

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
November 10, 2016**

**Hearing Room No. 3  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 3**

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I	9:00 A.M.	SDAB-D-16-284	Construct a Single Detached House with attached Garage, veranda, front deck (7.47 metres by 2.44 metres), front balcony (2.13 metres by 3.35 metres), rear uncovered deck (7.01 metres by 2.90 metres), rear balcony (1.52 metres by 4.53 metres), Basement Development NOT to be used as an additional Dwelling  9443 - 100A Street NW Project No.: 224039369-001
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II	10:30 A.M.	SDAB-D-16-285	Convert a Single Detached House to a Professional, Financial, and Office Support Service (107.5 square metres - main floor only) and one Dwelling Apartment House  12018 - 102 Avenue NW Project No.: 178289946-005
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III	1:30 P.M.	SDAB-D-16-286	Construct 36 Dwellings of Apartment Housing (4 Storeys with underground parking) and to demolish 4 existing Single Detached Houses and 3 detached Garages  10125 - 84 Avenue NW Project No.: 176858707-001

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**TABLED TO NOVEMBER 16, 2016**

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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-16-284

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 224039369-001

APPLICATION TO: Construct a Single Detached House with attached Garage, veranda, front deck (7.47 metres by 2.44 metres), front balcony (2.13 metres by 3.35 metres), rear uncovered deck (7.01 metres by 2.90 metres), rear balcony (1.52 metres by 4.53 metres), Basement Development NOT to be used as an additional Dwelling

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 12, 2016

DATE OF APPEAL: October 20, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9443 - 100A Street NW

LEGAL DESCRIPTION: Plan Q Blk 11 Lot 14

ZONE: RF3 Small Scale Infill Development Zone

OVERLAY(S): Mature Neighbourhood Overlay (FPO) Floodplain Protection Overlay North Saskatchewan River Valley and Ravine System Protection Overlay.

STATUTORY PLAN: Rossdale Area Redevelopment Plan

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***Grounds for Appeal***

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

- Due to the size of lot- front & rear setbacks are needed to be reduced.
- Height is minor.
- Items such as cantilevers are architectural features only.
- Have built 3 other homes in area and all larger & taller and all were approved and built.

***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

...

**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 140.2(9), **Single Detached Housing** is a **Permitted Use** in the RF3 Small Scale Infill Development Zone.

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.

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

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

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.

Section 811.1 states that the **General Purpose** of the **North Saskatchewan River Valley and Ravine System Protection Overlay** is:

...to provide a development Setback from the North Saskatchewan River Valley and Ravine System.

Section 812.1 states that the **General Purpose** of the **(FPO) Floodplain Protection Overlay** is:

...to provide for the safe and efficient use of lands which may be within the defined floodplains of the North Saskatchewan River and its tributaries within the City of Edmonton. The Overlay regulates building Height, the location and geodetic elevation of openings into buildings, the Use in portions of buildings, the design Grade of the Site, and Landscaping, to mitigate the potential negative effects of a flood event.

***RF3 Small Scale Infill Development Zone Regulations***

**Site Coverage**

Section 140.4(10) states the maximum Site Coverage shall be as follows:

	Principal Dwelling / building	Accessory building	Principal building with attached Garage or where parking is provided underground	Total Site Coverage
(a) Single Detached Housing – Site area 300 square metres or greater	28 percent	12 percent	40 percent	40 percent

Under section 6.1(94), **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 m or more above Grade; or

- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 m above Grade.

**Development Officer’s Determination**

**1. Maximum Site Coverage shall be 28% for a Single Detached House (Section 140.4.10.a).**

**Proposed Site Coverage of Single Detached House = 41%**  
**Exceeds by = +13% [unedited].**

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**2. Maximum Total Site Coverage shall be 40% (Section 140.4.10.a).**

**Proposed Total Site Coverage = 54%**  
**Exceeds by = +14% [unedited].**

***Projection into Setbacks and Separation Spaces***

Section 814.3(2) states “where the Site Width is less than 18.3 m, the Side Setback requirements of the underlying Residential Zone shall apply.”

Section 814.3(5) states “the minimum Rear Setback shall be 40% of Site depth.”

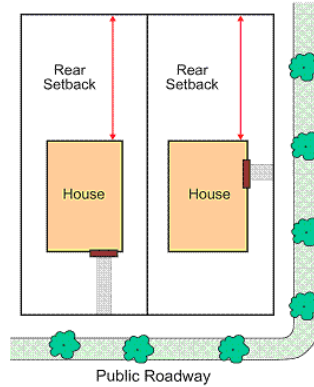
Section 140.4(13)(a) states “Side Setbacks shall total at least 20% of the Site Width to a maximum total of 6.0 m, with a minimum Side Setback of 1.2 m on each side.”

