

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Thursday, 9:00 A.M.
May 21, 2015

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-15-097	Extend the duration of a Freestanding Minor Digital Off-premises Sign (10.37m x 3.08m) Double Sided facing East/West 10730 - 99 Street NW Project No.: 131820679-003
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II	11:00 A.M.	SDAB-D-15-098	Construct an addition to an existing Single Detached House (partially covered deck 1.52m x 4.72m and 2.44m x 13.72m) 2724 - Wheaton Drive NW Project No.: 163179224-005
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LUNCH BREAK: 12:30 P.M TO 1:30 P.M.

III	1:30 P.M.	SDAB-D-15-099	Construct exterior alterations to 50 Dwellings of Row Housing with attached garages (revised main floor elevations for Blocks A, B and I only) 1480 - Watt Drive SW Project No.: 157103831-007
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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-15-097

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 131820679-003

APPLICATION TO: Extend the duration of a Freestanding
Minor Digital Off-premises Sign (10.37m
x 3.08m) double-sided facing east/west

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 12, 2015

DATE OF APPEAL: April 23, 2015

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 10730 - 99 Street NW

LEGAL DESCRIPTION: Plan 5825NY Lot B

ZONE: CB2 General Business Zone

OVERLAY: Pedestrian Commercial Shopping Street
Overlay

STATUTORY PLAN: Boyle Street / McCauley Area
Redevelopment Plan

DEVELOPMENT OFFICER'S DECISION

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

- 1) Minor Digital Off-premises Signs shall be located such that the Sign does not obscure a driver decision point. The Development Officer and Transportation Services shall be satisfied that each Copy Area:
 - a. does not physically obstruct the sightlines or view of a traffic control device or traffic control signal for oncoming vehicle traffic;
 - c. is not located in the field of view near or past other traffic conflict points such as intersections, merge points, exit ramps, or curved roadways (Reference Section 59.2(2)).

The existing digital sign encroaches into the critical 20 degree clearance zone associated with the City's Digital Display Installation Clearance Zone guidelines for the 107 Avenue and 99 Street intersection contrary to section 59.2(2)(a). No Traffic Safety Assessment was submitted in conjunction with this a new application. In addition, the marked crosswalk located on the side of the 107 Avenue and 99 Street intersection is a designated traffic control point that needs to be protected contrary to section 59.2(2)(c).

- 2) All Freestanding Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located so that all portions of the Sign and its support structure are completely located within the property and no part of the Sign may project beyond the property lines unless otherwise specified in a Sign Schedule (Reference Section 59.2(12)):

The existing East facing digital signage encroaches into the road-right-of-way (rear lane), contrary to section 59.2(12). Transportation will not allow any billboard sign wholly or partially on or over rights-of-way.

- 3) Transportation Services has a minimum nominal height clearance requirement of 5.6 m. Based on the development application, the digital sign shows the vertical clearance of 4.95 m. As per the memorandum from the Transportation department, the digital sign does not meet this requirement, and must be removed from the site.
- 4) The maximum Height of a Freestanding Sign shall be 6.0 m (Reference Section 819.3(13)(a) of the Pedestrian Commercial Shopping Steet Overlay.

Proposed: 8.0 m
Exceeds by: 2m

Note:

Where a Development Permit is issued for a Site where any other Development Permit has been approved, all previous Permits shall expire if the physical aspects of the development conflict, or both could not occur simultaneously upon the Site, in conformity with the regulations of this Bylaw Reference Section 22(7). As such, any approval to allow the proposed development, shall expire the previous Development Permit approved on Jan16 2013, Development Permit No. 131820679-001

The Development Officer may cancel a Development Permit following its approval if any person undertakes development, or causes or allows any development to take place on a Site contrary to the Development Permit (Reference Section 17.2(1)(a)). The existing sign is under Compliance investigation, as to its location in accordance to the approved site plan under Development Permit No. 131820679-001

APPELLANT'S SUBMISSION

Appeal of the refusal of the Development Officer in respect of a new application for a Freestanding Minor Digital Off-Premise Sign.

By e-mail alone, the applicant first received notice of refusal on 2015-04-17.

