

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
November 30, 2016**

**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-16-305	Construct a Single Detached House with a front attached Garage, front veranda, fireplaces, rear partially covered deck (4.27m x 10.66m), 2nd floor balcony (1.83m x 4.57m), and Basement development (NOT to be used as an additional Dwelling) 13411 - 83 Avenue NW Project No.: 224954590-003
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II	11:00 A.M.	SDAB-D-16-306	Change the use from a General Industrial use to a Child Care Service (90 children), and to construct interior and exterior alterations (removing loading bay doors and replacing them with windows, and adding a new door) 10583 - 115 Street NW Project No.: 231481614-001
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III	2:00 P.M.	SDAB-D-16-273	Construct an addition (3.33m x 7.39m carport) to a Single Detached House, existing without permits 15921 - 94 Avenue NW Project No.: 127227523-004

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-16-305

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 224954590-003

ADDRESS OF APPELLANT: 13411 - 83 Avenue NW

APPLICATION TO: Construct a Single Detached House with a front attached Garage, front veranda, fireplaces, rear partially covered deck (4.27 metres by 10.66 metres), 2nd floor balcony (1.83 metres by 4.57 metres), and Basement development (NOT to be used as an additional Dwelling)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 31, 2016

DATE OF APPEAL: November 7, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 13411 - 83 Avenue NW

LEGAL DESCRIPTION: Plan 2128MC Blk 1 Lot 19

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:

We are grateful for this opportunity to have our proposed development reviewed. My wife and I are trying to build our dream home, in our dream location, for our family that includes our 4-year-old twins, Sara's mom who has dementia, and our live-in caregiver. We hope you will find that we are being more than reasonable in our plans to build something that compliments the character of the area, and is respectful of our neighbours.

The severe sloping of this lot creates an extreme hardship when it comes to building a home within the rules. Our plan is to build essentially the same home that exists on the lot, with a slightly bigger footprint (which, on a 10,000 square foot lot, is insignificant and is much smaller than the homes on either side). We have followed the principles of good urban design, and unfortunately the existing rules and regulations do not contemplate a severe side-sloping, pie-shaped lot, making it almost impossible to build without some sort of relaxation of the rules. We thank you in advance for your time, and hope that once you review the information, as well as the feedback we have received from our neighbours (Exhibit 1R) and the community league (Exhibit 1Q), you will agree that our plan is more than reasonable, and should be allowed.

Height: The maximum height (to midpoint) is 9.3m instead of 8.6m (Section 814.3.13). The ridge line of the roof extends 2.05m above the maximum height instead of 1.5m (Section 52.2.c). The basement elevation is 1.9m above grade instead of 1.2m (Section 814.3.16).

On the west side we are actually under the current height requirement of 8.6m, and if this was a flat lot, the height would not be an issue. The side sloping lot creates an extreme hardship in in complying with the height requirements in the MNO. We've had extensive discussions with our surveyor and architect have planned the best home possible for the lot. After reviewing other Subdivision Appeal Board decisions in the area, previous decisions suggest that it is more than appropriate to provide a variance with respect to this lot and development:

- We specifically designed this home around the lot and our family needs while keeping it as close to the existing home as we possibly could to minimize issues in terms of site location and look. (Exhibit 1 & 1A).
- The height of the proposed home is actually under the required height on the west side of the property.
- The height of the proposed home will conform with the existing properties (exhibits 1B-10)
- Our neighbours to the east, Alex and Danielle (13407 83 ave), would be the most impacted by our development. We have had numerous conversations with them and they have indicated repeatedly that they have no objections to our plans. (Exhibit 1E).
- We first learned of the ridge line issue at the time of the refusal and believe that it is also aggravated by the slope of the lot and requires a relaxation.

- Our solar power engineers at Kuby Renewal Energy indicated a pitch of 12/12 is ideal for solar power collection. However, aesthetically a 12/8 pitch would create a shorter overall home and be more consistent with the area. (Exhibits 1F & 1G)
- The city of Edmonton has proposed an 8.9m height restriction in the new MNO. Although not a certainty, it is reasonable to contemplate that the new height restrictions will pass, and that the height differential on the east side will be further lessened with these changes.
- We have the support of numerous neighbours who agree that we are building an attractive home that not only conforms and maintains the character of the area, it enhances the value of the surrounding area. (Exhibits 1J-1a)
- There is a planned drop of 1' from the city property line on 83 Avenue, to the garage doors. This is roughly equal to the existing drop from the property line to the garage. (Exhibit 1H)
If the property is dug down further this will create a drainage issue.
- Many homes of this caliber, size, and price range, are built with 10' ceilings on each floor, which we also wanted to include. However, we are planning 9' ceilings to come under height restriction on the west side of the lot. (Exhibit 11)