Under section 6.1(75), **Platform Structures** means:

a raised structure on which people can stand, that projects from the wall of a building, may be surrounded by guardrails, parapet walls or similar features, and is intended for use as an Amenity Area. Common examples include: balconies, raised terraces and decks. This definition does not include a Rooftop Terrace.

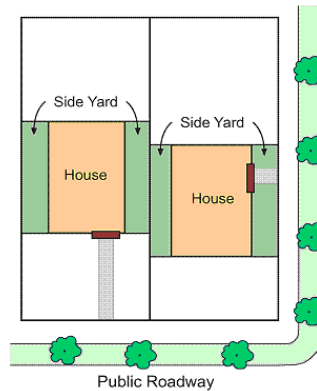
Under section 6.1(84), **Rear Setback** means:

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(95), **Side Yard** means:

that portion of a Site abutting a Side Lot Line extending from the Front Yard to the Rear Yard. The Side Yard is situated between the Side Lot Line and the nearest wall of principal building, not including projections.



**Cantilevered Projection**

Section 44.2 states:

The following features may project into a required Setback or Separation Space as provided for below:

- a) windows, or cantilevered projections without windows, provided that such projections do not exceed 0.6 m in the case of Setbacks or Separation Spaces. In all cases, a minimum distance of 0.6 m from the property line to the outside wall of such projection and all other portions of a Dwelling, including eaves, shall be maintained; and



- b) where a cantilevered projection as specified in subsection 44(2)(a) above is proposed in a Side Setback, the length of any one projection shall not exceed a wall opening length of 3.1 m. In the case of more than one projection, the aggregate total shall not exceed one third of the length of that house side wall excluding attached Garage walls. In the case of a Corner Lot, this restriction is applicable only to the interior Side Setback and not the flanking Side Setback. This restriction shall not apply to projections into the Front or Rear Setback.

**Development Officer's Determination**

**3. The length of any one cantilevered projection shall not exceed a wall opening length of 3.1 m (Section 44.2.b), when proposed in an interior Side Setback.**

**Length of cantilevered projection on North Elevation = 4.2 m  
Exceeds by = +1.1m**

**Length of cantilevered projection on South Elevation = 6.2 m  
Exceeds by = +3.1m [unedited].**

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**4. In the case of more than one cantilevered projection proposed in an interior Side Setback, the aggregate total wall opening length shall not exceed one third of the length of that house side wall (Section 44.2.b).**

**Cantilevers on North Elevation is 39% of wall length  
Exceeds by +6%**

**Cantilevers on South Elevation is 61% of wall length  
Exceeds by +28% [unedited].**

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**6. Cantilevered projections may project up to 0.6 m into the Rear Setback (Section 44.2.a)**

**Rear Cantilever projects 1.0 m into Rear Setback.  
Exceeds by +0.4 m [unedited].**

**Platform Structure Projection**

Section 44.3 states:

The following features may project into a required Setback or Separation Space as provided for below:

- a) Platform Structures less than 0.6 m in Height may be constructed to the Lot lines Abutting the interior Side Yard and Rear Yard;
- b) Platform Structures greater than 0.6 m in Height or less than 0.6 m in Height and located within the flanking Side Yard provided such projections do not exceed 2.0 m into Setbacks or Separation Spaces with a depth of at least 4.0 m.

...

**Development Officer’s Determination**

**7. Platform Structures may project up to 2.0 m into the Rear Setback (Section 44.3.b)**

**Ground floor rear deck projects 2.7 m into Rear Setback  
Exceeds by +0.7 m**

**Second floor balcony projects 2.5 m into Rear Setback  
Exceeds by +0.5 m [unedited].**

**Mature Neighbourhood Overlay Regulations**

**Mature Neighbourhood Overlay Platform Structure projection**

Section 814.3(6) states “notwithstanding Section 44 of this Bylaw, a single Storey Platform Structure may project a maximum of 2.0 m into a Front Setback from the first Storey of a Dwelling, provided that a minimum of 3.0 m is maintained between the Front Lot Line and the Platform Structure.”

