

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
May 3, 2017**

**Hearing Room No. 2
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

Members Scheduled

Anna Lund, Presiding Officer
Noel Somerville
Art Peterson
Rick Hachigian
Rohit Handa

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 2**

I	9:00 A.M.	SDAB-D-17-078	Operate a Major Home Based Business (Administration office for janitorial business - DIAMOND JANITOR SERVICE). 4059 - 199 Street NW Project No.: 164383562-004
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II	10:30 A.M.	SDAB-D-17-075	To construct a two-storey Accessory Building (main floor Garage, 6.1 metres by 9.75 metres, second floor Garage Suite, 6.7 metres by 8.75 metres) 4144 - Aspen Drive East NW Project No.: 242488221-001
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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-17-078

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 164383562-004

APPLICATION TO: Operate a Major Home Based Business (Administration office for janitorial business - DIAMOND JANITOR SERVICE).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 31, 2017

DATE OF APPEAL: April 10, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4059 - 199 Street NW

LEGAL DESCRIPTION: NW-8-52-25-4

ZONE: AG Agricultural Zone

OVERLAY: N/A

STATUTORY PLAN: Edgemount Neighbourhood Area Structure Plan

Grounds for Appeal

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

I have been living at this address since 1998. I have owned a business as janitorial since 1988. I had an office out of the house until 2012. In 2013 I started my office from my house. We live on eight acres, we don't have any neighbours. I have purchased my Business Licence every year. Last year I was asked to purchase a major permit instead. So I did and now I have received a letter that they won't issue a permit for me.

<i>General Matters</i>

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.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority 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
 - ...
- (b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

- (i) the proposed development would not

- (A) unduly interfere with the amenities of the neighbourhood, or

- (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 610.3(3), a **Major Home Based Business** is a **Discretionary Use** in the **AG Agricultural Zone**.

Under section 7.3(7), **Major Home Based Business** means:

development consisting of the use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses such businesses may generate more than one business associated visit per day. The business use must be secondary to the residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use Class includes Bed and Breakfast Operations but does not include General Retail Sales.

General Purpose

Section 610.1 state that the **General Purpose** of the **AG Agricultural Zone** is to conserve agricultural and rural Uses.

Development Officer's Determination:

The janitorial business is using two large commercial trucks that are not for agricultural use or other discretionary uses in the zone.

Outdoor Storage

Section 75(5) states there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings.

Development Officer's Determination:

Commercial trucks are considered heavy equipment, and are being stored at the property. A 4.9 metres long business trailer is also being stored at the property.

Principal Character or External Appearance of the Dwelling

Section 75(6) states the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings.

Development Officer's Determination:

The principal character of the Dwelling is not maintained, as the commercial trucks are not characteristic of residential or agricultural uses.

Compatibility

Section 75(9) states the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.

Development Officer's Determination:

The use of commercial trucks is more suitable for a commercial or industrial zone.

Major Home Based Business Regulations

75. Major Home Based Business

A Major Home Based Business shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 centimetres by 30.5 centimetres in size located on the Dwelling.;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;
7. a Bed and Breakfast Operation, operating as a Major Home Based Business shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;
8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Class Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
9. the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.

10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garage Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

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*.



Application for Home Occupation

Project Number: **164383562-004**
Application Date: SEP 30, 2016
Printed: April 10, 2017 at 3:05 PM
Page: 1 of 2

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

Applicant <div style="border: 1px solid black; width: 200px; height: 30px; margin: 10px auto;"></div>	Property Address(es) and Legal Description(s) 4059 - 199 STREET NW NW-8-52-25-4 <div style="text-align: right; font-family: cursive;">AG</div>
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Scope of Application
To operate a Major Home Based Business (Administration office for janitorial business - DIAMOND JANITOR SERVICE).