An off-premises sign has existed on this property, under permit, for greater than 10 years. In support of his reasons for refusal, the Development Officer cites Land Use By Law s. 59.2(2), 59.2(2)(c), 59.2(12) and 819.3(13)(a). These provisions existed at the time of last application, and were approved by the development officer at that time. Nothing material has changed to the property, the surrounding area, or the legislation since this time. Therefore, in the absence of a material change, the applicant takes the position that it has the right to rely on the earlier decision. Support for this position shall be presented to the SDAB panel at time of presentation.

In the alternative, given the existence of a sign on this property for a long period, with no changes in the area, issues, or impact to the surrounding built of traffic environment, the applicant asks the SDAB to relax the requirements cited in support of the Development Officer's reasons for refusal.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

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 March 12, 2015. Fourteen days from the decision date is March 26, 2015 and the Notice of Appeal was filed on April 23, 2015.

It should be noted, included in the Sustainable Development Department's POSSE system, under "Shared with SDAB", is a Canada Post Unclaimed Registered Mail document. **A copy of the document is on file.**

Minor Digital Off-premises Signs is a Discretionary Use in the CB2 General Business Zone, Section 340.3(42).

Under Section 7.9(6), **Minor Digital Off-premises Signs** means any Sign that is remotely changed on or off Site and has a Message Duration greater than or equal to 6 seconds. Minor Digital Off-premises Signs incorporate a technology or method allowing the Sign to change Copy without having to physically or mechanically replace the Sign face or its components. The Copy on such Sign directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, entertainment or service provided on the premises or Site where the Sign is displayed.

The submitted Site Plan created by Jones Geomatics Ltd., dated November 8, 2012 shows the double-sided Sign is 0.32 metres from the (north) lot line, 0.87 metres from the (south) lot line, 19.88 metres from the (west) lot line, and 37.39 metres from the (east) lot line.

The submitted plans show the Sign has a horizontal dimension of 10.38 metres, a vertical dimension of 3.05 metres, and a Height of 8.00 metres from Grade to the top of the Sign.

Section 59.2(2) states Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located such that the Sign does not obscure a driver decision point. The Development Officer and Transportation Services shall be satisfied that each Copy Area:

- a. does not physically obstruct the sightlines or view of a traffic control device or traffic control signal for oncoming vehicle traffic;
- b. is not located in the field of view near or past the traffic control device or traffic control signal in the sightlines of oncoming vehicle traffic;
- c. is not located in the field of view near or past other traffic control points such as intersections, merge points, exist ramps, or curved roadways; and
- d. illumination does not compete with or dull the contrast of the traffic control device or traffic control signal for oncoming vehicle traffic.

The Development Officer determined the proposed development encroaches into the critical 20 degree clearance zone associated with the City's Digital Display Installation Clearance Zone guidelines for the 107 Avenue and 99 Street intersection. The Development Officer also determined the marked crosswalk located on the side of the 107 Avenue and 99 Street intersection is a designated traffic control point that needs to be protected.

Section 59.2(12) states all Freestanding Signs, Temporary Signs, Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located so that all portions of the Sign and its support structure are completely located within the property and no part of the Sign may project beyond the property lines unless otherwise specified in a Sign Schedule.

The Development Officer determined no part of the Sign may project beyond the property lines. The proposed development encroaches into the road right-of-way, which is not permitted.

The Development Officer states Transportation Services has a minimum nominal height clearance requirement of 5.6 metres. The proposed development provides a vertical clearance of 4.95 metres, which is deficient by 0.65 metres.

Section 819.3(13)(a) states Signage shall be provided in accordance with Schedule 59E of this Bylaw, with the intent to compliment the pedestrian-oriented commercial environment, except that the maximum Height of a Freestanding Sign shall be 6.0 m.

The Development Officer determined the maximum Height of a Freestanding Sign shall be 6.0 metres. The proposed development provides a Height of 8.0 metres, which is in excess of the maximum by 2.0 metres.

