty-one calendar days after giving the information to all affected parties.

Under Section 6.1(39), **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 medication 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.

Under Section 6.1(56), **Lane** means an alley as defined in the Traffic Safety Act.

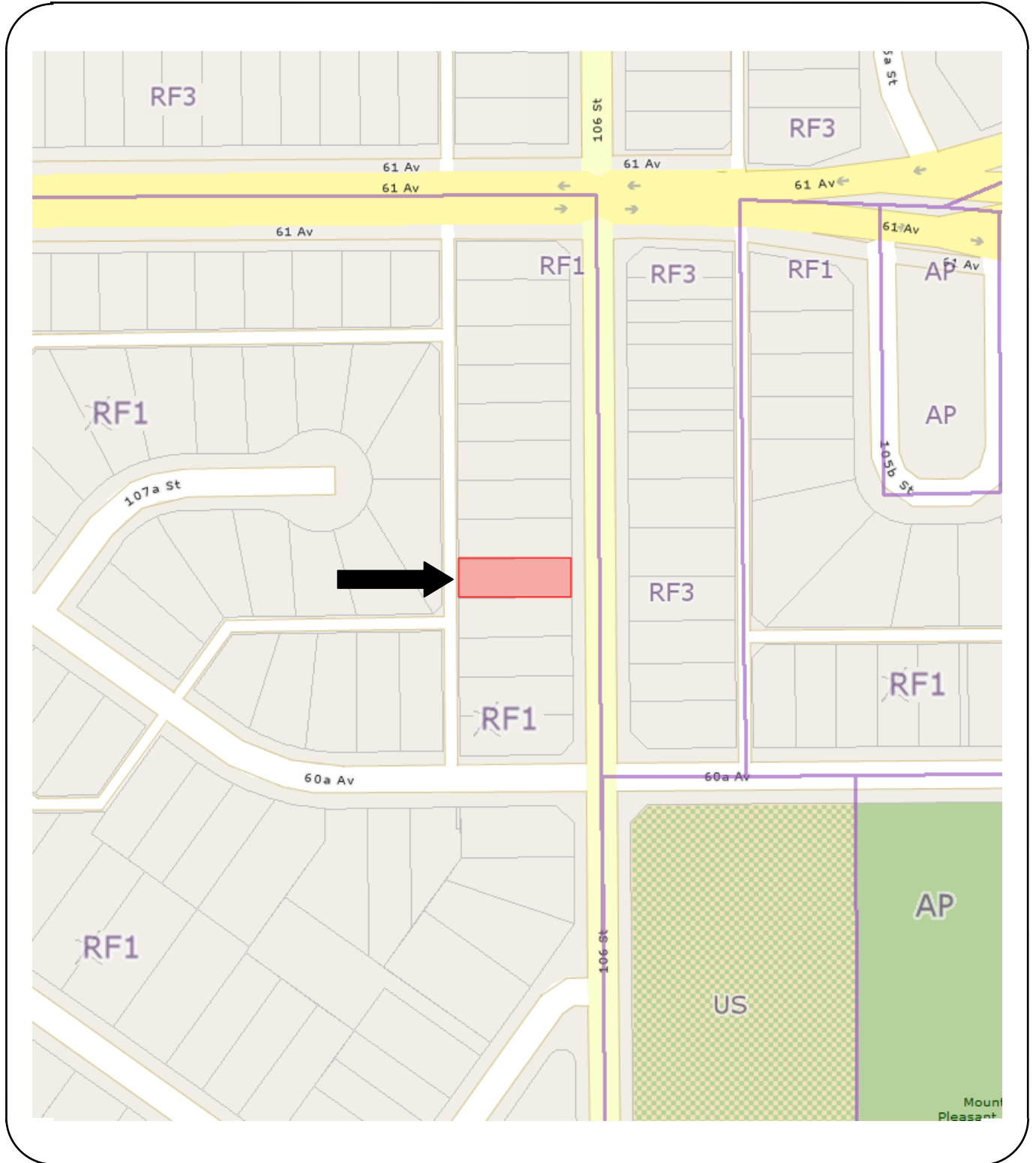
Section 110.1 states the purpose of the RF1 Single Detached Residential Zone is to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

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.