Permit Details # of business related visits/day: 0 Administration Office Only?: Y Class of Permit: Do you live at the property?: Y Outdoor storage on site?: Y	# of vehicles at one time: 0 Business has Trailers or Equipment?: Y Description of Business: Administration office for Janitorial services Expiry Date:
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I/We certify that the above noted details are correct.
Applicant signature: _____

Development Application Decision
Refused

THIS IS NOT A PERMIT



Application for Home Occupation

Project Number: **164383562-004**
 Application Date: SEP 30, 2016
 Printed: April 10, 2017 at 3:05 PM
 Page: 2 of 2

Reason for Refusal

The application is refused for the following reasons:

1. General Purpose of (AG) Agricultural Zone: The purpose of this Zone is to conserve agricultural and rural Uses (Section 610.1)

The janitorial business is using two large commercial trucks that are not for agricultural use or other discretionary uses in the zone.

2. There shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;

Commercial trucks are considered heavy equipment, and are being stored at the property. A 4.9m long business trailer is also being stored at the property.

3. The Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings (Section 75.6)

The principal character of the Dwelling is not maintained, as the commercial trucks are not characteristic of residential or agricultural uses.

4. The Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area (Section 75.9).

The use of commercial trucks is more suitable for a commercial or industrial zone.

Rights of Appeal

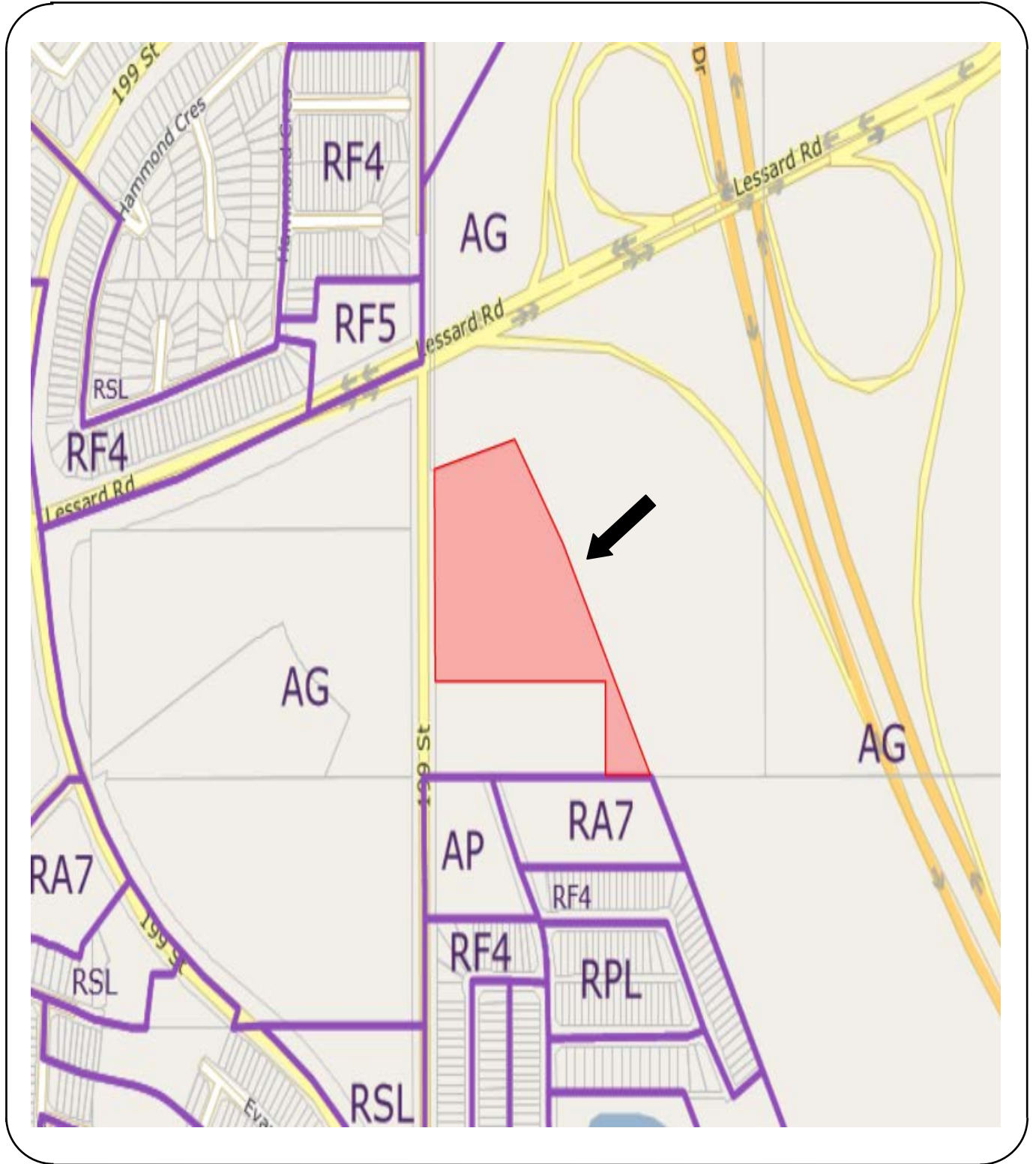
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Mar 31, 2017 **Development Authority:** VANDERHOEK, HEATHER **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$297.00	\$297.00	03645164	Sep 30, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$297.00	\$297.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-078