Section 819.3(15) states where an application for a Development Permit does not comply with the regulations contained in this Overlay:

- a. the applicant shall contact the affected parties, being each assessed owner of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development and the President of each affected Community League and the President of each Business Revitalization Zone Association operating within the distance described above, at least 21 days prior to submission of a Development Application;
- b. the applicant shall outline to the affected parties, any requested variances to the Overlay and solicit their comments on the application;
- c. the applicant shall document any opinions or concerns, expressed by the affected parties, and what modifications were made to address their concerns; and
- d. the applicant shall submit this documentation as part of the Development Application.

Schedule 59E.3(5) states Minor Digital On-premises Off-premises Signs and Minor Digital Off-premises Signs shall be subject to the following regulations:

- a. the maximum Height shall be 8.0 m;
- b. the maximum Width shall be 8.0 m;
- c. the maximum Area shall be:
 - i. ...
 - ii. 20 m² for proposed Signs that are Freestanding Signs. The maximum combined Area of Digital Sign Copy and any other type of Copy on the same Sign face shall not exceed 20 m²;
- d. proposed Sign locations shall be separated from any other Digital Sign greater than 8.0 m² or Off-premises Sign as follows:

Proposed Sign Area	Minimum separation distance from Digital Signs greater than 8.0 m ² or other Off-premises Sign
Greater than 8.0 m ² to less than 20 m ²	100 m
20 m ² to 40 m ²	200 m
Greater than 40 m ²	300 m

The separation shall be applied from the larger Off-premises Sign or Digital Sign location.

- e. ...
- f. ...
- g. ...
- h. ...
- i. proposed Signs with an Area greater than 8.0 m² shall not be located within any Setback;
- j. the maximum number of Freestanding On-premises Signs, Roof On-premises Signs, Major Digital Signs, Minor Digital On-premises Signs, Minor Digital On-premises Off-premises Signs and Minor Digital Off-premises Signs on a Site shall be four; and

- k. an application for the renewal of a Sign with a lawful permit existing at the time of the passage of Bylaw 15892 will not be refused for the sole reason that it does not comply with all development regulations of this Bylaw. Application renewals shall demonstrate that the Sign meets the automatic light level controls outlined in Section 59.2(5) and traffic safety regulations in Section 59.2(2).

Under Section 6.2(1), **Height Signs** means the vertical distance measured from the finished ground surface directly under the Sign to the highest point of the Sign.

Section 819.1 states the purpose of the Pedestrian Commercial Shopping Street Overlay is to maintain the pedestrian-oriented character of commercial areas, comprised of shopping streets in close proximity to residential areas of the City.

Section 340.1 states the purpose of the CB2 General Business Zone is to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.

Included in the Sustainable Development Department's POSSE system, under "Shared with SDAB", is a Memorandum dated March 10, 2015 from Darryl Mullen, General Supervisor, Sustainable Transportation, Transportation Planning Branch, which indicates that Transportation Services has reviewed the noted development application and does not support the proposed development. **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-15-097



ITEM II: 11:00 A.M.

FILE: SDAB-D-15-098

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 163179224-005

APPLICATION TO: Construct an addition to an existing Single Detached House (partially covered deck 1.52m x 4.72m and 2.44m x 13.72m)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 10, 2015

DATE OF APPEAL: April 22, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2724 - Wheaton Drive NW

LEGAL DESCRIPTION: Plan 1420824 Blk 13 Lot 11

ZONE: RSL Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN(S): Windermere Area Structure Plan
Windermere Neighbourhood Structure Plan

DEVELOPMENT OFFICER'S DECISION

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

Section 115.4(5) the maximum total Site Coverage shall not exceed 45%, inclusive of the attached Garage and any other Accessory Buildings.

Proposed Site Coverage: 336.89 m² (51%)
Exceeds by: 39.40 m² (6%)

APPELLANT'S SUBMISSION

1. We want to make use of the view.
2. No home in back.

3. House lot is sloped down front to back; if it was not sloped down the deck would not appear too high.
4. Only the small portion of deck needed approval which should not affect the neighbouring property.
 - a) House and deck not encroaching into rear required yard.
 - b) Home depth including deck is proportionate to neighbour's.
 - c) House/deck and including the approved deck is under 45% coverage.
 - d) We need only the small portion of the deck coverage approval for the enjoyment of our property which does not affect in any way either of the adjacent properties or the back because back of house has no houses, only the lake.