Basement elevation greater than 1.9m

- The current and planned homes both have walkout basements on the low side of the lot. It appears that the existing home wouldn't comply with this requirement either (exhibit 2A and 2B).
- We will do everything we can, including building the land up with clay, and the creative use of landscaping, to prevent this being any sort of an issue.
- Our height will have minimal, if any impact on neighbour sight lines due to the mature trees in the area.
- The planned home will be placed in roughly the same spot as the existing home and will be a substantial improvement to the area.
- Additional Exhibits
 - Exhibit 2C- East View from the current master bedroom balcony
 - Exhibit 2D — South East view from master bedroom balcony
 - Exhibit 2E — North East view from master bedroom balcony

Reduced Rear Setback — The distance from the house to the rear property line is 12.2m instead of 15.8m (Section 814.3.5). ("40% rear set back"). Projection - The distance from the rear uncovered deck to the back property line (rear/at line) is 12.2m, instead of 13.8m (Section 44.3.b).

This requirement exists because the mature neighbourhood overlay contemplates a rear detached garage. Just like the existing house, we have planned a front attached garage, not a rear detached garage. In addition, the distance from the deck to the rear property line is over 40 feet (12m). One only has to look at the aerial views of the

neighbouring properties as well as the surveys to see that not only is our development reasonable, but we are set back considerably further than either neighbor from the rear property lines. Other factors to consider:

- Site coverage is significantly less than allowed at less than 23% (exhibit 3A)
- At the closest point the development is over forty feet from the property line. (exhibit 3B)
- Our set backs compared to our neighbouring properties are extremely conservative. (exhibit 3A, 3C)
- Moving the home forward would impact the two mature 60 foot trees we are trying to save on the east side of the driveway. (exhibit 1)
- If we move the home forward we will also negatively impact the view of our neighbours front corner windows. (exhibit 1D)
- The proposed location does not interfere with neighbours existing windows (exhibit 3F)

Front set back of 6.1 m from the unenclosed stairs.

- Once again the extreme slope of the lot is the major factor here — a large number of stairs are needed to get to the front door.
- Most of the stairs are a part of the sidewalk, and should not be counted as part of the front stairs that are attached to the front landing.
- Our home is very much in line with the block face of the neighbouring homes. (Exhibit 3A)
- The existing home is set back from the front property line 9.22m and the proposed home is in essentially the same position at 9.45m back.
- We are trying to graduate the stairs within the sidewalk for several reasons:
 - Safety (otherwise the stairs will have to be quite steep)
 - An issue for elderly guests or those with health issues
 - Mail delivery
 - Young children
 - Aesthetics (we designed the sidewalk and stairs to blend in with the terrain and not be a prominent feature)
 - Landscaping and drainage (the stairs are acting as a retaining wall to prevent pooling of water on the low portion of the driveway. As you can see from pictures of the existing home, the front yard is steep and the retaining wall is substantial going well past the property line.
 - Exhibit 4A — Front elevation showing how steep the existing stairs are and why graduating them through the sidewalk is more than reasonable

Other considerations

- Side set backs are significant and similar to the existing home. The architect and the surveyor spent a good deal of time going back and forth trying to accommodate the best location for the home.
- Exhibits 5A — 5C show the incline of the retaining wall at the rear of the property demonstrating the extreme slope and hardship this lot presents to compliance.
- View from 13411 looking North Exhibit 5D
- Exhibit SE Next to 13407 83 ave the most impacted properties are directly behind us. barely have views our property but both 13504 (momsie — barely has a view because of their indoor pool on the back of their property) and 13508 (Mary) both have no objections to our development and both feel it will be a substantial improvement.

We would like to thank you in advance for your time and consideration in this matter and apologize if we have sent too much, or not enough information, since we are not familiar with this process. We do look forward to answering any of your questions that you may have, and hope you agree to approve the development of our home. [unedited]

<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.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or
 - ...

The decision of the Development Officer is dated October 31, 2016. The Notice of Appeal was filed on November 7, 2016.

Determining an Appeal

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 110.2(4), **Single Detached Housing** is a **Permitted use** in the RF1 Single Detached Residential 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.

Section 110.1 states 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.

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.