**Development Officer’s Determination**

**5. A single Storey Platform Structure must provide a minimum of 3.0 m between the Front Lot Line and the Platform Structure (Section 814.3.6).**

**Front Balcony is 2.4 m from Front Lot Line  
Deficient by = -0.6 m**

**Front Deck is 2.1 m from Front Lot Line  
Deficient by = -0.9 m [unedited].**

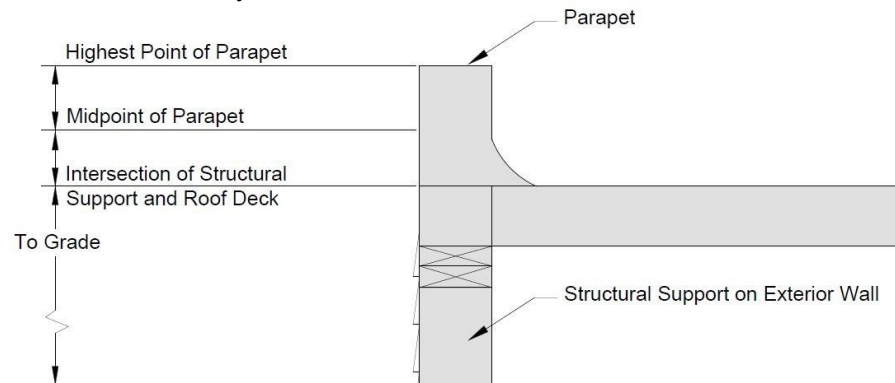
**Height**

Section 814.3(13) states “the maximum Height shall not exceed 8.6 m, in accordance with Section 52.”

Section 52.1 states:

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

- a. ...
- 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



...

Under section 6.1(50), **Height** means “a vertical distance between two points.”

**Development Officer’s Determination**

**8. The maximum Height shall not exceed 8.6 m, in accordance with Section 52 (Section 814.3.13).**

**Height of House, measured from Grade to Midpoint of Parapet = 10.8 m  
Exceeds by +2.2 m [unedited].**

**9. For a flat roof type, the top of the parapet is no more than 0.4 m above the maximum Height allowed in the Mature Neighbourhood Overlay (Section 52.1.b)**

**Height of House, measured from Grade to top of parapet = 11.0 m  
Exceeds by +2.0 m [unedited].**

**Community Consultation**

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.

**Rooftop Terraces**

Section 61.1 states:

On a Site Abutting a Site zoned to allow Single Detached Housing as a Permitted Use, or a Site zoned RF5 Row Housing Zone, Rooftop Terraces and Privacy Screening, excluding vegetative screening constructed on a Rooftop Terrace, shall be developed in accordance with the following Stepback regulations:

- a. On an Interior Site, the minimum Stepback shall be:
  - i. m from any building Façade facing a Front Lot Line;
  - ii. 2.0 m from any building Façade facing a Rear Lot Line;
  - iii. ...
  - iv. 2.0 m from any building Façade facing a Side Lot Line, where the Site Width is 10.0 m or greater.

Under section 6.1(88), **Rooftop Terrace** means:

a raised surface on which people can stand, that is located on top of a roof or partially recessed within the roof structure of a building, does not project beyond any Façade of the Storey below, is surrounded by guardrails, parapet walls or similar feature, and is intended for use as an Amenity Area.

Under section 6.1(32), **Façade** means:

the exterior outward face of a building. Typically, the façade of interest is that surface that serves as the front of that building and faces a building's primary street. Buildings on the corner of two streets or a street and an alley present two public façades.

Under section 6.1(102), **Stepback** means "the horizontal distance a building façade is stepped back, on a horizontal plane, from the building façade immediately below it."

#### **Development Officer's Determination**

**10. Rooftop Terraces shall be developed with the following stepback regulations:**

**1.0 m from any building Facade facing a Front Lot Line,  
2.0 m from any building Facade facing a Rear Lot Line,  
2.0 m from any building Facade facing a Side Lot Line.**


**The Rooftop Terrace on top of the detached garage does not provide any stepbacks from the building Facade. [unedited].**

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#### **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*.

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	Project Number: <b>224039369-001</b> Application Date: JUN 16, 2016 Printed: October 12, 2016 at 10:57 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</p>	
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 9443 - 100A STREET NW Plan Q Blk 11 Lot 14
	<b>Location(s) of Work</b> Suite: 9443 - 100A STREET NW Entryway: 9443 - 100A STREET NW Building: 9443 - 100A STREET NW
<b>Scope of Application</b> To construct a Single Detached House with attached Garage, veranda, front deck (7.47m x 2.44m) front balcony (2.13m x 3.35m), rear uncovered deck (7.01m x 2.90m), rear balcony (1.52m x 4.53m), basement Development NOT to be used as an additional	
<b>Permit Details</b>	
Affected Floor Area (sq. ft.): 2415 Class of Permit: Class B Front Yard (m): 4.5 Rear Yard (m): 12.32 Side Yard, left (m): 1.27 Site Area (sq. m.): 310.84 Site Width (m): 10.18	Building Height to Midpoint (m): 10.83 Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included?: N Side Yard, right (m): 1.28 Site Depth (m): 30.54 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
I/We certify that the above noted details are correct. Applicant signature: _____	
<b>Development Application Decision</b> Refused	
<b>THIS IS NOT A PERMIT</b>	