We really like this area. This will be our final dream home. My wife and kids always wanted to have a house in this subdivision. My kids like their bedrooms, have nice views and good surroundings. My family has an emotional attachment with this layout of house. We have already spent lot of time and thoughts in planning this home.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

Single Detached Housing is a Permitted Use in the RSL Residential Small Lot Zone, Section 115.2(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 Plot Plan created by Pals Geomatics Corp., dated August 12, 2014 (revised February 13, 2015) shows that the subject site has a (south) Site Width of 17.40 metres, a (west) Site depth of 37.84 metres, and an (east) Site depth of 38.07 metres. The proposed Single Detached House with attached Garage and covered deck is 6.71 metres from the (south) Front Lot Line, 1.84 metres from the (west) Side Lot Line, 1.84 metres from the (east) Side Lot Line, and 8.44 metres from the (north) Rear Lot Line.

Section 115.4(5) states the maximum total Site Coverage shall not exceed 45%, inclusive of the Garage and any other Accessory Buildings.

The Development Officer determined the maximum total Site Coverage is 297.49 square metres. The proposed development provides Site Coverage of 336.89 square metres, which is in excess of the maximum by 39.40 square metres.

Under Section 6.1(93), **Site Coverage** means the total horizontal area of all buildings or structure on a Site which are located at or higher than 1.0 metres above grade, including

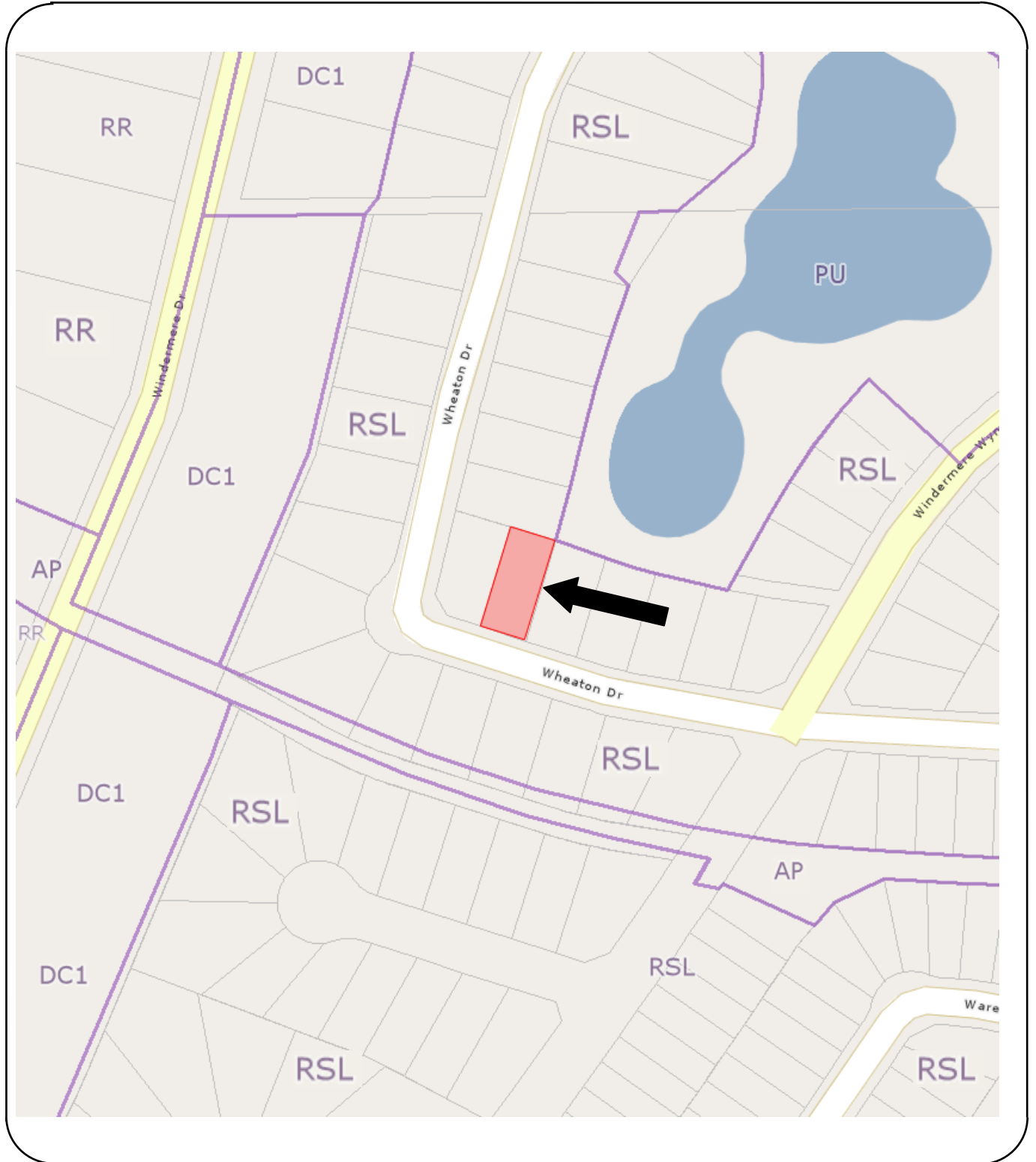
Accessory Buildings or Structures, calculated by perpendicular projection onto a horizontal plane from one point located at an infinite distance above all buildings and structures on the Site. This definition shall not include:

- 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.

Section 115.1 states the purpose of the RSL Residential Small Lot Zone is to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites.

NOTICE TO APPLICANT/APPELLANT

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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-098



ITEM III: 1:30 P.M.

FILE: SDAB-D-15-099

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:
APPLICATION NO.: 157103831-007

APPLICATION TO: Construct exterior alterations to 50
Dwellings of Row Housing with attached
Garages (revised main floor elevations for
Blocks A, B and I only)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 21, 2015

DATE OF APPEAL: April 22, 2015

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 1480 - Watt Drive SW

LEGAL DESCRIPTION: Plan 1325175 Blk 16 Lot 1

ZONE: RF5 Row Housing Zone

OVERLAY: N/A

STATUTORY PLAN(S): Southeast Area Structure Plan
Walker Neighbourhood Structure Plan

DEVELOPMENT OFFICER'S DECISION

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

1. Due to a revision to the grading plan resulting in an increase in grade elevation, the three buildings identified in this application are now deemed to be over-height, in that each of them meets the zoning definition of a 3-storey building. A basement is considered a storey if the top of the main floor is more than 1.83 m above grade, as per section 6.1(98) of the Zoning Bylaw.

The proposed basement heights are as follows:

Building A basement height = 2.06 m
Building B basement height = 2.65 m
Building I basement height = 2.43 m

2. The Development Officer does not have the authority to grant variances to height, as per Section 11.4(2) of the Zoning Bylaw.

APPELLANT'S SUBMISSION

The site is a townhouse development with 9 proposed buildings. During the DP application, the DP officer and our office (Planworks Architecture) agreed on a method of calculating the "Average Grade" for each building. At the time, we utilized the exiting site survey plan to formulate the average grades, and the proposed Main Floor Elevations.

Since the DP approval, the final design grades have been completed on the site to work with the proposed drainage. We note that due to the new design grades, and the existing perimeter site elevations, and existing grades along Watt Drive, we have had to revise the Main Floor Elevations and "Average Grades" for these three buildings (Blocks A, B and I). We note that we are still meeting the building height requirement for each of these three buildings, but we are over the allowable height of 1.83m, from the "Average Grade" to the main floor for each of the three buildings. The site zoning allows for 2 1/2 storeys on this site. Due to the grading requirements to accommodate drainage, the 3 buildings under review, are now considered 3 storey buildings.

We are requesting a variance to this height for these 3 buildings.

It is worthy of noting that the grade from the front of the site (along Watt Drive) to the back of the site, has a grade elevation difference of 3.21m on the south side of the site, to 5.72m on the north side of the site. Due to this natural design elevation difference, we believe that having the higher buildings at the front of the site (Blocks A, B and I) will not impeded the overall height and composition of the development.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER’S COMMENTS

Row Housing, on a Site of 1.4 hectares or less, is a Permitted Use in the RF5 Row Housing Zone, Section 160.2(4).