Included in the Sustainable Development Department's POSSE system, under "Shared with SDAB", is a Memorandum dated April 14, 2015 from Karen Haromy, Senior Transportation Technician, Development Planning, Transportation Planning Branch which indicates that Transportation Services has reviewed the noted development application and has attached conditions and advisements if approved. **A copy of the Memorandum 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-15-104



ITEM II: 10:30 A.M.

FILE: SDAB-D-15-105

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPLICATION NO.:	154014087-002
APPLICATION TO:	Construct exterior alterations (front parking pad, 3.04m x 9.75m) to an existing Single Detached House, existing without permits
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	April 17, 2015
DATE OF APPEAL:	April 30, 2015
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	16311 – 98 Street NW
LEGAL DESCRIPTION:	Plan 7922524 Blk 28 Lot 89
ZONE:	RF1 Single Detached Residential Zone
OVERLAY:	N/A
STATUTORY PLAN:	N/A

DEVELOPMENT OFFICER'S DECISION

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

Section 54.1(4) 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 Driveway shall lead directly from the roadway to the required Garage or Parking Area.

Section 54.2(2)(e) 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:

i) parking spaces shall not be located within a Front Yard;

Section 45.(7) In the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:

a) vehicles shall not be located on the landscaped portion of the Yard; and

b) vehicles shall only be allowed on a Driveway or within an attached or detached Garage.

Section 44(6) A Parking Area when comprised of parking spaces required under this Bylaw, provided that no Parking Area in any Zone shall be located within the Front Yard. This shall not prohibit the use of a Front Yard for Driveways.

Section 45(3) No person shall keep, in the Front Yard in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone, any large Recreational Vehicle for any longer than is reasonably necessary to load or unload such vehicle.

APPELLANT'S SUBMISSION

During the careful consideration of the purchase of an RV March and April 2011, I James Smith contacted 311 city hotline and asked information about a parking pad for an RV as there was no back yard access. I was told at that time due to no rear access that I was allowed a parking pad and that there were guidelines to follow ie: could not encompass entire front yard, 2 meters off city side walk, hard surfacing, elevation change on neighbouring site. They pointed me in the right direction to look stuff up on the web site and soon found some more information such as could not be off of a busy street, patio stones were ok as long as the tires were on a hard surface.

I then spoke to my neighbours about pouring concrete as there was an elevation change which would require a curb to the side property and did not think patio stones in the front yard was appealing. I contacted a couple of contractors in April 2011 and chose the one with the best price and seemed to know what he was talking about as he informed me of everything that I had found on the web site and that I also had to go 3m in width and 9.75m in length to be compliant with 2m restriction from city property line. I asked the contractor (Next Level Concrete) about the permit required and he told me that they take care of everything. They contacted me a couple of weeks later and said that they were

ready to break ground and would require half payment up front and the remaining when the cribbing came down.

May 02, 2011 I had 2 bank drafts cut and left them with my wife as I work out of town, she gave them one when they started and one when they took the cribbing down. Almost 4 years went by without any complaints from neighbours or issues with the city until February 23, 2015 when I was notified by letter that an inspection of the above property revealed hard surfacing had been added to the site without a development permit. The letter stated that a development permit had to be in place by March 16, 2015. I immediately applied for the permit March 05, 2015 and received notice on April 17, 2015 that the permit was refused. Applied to the appeal board April 30, 2015.