Mature Neighbourhood Overlay Community Consultation

Section 814.3(24) of the Mature Neighbourhood Overlay provides as follows:

24. 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

Projection – Front Lot Line

Section 44(1)(a) states:

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

- 1. a) verandas, porches, eaves, shade projections, unenclosed steps, chimneys, belt courses, sills, together with any other architectural features which are of a similar character, may project into a required Setback or Separation Space, provided such projections do not exceed 0.6 metres in the case of Setbacks or Separation Spaces of 1.2 metres or greater. Where unenclosed steps extend into Side Setbacks which are not used for vehicular access, such steps shall not exceed a Height of 1.0 metres above Grade.

Development Officer’s Determination

Projection - The distance from the front unenclosed steps to the property line along 83 Avenue NW (front lot line) is 6.1 metres, instead of 7.6 metres (Section 44.1.a). [unedited]

Projection – Rear Lot Line

Section 44(3)(b) states:

Platform Structures greater than 0.6 metres in Height or less than 0.6 metres in Height and located within the flanking Side Yard, may project into a required Setback or Separation Space, provided such projections do not exceed 2.0 metres into Setbacks or Separation Spaces with a depth of at least 4.0 metres.

Development Officer's Determination

Projection - The distance from the rear uncovered deck to the back property line (rear lot line) is 12.2 metres, instead of 13.8 metres (Section 44.3.b). [unedited]

Rear Setback

Section 814.3(5) states: "The minimum Rear Setback shall be 40% of Site depth. Row Housing not oriented to a public roadway is exempt from this Overlay requirement."

Development Officer's Determination

Reduced Rear Setback – The distance from the house to the rear property line is 12.2 metres instead of 15.8 metres (Section 814.3.5). [unedited]

Height

Section 814.3(13) states: "The maximum Height shall not exceed 8.6 metres, in accordance with Section 52."

Development Officer's Determination

Height: The maximum height (to midpoint) is 9.3 metres instead of 8.6 metres (Section 814.3.13). [unedited]

Ridgeline of the Roof

Section 52(2)(c) states:

Where the maximum Height as determined by Section 52.1 is measured to the midpoint, the ridge line of the roof shall not extend more than 1.5 metres above the maximum permitted building Height of the Zone or overlay, or in the case of a Garage Suite the maximum permitted building Height in accordance with Section 87 of this Bylaw.

Development Officer's Determination

Height: The ridge line of the roof extends 2.05 metres above the maximum height instead of 1.5 metres (Section 52.2.c). [unedited]

Basement Elevation


Section 814.3(16) states: “The Basement elevation of structures of two or more Storeys in Height shall be no more than 1.2 metres above Grade. The Basement elevation shall be measured as the distance between Grade level and the floor of the first Storey.”

Development Officer’s Determination

Basement: The basement elevation is 1.9 metres above grade instead of 1.2 metres (Section 814.3.16). [unedited]

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board’s decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

	Project Number: 224954590-003 Application Date: JUL 28, 2016 Printed: November 8, 2016 at 8:23 AM Page: 1 of 2		
<h2 style="margin: 0;">Application for House Development and Building Permit</h2>			
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			
Applicant <div style="border: 1px solid black; width: 200px; height: 30px; margin: 10px auto;"></div>	Property Address(es) and Legal Description(s) 13411 - 83 AVENUE NW Plan 2128MC Blk 1 Lot 19 Location(s) of Work Entryway: 13411 - 83 AVENUE NW Building: 13411 - 83 AVENUE NW		
Scope of Application To construct a Single Detached House with a front attached Garage, front veranda, fireplaces, rear partially covered deck (4.27m x 10.66m), 2nd floor balcony (1.83m x 4.57m), and Basement development (NOT to be used as an additional Dwelling).			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Affected Floor Area (sq. ft.): 3214 Class of Permit: Front Yard (m): Rear Yard (m): Side Yard, left (m): Site Area (sq. m.): Site Width (m): </td> <td style="width: 50%; border: none; vertical-align: top;"> Building Height to Midpoint (m): Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included?: N Side Yard, right (m): Site Depth (m): Stat. Plan Overlay/Annex Area: </td> </tr> </table>		Affected Floor Area (sq. ft.): 3214 Class of Permit: Front Yard (m): Rear Yard (m): Side Yard, left (m): Site Area (sq. m.): Site Width (m):	Building Height to Midpoint (m): Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included?: N Side Yard, right (m): Site Depth (m): Stat. Plan Overlay/Annex Area:
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I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused Reason for Refusal <ol style="list-style-type: none"> 1. Projection - The distance from the front unenclosed steps to the property line along 83 Avenue NW (front lot line) is 6.1m, instead of 7.6m (Section 44.1.a). 2. Projection - The distance from the rear uncovered deck to the back property line (rear lot line) is 12.2m, instead of 13.8m (Section 44.3.b). 3. Reduced Rear Setback – The distance from the house to the rear property line is 12.2m instead of 15.8m (Section 814.3.5). 4. Height: The maximum height (to midpoint) is 9.3m instead of 8.6m (Section 814.3.13). 5. Height: The ridge line of the roof extends 2.05m above the maximum height instead of 1.5m (Section 52.2.c). 6. Basement: The basement elevation is 1.9m above grade instead of 1.2m (Section 814.3.16). 			
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 31, 2016 Development Authority: YEUNG, KENNETH Signature: _____			
THIS IS NOT A PERMIT			