ITEM II: 10:30 A.M.

FILE: SDAB-D-17-075

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT PROPERTY OWNER

APPELLANT:

APPLICATION NO.: 242488221-001

APPLICATION TO: To construct a two-storey Accessory Building (main floor Garage, 6.1 metres by 9.75 metres, second floor Garage Suite, 6.7 metres by 8.75 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved

DECISION DATE: March 22, 2017

DATE OF APPEAL: March 30, 2017

NOTIFICATION PERIOD: Mar 28, 2017 through Apr 11, 2017

RESPONDENT: Engelman Construction Ltd.

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4144 - Aspen Drive East NW

LEGAL DESCRIPTION: Plan 6773MC Blk 17 Lot 21

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

This two-storey accessory building (main floor garage and second floor garage suite) will significantly block light and reduce privacy in my small back yard.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion:

“That SDAB-D-17-075 be tabled to Wednesday May 3, 2017.”

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.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority 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

...

- (b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

- (i) the proposed development would not

- (A) unduly interfere with the amenities of the neighbourhood, or

- (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 110.1 state that the **General 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.

<p><i>Discretionary Use</i></p>
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Under section 110.3(3), a **Garage Suite** is a **Discretionary Use** in the **RF1 Single Detached Residential Zone**.

Under section 7.2(3), **Garage Suite** means an Accessory Dwelling located above a detached Garage (above Grade); or a single-storey Accessory Dwelling attached to the side or rear of, a detached Garage (at Grade). A Garage Suite is Accessory to a building in which the principal Use is Single Detached Housing. A Garage Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are separate from those of the principal Dwelling located on the Site. A Garage Suite has an entrance separate

from the vehicle entrance to the detached Garage, either from a common indoor landing or directly from the exterior of the structure. This Use does not include Garden Suites, Secondary Suites, Blatchford Lane Suites, or Blatchford Accessory Suites.


Section 110.4(5) states Garage Suites and Garden Suites shall comply with Section 87 of this Bylaw.

Development Officer's Determination:

Discretionary Use - Garage Suite is approved as a Discretionary Use (Section 110.3.3).