We purchased our home July 2000 and have not made any significant changes that required a development permit so I have not had the opportunity to deal with the development office before. I was informed that the refusal was based on today's amended bylaws as of the date on the application and not as of bylaws in place in April, May of 2011. I have spoken to the adjacent properties within 60m of the location and they willingly signed a letter that they had no issues or concerns with the parking pad. I have researched many similar situations such as this and it appears that some bylaws have been changed over time and are difficult to comprehend. I believed at the time that I had done enough research and hired the right contractor to comply and construct the parking pad safely and efficiently. The parking pad 3.04m x 9.75m x 15cm thick 32mpa was a great expense with the elevation change. To have to remove it and replace landscaping and deal with the elevation changes again would be another great expense.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

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

Section 50.1(2) states 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.

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:

- a. a minimum width of 3.1 metres;
- b. for a Site 10.4 metres wide or greater, have 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; and
- c. for a Site less than 10.4 metres wide, have a maximum width of 3.1 metres.

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

The Development Officer determined the Driveway must lead directly from the roadway to the required Garage or Parking Area.

Section 54.2(2)(e) 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:

- i. parking spaces shall not be located within a Front Yard; and
- ii. 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.

The Development Officer determined the parking spaces shall not be located within a Front Yard.

Section 45(7) states in the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:

- a. vehicles shall not be located on the landscaped portion of the Yard; and
- b. vehicles shall only be allowed on a Driveway or within an attached or detached Garage.

The Development Officer determined vehicles shall not be located on the landscaped portion of the Front Yard and shall only be allowed on a Driveway or within an attached or detached Garage.

Section 44(6) states no Parking Area in any Zone shall be located within the Front Yard. This shall not prohibit the use of a Front Yard for Driveways.

The Development Officer determined the parking on the Front Yard does not lead to a Garage or Parking Area and, therefore, is not a Driveway.

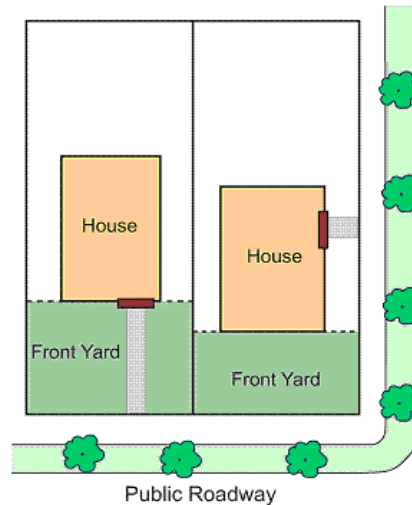
Section 45(3) states no person shall keep, in the Front Yard in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone, any large Recreational Vehicle for any longer than is reasonably necessary to load or unload such vehicle.

The Development Officer determined parking a large Recreational Vehicle in the Front Yard is limited to loading or unloading.

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(39), **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 medication of the natural features of a Site through the placement or addition of any or a combination of the following:

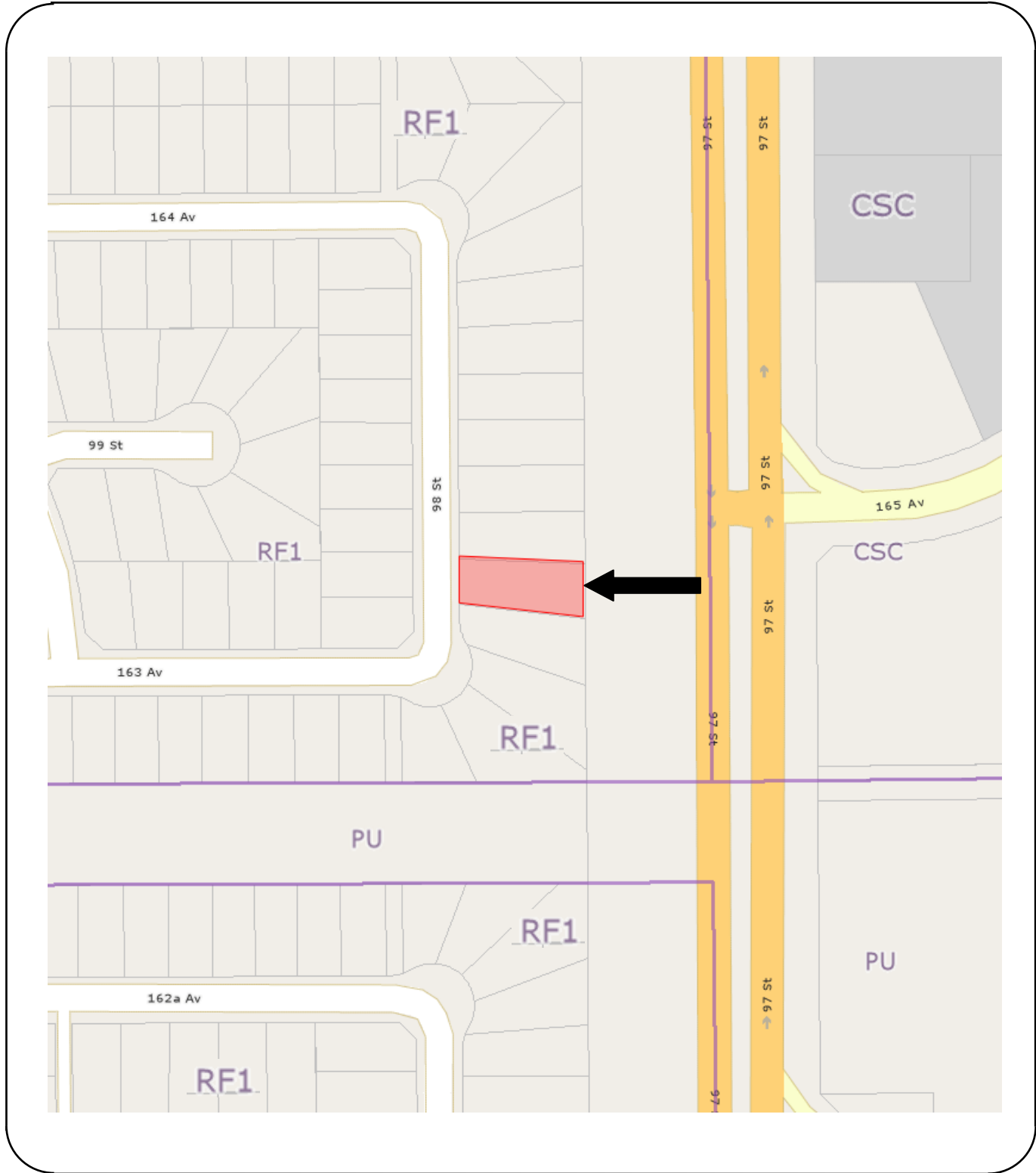
- a. soft landscaping elements such as trees, shrubs, plants, lawns, and ornamental plantings;
- b. decorative hardsurfacing elements such as bricks, pavers, shale, crushed rock or other suitable materials, excluding monolithic concrete and asphalt, in the form of patios, walkways and paths; and
- c.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

Under Section 6.1(56), **Lane** means an alley as defined in the Traffic Safety Act.

Section 110.1 states the purpose of the RF1 Single Detached Residential 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.

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-15-105



ITEM III: 12:45 P.M.

FILE: SDAB-D-15-106

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPLICATION NO.:	169912743-001
APPLICATION TO:	Construct an addition to a Single Detached House (sunroom 3.6m x 7.1m, existing without permits)
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	April 30, 2015
DATE OF APPEAL:	May 3, 2015
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	15438 – 98 Street NW
LEGAL DESCRIPTION:	Plan 7821797 Blk 63 Lot 1
ZONE:	RF1 Single Detached Residential Zone
OVERLAY:	N/A
STATUTORY PLAN:	N/A

DEVELOPMENT OFFICER'S DECISION

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

1. Section 110.3(7) - Maximum Total Site Coverage = 40%
Proposed: 42.07%
Exceeds by 2.07% or 13.37 sq m
2. Section 110.3(9) - Minimum Rear Setback shall be 4.5 m
Proposed: 1.33 m
Deficient by: 3.17 m

Note: Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.