Project Number: 224039369-001  
Application Date: JUN 16, 2016  
Printed: October 12, 2016 at 10:57 AM  
Page: 2 of 3

## Application for House Development and Building Permit

**Reason for Refusal**

1. Maximum Site Coverage shall be 28% for a Single Detached House (Section 140.4.10.a).

Proposed Site Coverage of Single Detached House = 41%  
Exceeds by = +13%

2. Maximum Total Site Coverage shall be 40% (Section 140.4.10.a).

Proposed Total Site Coverage = 54%  
Exceeds by = +14%

3. The length of any one cantilevered projection shall not exceed a wall opening length of 3.1 m (Section 44.2.b), when proposed in an interior Side Setback.

Length of cantilevered projection on North Elevation = 4.2 m  
Exceeds by = +1.1m

Length of cantilevered projection on South Elevation = 6.2 m  
Exceeds by = +3.1m

4. In the case of more than one cantilevered projection proposed in an interior Side Setback, the aggregate total wall opening length shall not exceed one third of the length of that house side wall (Section 44.2.b).

Cantilevers on North Elevation is 39% of wall length  
Exceeds by +6%

Cantilevers on South Elevation is 61% of wall length  
Exceeds by +28%

5. A single Storey Platform Structure must provide a minimum of 3.0 m between the Front Lot Line and the Platform Structure (Section 814.3.6).

Front Balcony is 2.4 m from Front Lot Line  
Deficient by = -0.6 m

Front Deck is 2.1 m from Front Lot Line  
Deficient by = -0.9 m

6. Cantilevered projections may project up to 0.6 m into the Rear Setback (Section 44.2.a)

Rear Cantilever projects 1.0 m into Rear Setback.  
Exceeds by +0.4 m

7. Platform Structures may project up to 2.0 m into the Rear Setback (Section 44.3.b)

Ground floor rear deck projects 2.7 m into Rear Setback  
Exceeds by +0.7 m

Second floor balcony projects 2.5 m into Rear Setback  
Exceeds by +0.5 m

8. The maximum Height shall not exceed 8.6 m, in accordance with Section 52 (Section 814.3.13).

Height of House, measured from Grade to Midpoint of Parapet = 10.8 m  
Exceeds by +2.2 m

**THIS IS NOT A PERMIT**



Project Number: **224039369-001**  
 Application Date: JUN 16, 2016  
 Printed: October 12, 2016 at 10:57 AM  
 Page: 3 of 3

## Application for House Development and Building Permit

9. For a flat roof type, the top of the parapet is no more than 0.4 m above the maximum Height allowed in the Mature Neighbourhood Overlay (Section 52.1.b)

Height of House, measured from Grade to top of parapet = 11.0 m  
 Exceeds by +2.0 m

10. Rooftop Terraces shall be developed with the following stepback regulations:

- 1.0 m from any building Facade facing a Front Lot Line,
- 2.0 m from any building Facade facing a Rear Lot Line,
- 2.0 m from any building Facade facing a Side Lot Line.

The Rooftop Terrace on top of the detached garage does not provide any stepbacks from the building Facade.