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: 242488221-001 Application Date: MAR 03, 2017 Printed: March 31, 2017 at 9:28 AM Page: 1 of 3		
<h2 style="margin: 0;">Application for House Development and Building Permit</h2>			
<p>This document is a record of a Development Permit and/or Building Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended, Safety Codes Act RSA 2000, Safety Codes Act Permit Regulation, Alberta Building Code 2006 and City of Edmonton Bylaw 15894 Safety Codes Permit Bylaw.</p>			
<p>Applicant</p> <div style="border: 1px solid black; height: 40px; width: 100%; margin-top: 10px;"></div>	<p>Property Address(es) and Legal Description(s) 4144 - ASPEN DRIVE EAST NW Plan 6773MC Blk 17 Lot 21</p> <hr/> <p>Location(s) of Work Entryway: 4144A - ASPEN DRIVE EAST NW Building: 4144A - ASPEN DRIVE EAST NW</p>		
<p>Scope of Application To construct a two-storey Accessory Building (main floor Garage, 6.1m x 9.75m, second floor Garage Suite, 6.7m x 8.75m).</p>			
<p>Permit Details</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Affected Floor Area (sq. ft.): 640 Class of Permit: Class B Front Yard (m): Rear Yard (m): 2.44 Side Yard, left (m): 1.5 Site Area (sq. m.): 632.24 Site Width (m): 18 </td> <td style="width: 50%; border: none; vertical-align: top;"> Building Height to Midpoint (m): 5.5 Dwelling Type: Garage Suite Home Design Type: Secondary Suite Included?: Y Side Yard, right (m): 10.4 Site Depth (m): 35.09 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		Affected Floor Area (sq. ft.): 640 Class of Permit: Class B Front Yard (m): Rear Yard (m): 2.44 Side Yard, left (m): 1.5 Site Area (sq. m.): 632.24 Site Width (m): 18	Building Height to Midpoint (m): 5.5 Dwelling Type: Garage Suite Home Design Type: Secondary Suite Included?: Y Side Yard, right (m): 10.4 Site Depth (m): 35.09 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
Affected Floor Area (sq. ft.): 640 Class of Permit: Class B Front Yard (m): Rear Yard (m): 2.44 Side Yard, left (m): 1.5 Site Area (sq. m.): 632.24 Site Width (m): 18	Building Height to Midpoint (m): 5.5 Dwelling Type: Garage Suite Home Design Type: Secondary Suite Included?: Y Side Yard, right (m): 10.4 Site Depth (m): 35.09 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay		
<p>I/We certify that the above noted details are correct.</p> <p>Applicant signature: _____</p>			
<p>Development Permit Decision Approved</p>			
<p>THIS IS NOT A PERMIT</p>			



Project Number: **242488221-001**
 Application Date: MAR 03, 2017
 Printed: March 31, 2017 at 9:28 AM
 Page: 2 of 3

Application for House Development and Building Permit

Subject to the Following Conditions

1. This Development Permit authorizes the development of a two-storey Accessory Building (main floor Garage, 6.1m x 9.75m, second floor Garage Suite, 6.7m x 8.75m). The development shall be constructed in accordance with the stamped and approved drawings.
2. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)
3. WITHIN 14 DAYS OF THE END OF THE NOTIFICATION PERIOD with NO APPEAL and prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.2)
4. Frosted or opaque glass treatment shall be used on the windows on the West elevation to minimize overlook into adjacent properties (Reference Section 87.8).
5. The maximum Height shall not exceed 5.5m in accordance with Section 52.
6. Single Detached Housing requires 2 parking spaces per Dwelling and 1 parking space per 2 Sleeping Units shall be provided for the Garage Suite. (Reference Section 54.2 and Schedule 1)
7. Only one of a Secondary Suite, Garage Suite or Garden Suite may be developed in conjunction with a principal Dwelling (Section 87.11).
8. The number of unrelated persons occupying a Garage Suite or Garden Suite shall not exceed three (Section 87.12).
9. A Garage Suite shall not be allowed within the same Site containing a Group Home or Limited Group Home, or a Major Home Based Business and an associated principal Dwelling, unless the Garage Suite is an integral part of a Bed and Breakfast Operation in the case of a Major Home Based Business (Section 87.13)
10. A Garage Suite or Garden Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision (Section 87.15).

NOTES:

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. (Reference Section 5.2)

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

Variances

Discretionary Use - Garage Suite is approved as a Discretionary Use (Section 110.3.3).

Rights of Appeal

This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Mar 22, 2017 **Development Authority:** VANDERHOEK, HEATHER **Signature:** _____
Notice Period Begins: Mar 28, 2017 **Ends:** Apr 11, 2017

Building Permit Decision

No decision has yet been made.

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-075