Advisement:

The development encroaches 1.11 m onto Utility Right of Way Plan 7821798. According to the instrument (No. 782135911) "The Grantor will not without the prior written consent of the Grantee excavate, drill, install, erect or permit to be excavated, drilled, installed or erected over, under or through the said right-of-way any pit, foundation, pavement, building or other structure or installation, but otherwise the Grantor shall have the right fully to use and enjoy the said right-of-way except as the same may be necessary for the purposes herein granted to the Grantee".

Should the development be approved by the Subdivision and Development Appeal Board, a condition should be imposed stating that the applicant must enter into an Encroachment Agreement with the City for the encroachment onto the Utility Right of Way.

APPELLANT'S SUBMISSION

1. This appeal is made for consideration and reasonable variance in the context of the facility provided.
2. The site coverage area calculations alluded to, include eaves projections and is therefore not a true reflection of the site coverage.
3. The allowable site coverage for a single detached house on a site less than 300m² is 42% which infers possible overcrowding of its outdoor spaces. This property is over twice that area and the sunroom is located where it is least likely to cause overcrowding on the lot and in proximity to its neighbours, at the same time providing necessary sun exposure for the elderly owners throughout the year.
4. The south facing wall is 52' 6" away from the adjacent neighbour's nearest impact wall and is separated by a 7' 0" high fence on the dividing lot line impacted by the rear setback requirement.
5. The ruling received makes incorrect reference to Plan 7821798 for Utility Right of Way inferences. This lot Plan # is 7821797.
6. The sunroom location does not impact any of the immediate adjacent neighbours negatively.

7. The materials and finishes employed are of a high standard that add value and ambience to the related property.
8. The sunroom location provides vital sun exposure throughout the year, which is instrumental to the health of the owners, and was the original reason for its erection.
9. The owners are 84 and 89 years old and this permitting oversight, dating back to the time of erection, has recently provided untold monetary and mental stress and anxiety.
10. Whereas ignorance is not a mitigating circumstance, the owner lacked the knowledge to understand the relevance of permitting requirements for what was his perspective as a case of replacing the open deck with a sunroom that could be used throughout the year.
11. The sunroom addition has been in its present location for the last 10 years or more, which lends to the idea that possible vindictive negativity may be the source of this corrective action requirement.
12. A meeting with the development officer responsible proved fruitless as it became a defence of his ruling rather than approaching the problem with a mature managerial perspective that only comes with experience.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

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.

The submitted Site Plan shows that the subject site has a Site Width of 18.70 metres and a Site depth of 35.08 metres. The Single Detached House with the proposed sunroom addition is located 6.12 metres from the (north) Front Lot Line, 4.92 metres from the (east) flanking Side Lot Line, 2.74 metres from the (west) Side Lot Line, and 1.36 metres from the (south) Rear Lot Line.

Section 110.4(7)(a) states the maximum total Site Coverage for Single Detached Housing on a Site greater than 300 square metres is 40 percent.

The Development Officer determined the maximum total Site Coverage is 40 percent (258.44 square metres). The proposed development provides Site Coverage of 42.07 percent (271.81 square metres), which is in excess of the maximum by 2.07 percent or 13.37 square metres.

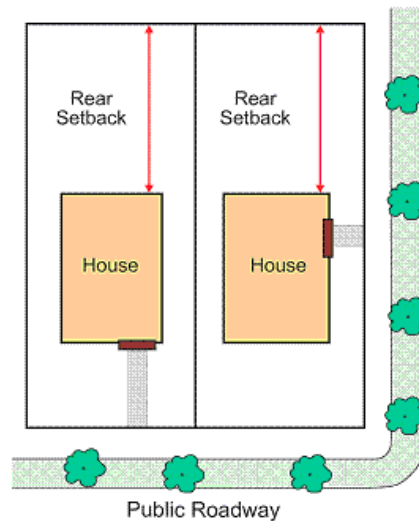
Section 110.4(9) states the minimum Rear Setback shall be 7.5 metres, except on a Corner Site, where a primary Dwelling with an attached Garage faces the flanking public roadway, it may be reduced to 4.5 metres.