**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.

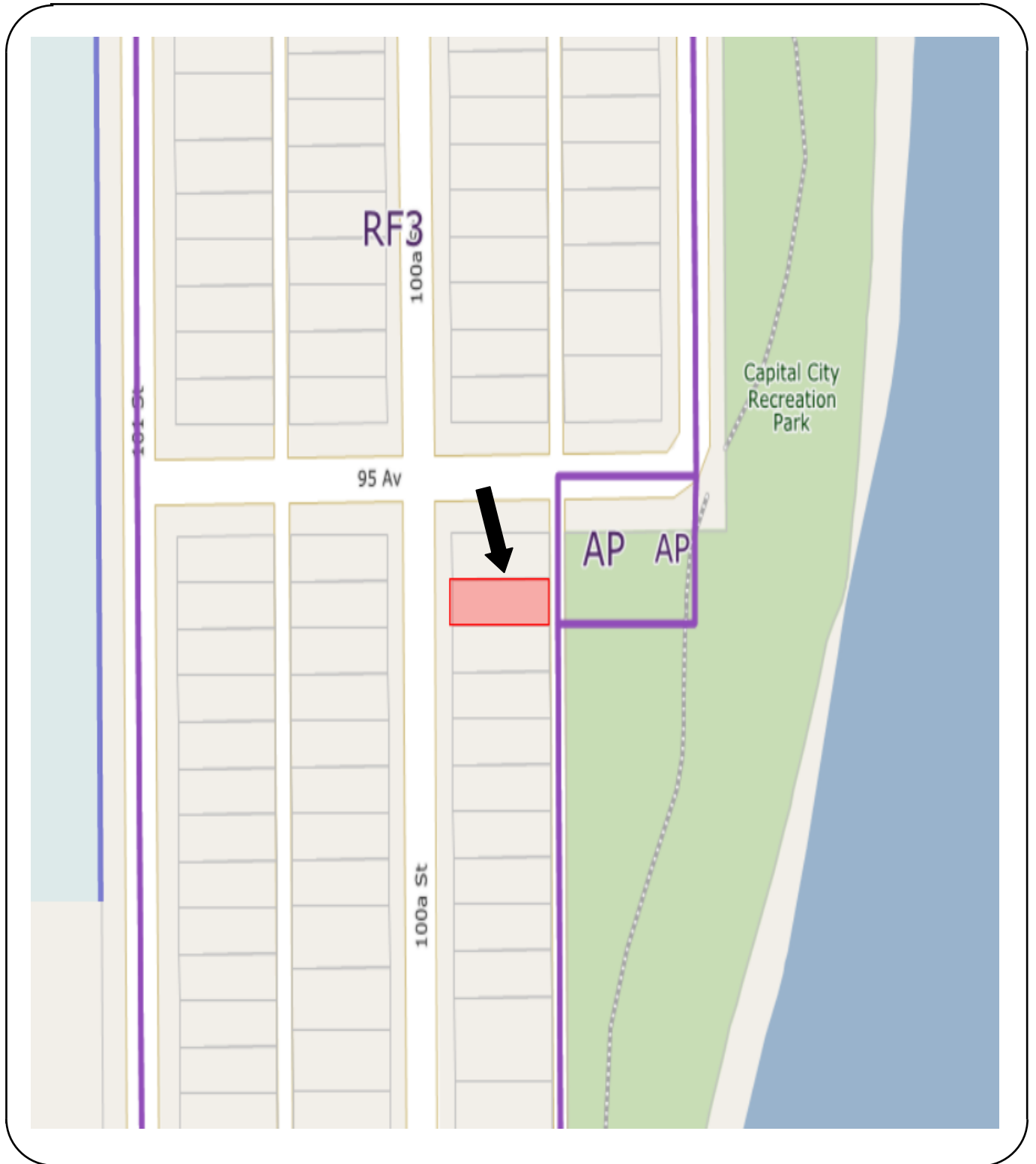
**Issue Date:** Oct 12, 2016    **Development Authority:** LIANG, BENNY    **Signature:** \_\_\_\_\_

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Electrical Fee (Service)	\$77.00	\$77.00	03365812	Jun 16, 2016
Lot Grading Fee	\$135.00	\$135.00	03365812	Jun 16, 2016
Safety Codes Fee	\$80.72	\$80.72	03365812	Jun 16, 2016
Sanitary Sewer Trunk Fund	\$1,566.00	\$1,566.00	03365812	Jun 16, 2016
Electrical Safety Codes Fee	\$16.42	\$16.42	03365812	Jun 16, 2016
Water Usage Fee	\$60.50	\$60.50	03365812	Jun 16, 2016
Building Permit Fee	\$2,018.00	\$2,018.00	03365812	Jun 16, 2016
Electrical Fees (House)	\$298.00	\$298.00	03365812	Jun 16, 2016
DP Notification Fee	\$102.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$4,353.64	\$4,251.64		
(\$102.00 outstanding)				

**THIS IS NOT A PERMIT**





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-16-284



ITEM II: 10:30 A.M.

FILE: SDAB-D-16-285

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 178289946-005

APPLICATION TO: Convert a Single Detached House to a Professional, Financial, and Office Support Service (107.5 square metres - main floor only) and one Dwelling Apartment House

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 12, 2016

DATE OF APPEAL: October 19, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12018 - 102 Avenue NW

LEGAL DESCRIPTION: Plan 4423AJ Blk 20 Lot 27

ZONE: DC1 (Oliver ARP – (15.2) Area 1) Direct Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Oliver Area Redevelopment Plan

***Grounds for Appeal***

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

- The proposed uses fit within the character on the neighbourhood.
- Rental of the apartment unit allows for the maintenance and continued of a building typology (house) increasingly at risk in Oliver. This assists with neighborhood enhancing diversity.
- It's mixed use nature had been shown to be a priority of council through their support of several recent re-zonings in the immediate vicinity.
- Ample parking for the proposed uses are provided on site.
- The uses as proposed are compatible with one another and would indeed be allowed if the full house was used as one or the other.