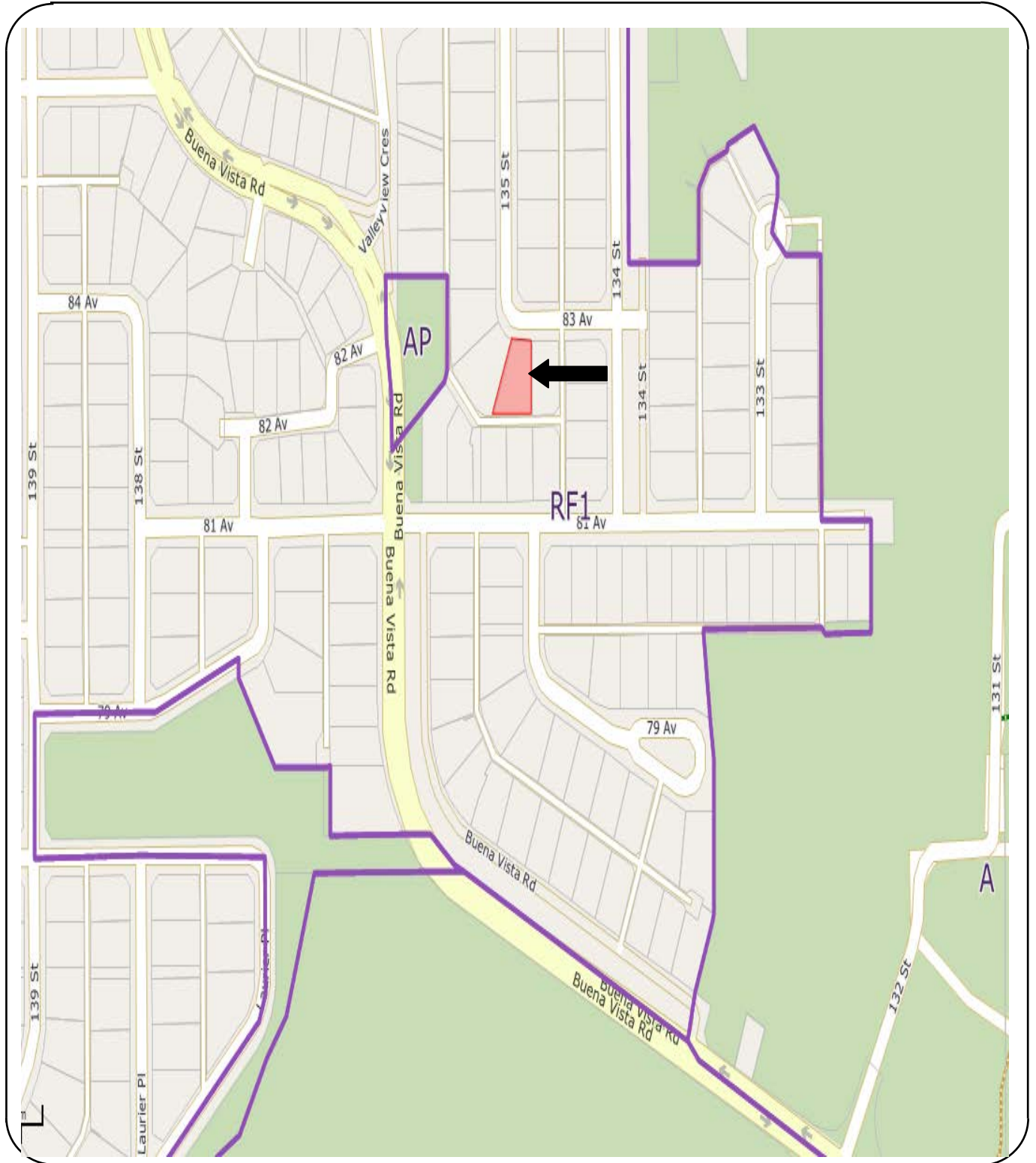
Project Number: **224954590-003**
Application Date: JUL 28, 2016
Printed: November 8, 2016 at 8:23 AM
Page: 2 of 2

Application for House Development and Building Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Electrical Fee (Service)	\$77.00	\$77.00	03478405	Jul 28, 2016
Lot Grading Fee	\$135.00	\$135.00	03478405	Jul 28, 2016
Electrical Safety Codes Fee	\$17.42	\$17.42	03478405	Jul 28, 2016
Electrical Fees (House)	\$323.00	\$323.00	03478405	Jul 28, 2016
Water Usage Fee	\$84.70	\$84.70	03478405	Jul 28, 2016
Building Permit Fee	\$2,598.00	\$2,598.00	03478405	Jul 28, 2016
Safety Codes Fee	\$103.92	\$103.92	03478405	Jul 28, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$3,339.04	\$3,339.04		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-305



ITEM II: 11:00 A.M.