The Development Officer determined the minimum required Rear Setback is 4.5 metres. The proposed development provides a Rear Setback of 1.33 metres, which is deficient by 3.17 metres.

Under Section 6.1(93), **Site Coverage** means the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 m above grade, including Accessory Buildings or Structures, calculated by perpendicular projection onto a horizontal plane from one point located at an infinite distance above all buildings and structures on the Site. This definition shall not include:

- a. steps, eaves, cornices, and similar projections;
- b. driveways, aisles and parking lots unless they are part of a Parking Garage which extends 1.0 metres or more above grade; or
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 metres above grade.

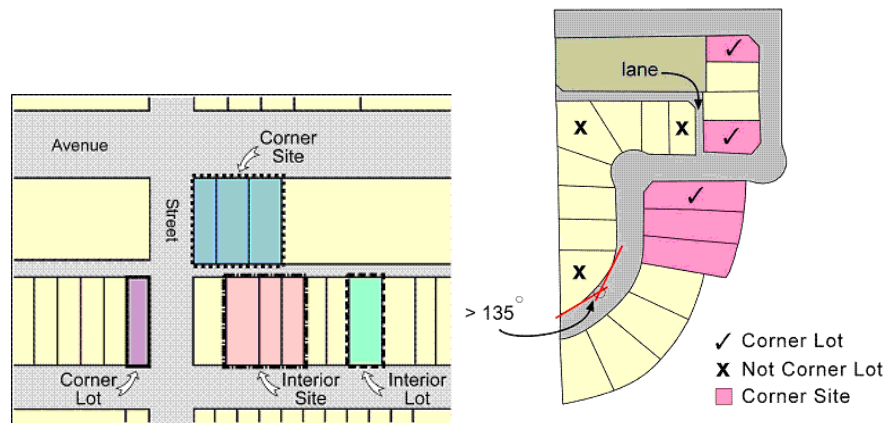
Under Section 6.1(82), **Rear Setback** means the distance that a development or a specified portion of it, must be set back from a Rear Lot Line. A Rear Setback is not a Rear Yard, Amenity Space or Separation Space.



Under Section 6.1(19), **Corner Site** means an area of land consisting of one or more adjacent Lots where at least one Lot is:

- a. located at the intersection of two public roadways, other than Lanes; or
- b. abuts a public roadway, other than a Lane, which changes direction at any point where it abuts the Site;