***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

...

**Designation of direct control districts**

**641(4)** Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

...

- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

Section 2 of the *Edmonton Zoning Bylaw* concerning Repeal, Enactment and Transition Procedures states the following:

2.4 Subject only to the provisions in the Municipal Government Act respecting legal non-conforming Uses and notwithstanding the effect it may have on rights, vested or otherwise, the provisions of this Bylaw govern from the Effective Date onward. In particular, no application for a Development Permit shall be evaluated under the procedural or substantive provisions of the previous Land Use Bylaw after the Effective Date, even if the application was received before the Effective Date.

...

2.6 Any Direct Control Districts that were in effect immediately prior to the Effective date are hereby deemed to continue in full force and effect and are hereby incorporated into Part IV of this Bylaw.

2.7 Unless there is an explicit statement to the contrary in a Direct Control District or Provision, any reference in a Direct Control District or Direct Control Provision to a land use bylaw shall be deemed to be a reference to the land use bylaw that was in effect at the time of the creation of the Direct Control District or Provision.

At the time of the creation of the subject DC site, the *City of Edmonton Land Use Bylaw 5996* was in effect. An Alberta Court of Appeal decision in *Parkdale-Cromdale Community League Association v. Edmonton (City)*, 2007 ABCA 309 concluded that section 2.7 of the *Edmonton Zoning Bylaw* only applies if there is an express cross-reference in a Direct Control bylaw passed before 2001 to a provision of the old *Land Use Bylaw*. In the absence of an express reference in the Direct Control Bylaw to the *Land Use Bylaw 5996*, it does not prevail over section 2.4 of the *Edmonton Zoning 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 DC1 (Oliver ARP – (15.2) Area 1) Direct Development Control Provision**

Under section 15.2(3)(xviii) , **Professional, Financial and Office Support Services** is a **listed Use** in the DC1 (Oliver ARP – (15.2) Area 1) Direct Development Control Provision.

**Apartment Housing** is **not** a listed Use in the DC1 (Oliver ARP – (15.2) Area 1) Direct Development Control Provision.

**General Provisions from the Edmonton LAND USE BYLAW 5996**

Under section 10.1(1) of the Edmonton Land Use Bylaw 5996, **Apartment Housing** means:

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.

Under section 9.1(19) of the Edmonton Land Use Bylaw 5996, **Dwelling** means:

one or more self-contained rooms provided with sleeping and cooking facilities, intended for domestic use, and used or intended to be used permanently or semi-permanently as a residence for a Household and either up to two lodgers, roomers, or boarders; or four foster children.

**General Provisions from the *Edmonton Zoning Bylaw***

Under Section 7.2(1) of the *Edmonton Zoning Bylaw*, **Apartment Housing** means:

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.

Under Section 6.1(27) of the *Edmonton Zoning Bylaw*, **Dwelling** means:

a self contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household.

**Development Officer's Determination**

The proposed development is located within the DC1 (Area 1) Zone of the Oliver Area Redevelopment Plan (Bylaw 11618 as amended). The proposed development converts a Single Family House into a Professional, Financial, and Office Support Service with a one-dwelling Apartment House on the second floor.

Conversions of Single Family Housing to commercial uses are allowed within the DC1 (Area 1) Zone. The conversion to Professional, Financial, and Office Support Service complies with the relevant planning regulations of the DC1 (Area 1) regulations. However, Apartment housing is not a listed use (Reference Section 15.2(3). [unedited].

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**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*.

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Project Number: **178289946-005**  
 Application Date: JUL 05, 2016  
 Printed: October 12, 2016 at 11:27 AM  
 Page: 1 of 1

## Application for Major Development Permit

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

<b>Applicant</b>  <div style="background-color: white; width: 100%; height: 50px;"></div>	<b>Property Address(es) and Legal Description(s)</b> 12018 - 102 AVENUE NW Plan 4423AJ Blk 20 Lot 27  <b>Specific Address(es)</b> Suite: 12018 - 102 AVENUE NW Entryway: 12018 - 102 AVENUE NW Building: 12018 - 102 AVENUE NW
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**Scope of Application**  
 To convert a Single Detached House to a Professional, Financial, and Office Support Service (107.5 sq.m. - main floor only) and one dwelling Apartment House.