Under Section 7.2(6), **Row Housing** means development consisting of a building containing a row of three or more Dwellings joined in whole or in part at the side only with no Dwelling being placed over another in whole or in part. Individual Dwellings are separated from one another by a Party Wall. Each Dwelling has separate, individual, and direct access to Grade. This Use Class does not include Stacked Row Housing.

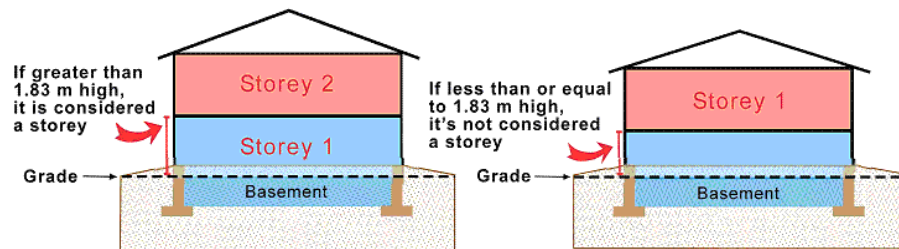
Section 160.4(3) states the maximum Height shall not exceed 10.0 metres nor 2 1/2 Storeys.

The Development Officer determined the top of the floor directly above the Basement for building A is 2.06 metres and the Basement is a Storey. The proposed Building A provides 3 Storeys, which is in excess of the maximum by Half Storey.

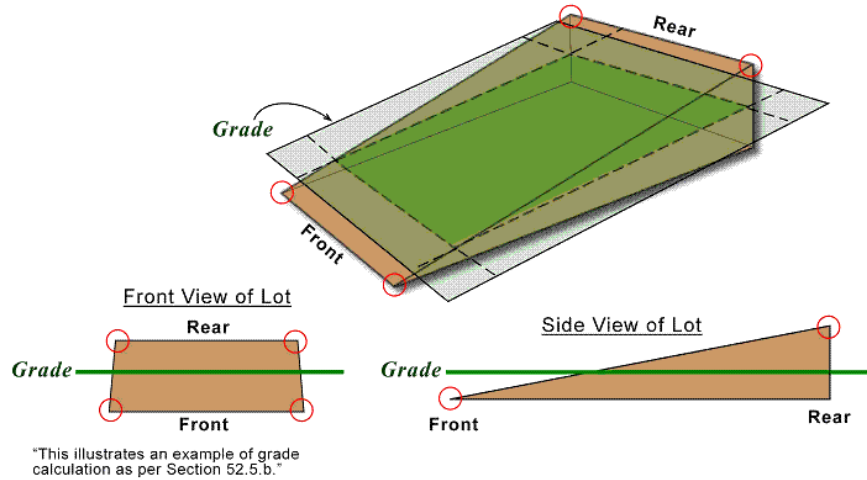
The Development Officer determined the top of the floor directly above the Basement for building B is 2.65 metres and the Basement is a Storey. The proposed Building B provides 3 Storeys, which is in excess of the maximum by a Half Storey.

The Development Officer determined the top of the floor directly above the Basement for building I is 2.43 metres and the Basement is a Storey. The proposed Building I provides 3 Storeys, which is in excess of the maximum by a Half Storey.

Under Section 6.1(98), **Storey** means that portion of a building, which is situated between the top of any floor and the top of the floor next above it. If there is no floor above, the Storey is the portion of the building, which is situated between the top of any floor and the ceiling above it. If the top of the floor directly above a Basement is more than 1.83 metres above grade, such Basement shall be considered a Storey for the purpose of this Bylaw;