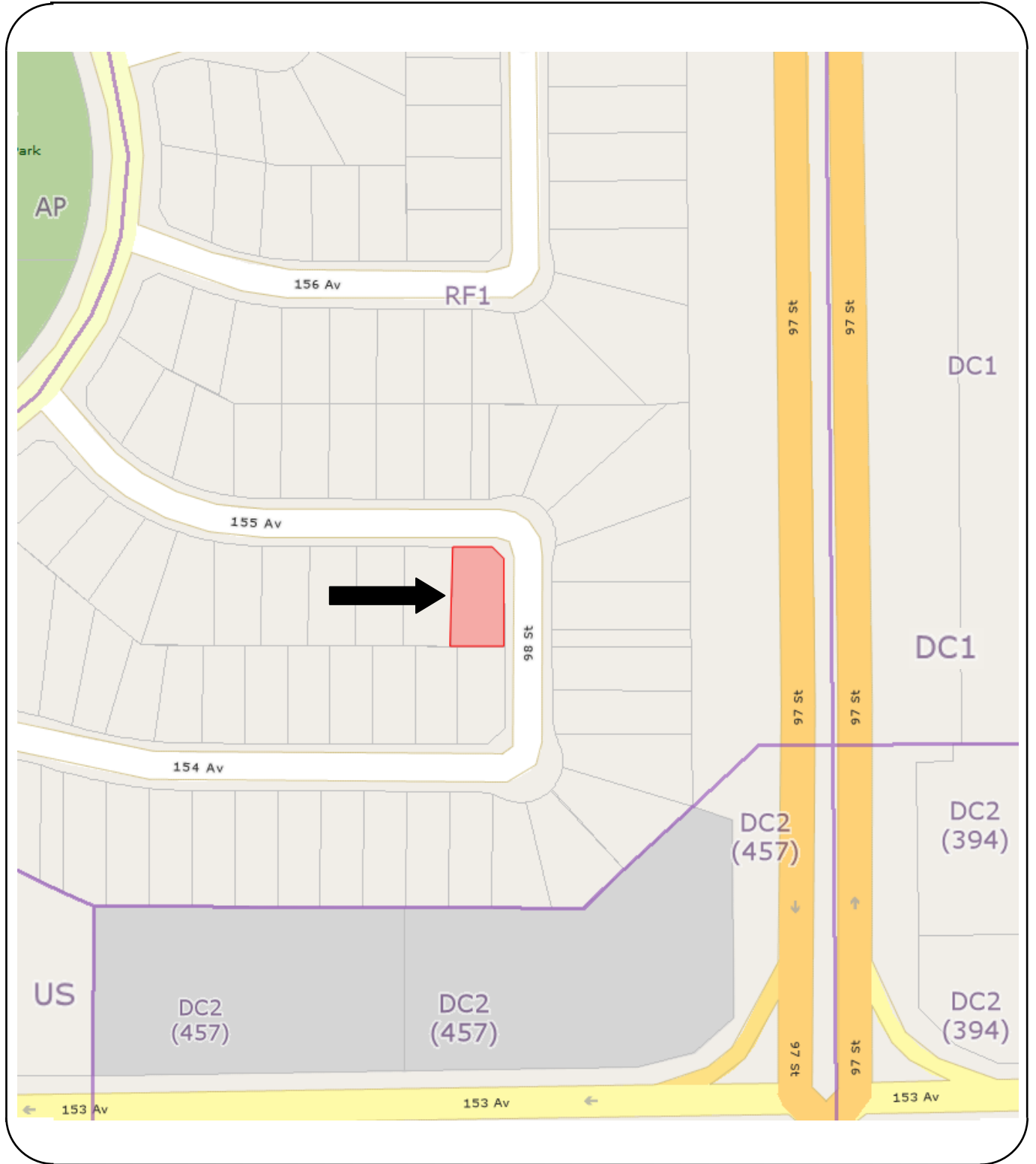
provided that in both cases the Site shall not be considered a Corner Site where the contained angle formed by the intersection or change of direction is an angle of more than 135 degrees. In the case of a curved corner, the angle shall be determined by the lines tangent to the property line abutting the public roadways, provided the roadway is not a Lane, at the point which is the extremity of that property line. In the case of a curved corner, the point which is the actual corner of the Site shall be that point on the property line abutting the public roadway, provided the roadway is not a Lane, which is nearest to the point of intersection of the tangent lines.



Section 110.1 states the purpose of the RF1 Single Detached Residential 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.

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-15-106



BUSINESS LAID OVER

SDAB-D-15-093	An appeal to construct exterior alterations to an existing Single Detached House (Driveway extension), existing without permits <i>June 10 or 11, 2015</i>
SDAB-D-15-096	An appeal to comply with a Stop Order to cease any construction. <i>June 10, 2015</i>

APPEAL HEARINGS TO BE SCHEDULED

159466458-001	An appeal to construct a Freestanding Minor Digital On-premises Off-premises Sign <i>June 4, 2015</i>
168696143-001	An appeal to comply with a Stop Order to dismantle and remove the Freestanding Off-premises Sign from the Site. <i>July 2, 2015</i>