**Permit Details**

Class of Permit: Gross Floor Area (sq.m.): 107.5 New Sewer Service Required: N Site Area (sq. m.): 543.04	Contact Person: Lot Grading Needed?: N 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**  
 The proposed development is located within the DC1 (Area 1) Zone of the Oliver Area Redevelopment Plan (Bylaw 11618 as amended). The proposed development converts a Single Family House into a Professional, Financial, and Office Support Service with a one-dwelling Apartment House on the second floor.

Conversions of Single Family Housing to commercial uses are allowed within the DC1 (Area 1) Zone. The conversion to Professional, Financial, and Office Support Service complies with the relevant planning regulations of the DC1 (Area 1) regulations. However, Apartment housing is not a listed use (Reference Section 15.2(3)).

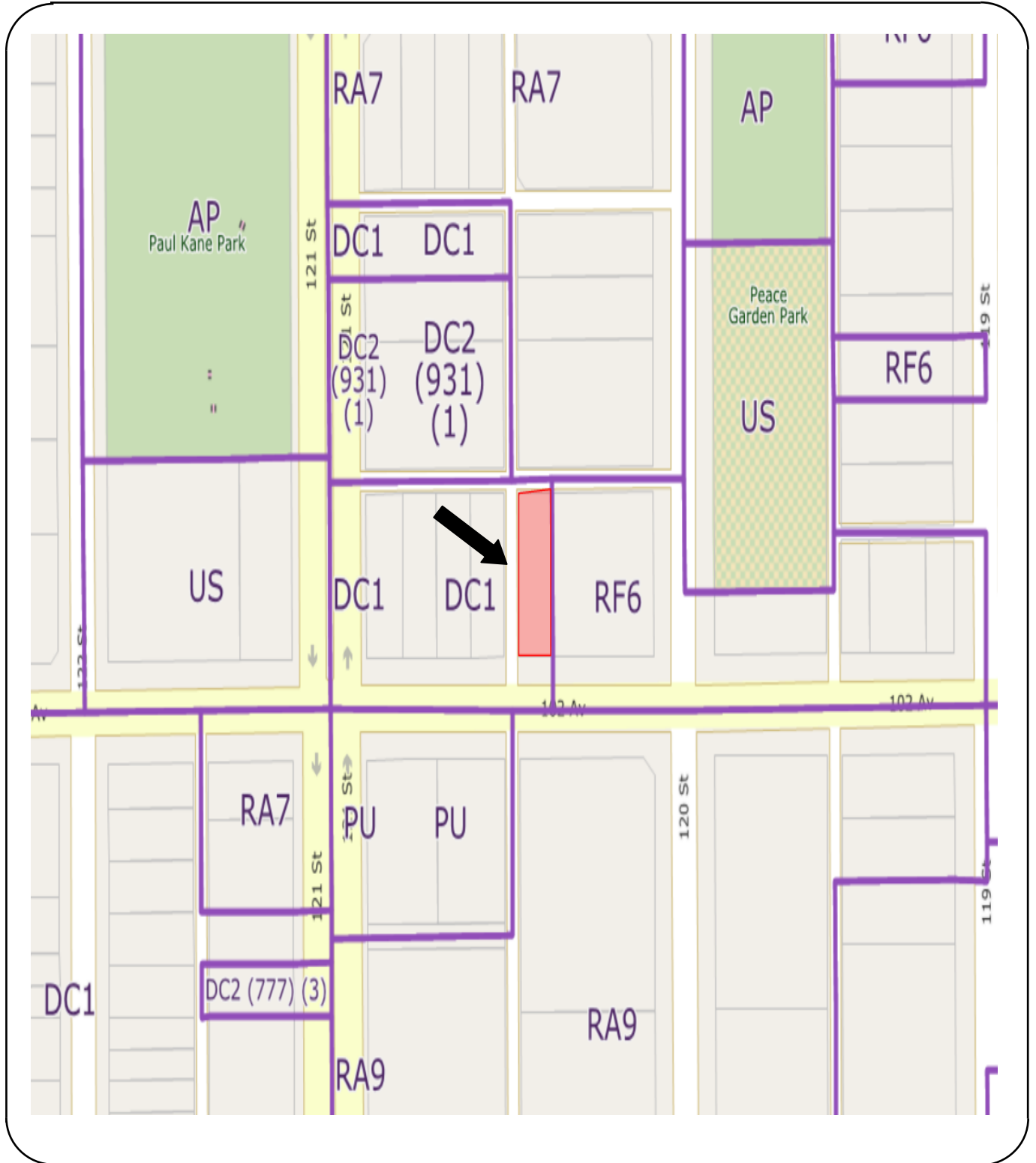
**Rights of Appeal**  
 The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Oct 12, 2016      Development Authority: WELCH, IMAI

Signature:

Fees	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$596.00	\$596.00	03426708	Jul 08, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$596.00	\$596.00		

**THIS IS NOT A PERMIT**



### SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-285





ITEM III: 1:30 P.M.