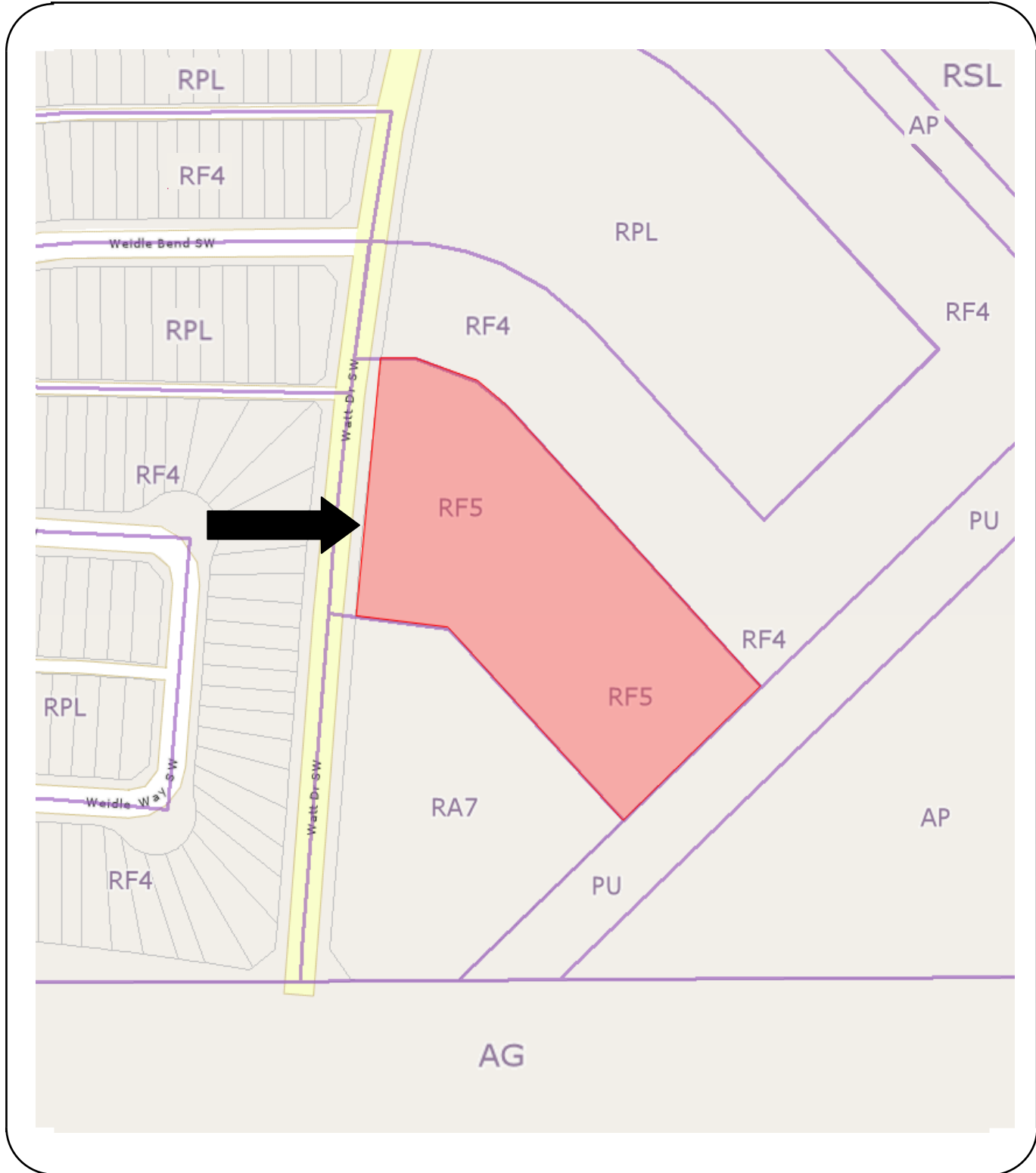
Under Section 6.1(42), **Grade** means a geodetic elevation from which the Height of a structure is measured, calculated in accordance with Section 52;



Section 160.1 states the purpose of the RF5 Row Housing Zone is to provide for relatively low to medium density housing, generally referred to as Row Housing.

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-15-099



BUSINESS LAID OVER

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APPEAL HEARINGS TO BE SCHEDULED

159466458-001	An appeal by MacDonald Outdoor Advertising / Ogilvie LLP Barristers and Solicitors to construct a Freestanding Minor Digital On-premises Off-premises Sign <i>June 4, 2015</i>
168709231-001	An appeal by Ogilvie LLP Barristers and Solicitors to comply with a Stop Order to dismantle and remove the Freestanding Off-premises Sign from the Site. <i>July 9, 2015</i>