FILE: SDAB-D-16-286

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

APPELLANT:

APPLICATION NO.: 176858707-001

APPLICATION TO: Construct 36 Dwellings of Apartment Housing (4 Storeys with underground parking) and to demolish 4 existing Single Detached Houses and 3 detached Garages

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: September 26, 2016

DATE OF APPEAL: October 17, 2016

NOTIFICATION PERIOD: October 4, 2016 to October 18, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10125 - 84 Avenue NW

LEGAL DESCRIPTION: Plan 1523194 Blk 78 Lot 33

ZONE: DC2 Site Specific Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Strathcona Area Redevelopment Plan

**TABLED TO NOVEMBER 16, 2016**



**BUSINESS LAID OVER**

SDAB-D-16-270	An appeal by <u>Stanley Boostr</u> a to comply with a Stop Order to cease the use of General Contractor Services and remove all related materials from the site. <b><i>November 16 or 17, 2016</i></b>
SDAB-D-16-286	An appeal by <u>Stephen Hesse Vs. Kennedy</u> to construct 36 Dwellings of Apartment Housing (4 Storey with underground parking) and to demolish 4 existing Single Detached Houses and 3 detached Garages <b><i>November 16, 2016</i></b>
SDAB-D-16-252	An appeal by <u>Tahir Jutt</u> to operate a Major Home Based Business (Filling Sandbags – Sandbags.ca) <b><i>November 23 or 24, 2016</i></b>
SDAB-D-16-252	An appeal by <u>Alexander Tilley</u> to erect a fence higher than 1.2 m in a Side Yard abutting a public roadway other than a lane. <b><i>November 23 or 24, 2016</i></b>
SDAB-D-16-252	An appeal by <u>413140 Alberta Ltd.</u> to construct exterior alterations to an approved Accessory Building (rear detached garage, 7.3 m x 6.1 m). <b><i>November 23 or 24, 2016</i></b>
SDAB-D-16-267	An appeal by <u>Gordon Foster VS Eden Tesfastian</u> to change the Use from Warehouse Sales to Restaurants (170 seats) and to construct interior alterations <b><i>November 23 or 24, 2016</i></b>
SDAB-D-16-144	An appeal by <u>Kiewit Energy Canada Corp</u> construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <b><i>November 30 or December 1, 2016</i></b>
SDAB-S-14-001	An appeal by <u>Stantec Consulting Ltd.</u> to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 <b><i>January 25, 2017</i></b>

**APPEAL HEARINGS TO BE SCHEDULED**

000413016-003	An appeal by <u>Wigalo Holding Ltd. / Kennedy Agrios</u> to Comply with a Stop Order to Cease the Non-Accessory Parking, REMOVE all meters, signage and material related to parking and REFRAIN from allowing Non-Accessory Parking. <b><i>November 17, 2016</i></b>
000413016-004	An appeal by <u>Wigalo Holding Ltd. / Kennedy Agrios</u> to Comply with a Stop Order to Cease the Non-Accessory Parking, REMOVE all meters, signage and material related to parking and REFRAIN from allowing Non-Accessory Parking. <b><i>November 17, 2016</i></b>

**BUSINESS LAID OVER CONTINUED**

188283359-001	An appeal by <u>Kennedy Agrios</u> to change the use from a Flea Market Use to a Night Club and Major Amusement Establishment (1757 square metres of Public space) <b><i>November 23 or 24, 2016</i></b>
116341262-007	An appeal by <u>Meekon Hui / Permit Masters</u> to construct a 2 Storey Accessory Building (Garage Suite on second floor, Garage on main floor, 10.36m x 6.81m), existing without permits <b><i>November 23 or 24, 2016</i></b>
182548244-007	An appeal by <u>Stephanie Chan VS Deborah &amp; Terence Nikolaichuk</u> to construct an Accessory Building (Shed, 3.20 metres by 3.12 metres), existing without permits <b><i>December 7 or 8, 2016</i></b>
128010578-001	An appeal by <u>Jeffrey Jirsch VS Anna Bashir</u> to erect a Privacy Screen 8ft in height along the Southwest portion of the property, along a Required Side Yard <b><i>December 7 or 8, 2016</i></b>