FILE: SDAB-D-16-306

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 231481614-001

ADDRESS OF APPELLANT: 10583 - 115 Street NW

APPLICATION TO: Change the use from a General Industrial use to a Child Care Service (90 children), and to construct interior and exterior alterations (removing loading bay doors and replacing them with windows, and adding a new door)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 9, 2016

DATE OF APPEAL: November 16, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10583 - 115 Street NW

LEGAL DESCRIPTION: Plan B4 Blk 14 Lot 158

ZONE: DC1 Direct Development Control Provision (Bylaw 14141 – Area 2 – Precinct “D”)

OVERLAY: N/A

STATUTORY PLAN: Central McDougall / Queen Mary Park Area Redevelopment Plan

Grounds for Appeal

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

- Daycare is permitted use in area transitional from industrial

- Adjacent uses are not industrial
- Transportation supports despite insufficient parking [unedited]

<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.

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,

- (b) in the case of an appeal made by a person referred to in section 685(1), after
 - (ii) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

The decision of the Development Officer is dated November 9, 2016. The Notice of Appeal was filed on November 16, 2016.

Direct Control Districts

The *Municipal Government Act* states:

Designation of direct control districts

641(1) The council of a municipality that has adopted a municipal development plan, if it wishes to exercise particular control over

the use and development of land or buildings within an area of the municipality, may in its land use bylaw designate that area as a direct control district.

(2) If a direct control district is designated in a land use bylaw, the council may, subject to any applicable statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary.

(3) In respect of a direct control district, the council may decide on a development permit application or may delegate the decision to a development authority with directions that it considers appropriate.

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

(a) is made by a council, there is no appeal to the subdivision and development appeal board, or

(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.

Non-Conforming Uses

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.

General Provisions from the *Edmonton Zoning Bylaw*:

The subject development falls under DC1 (14141 – Area 2, Precinct D).

Section 2 of DC1 (14141 – Area 2, Precinct D) states that the **Rationale** of this Site Specific Direct Control Provision is:

To accommodate a business residential mixed use node that creates a compatible and diverse mixture of residential, office, and commercial land uses at a human scale with a built form that has a strong relationship to the street and accommodates pedestrian activity along the 105 Avenue Multi-use Trail Corridor.

Under section 3(c) of DC1 (14141 – Area 2, Precinct D), **Child Care Services** is a **Listed Use** in this direct control district.

Section 7.8(2) of the *Edmonton Zoning Bylaw* states:

Child Care Services means a development intended to provide care, educational activities and supervision for groups of seven or more children under 13 years of age during the day or evening, but does not generally include overnight accommodation. This Use Class typically includes daycare centres; out-of-school care centres; preschools; and dayhomes/group family care providing child care to seven or more children within the care provider's residence.

Site Conditions

Section 80(2)(d) states:

Where Site conditions exist which may negatively impact the Child Care Services Use, including but not limited to trash collection areas, large parking lots, loading docks, rail lines, or arterial public roadways, the applicant shall design the building,

entrances, playspaces, landscaping, and Fencing, or similar, to mitigate these conditions to the satisfaction of the Development Officer.

Development Officer’s Determination:

The proposed development, including the outdoor play space, is located directly adjacent to trash collection areas and a loading dock, and General Industrial Uses can be found in the buildings to the South, and across both the lane and 115 Street from this Child Care Service, contrary to Section 80(2)(d).

Tandem Parking

Section 54.1(2)(f) states: “Unless otherwise specified in this Bylaw, no required parking spaces shall be provided as Tandem Parking.”

Sectopm 6.1(105) states: “**Tandem Parking** means two parking spaces, one behind the other, with a common or shared point of access to the manoeuvring [sic] aisle”.

Development Officer’s Determination:

Two Tandem Parking spaces are proposed, contrary to Section 54.1(2)(f). [unedited]

Vehicular Parking

Section 54.2 Schedule 1(A) – Vehicular Parking Requirement provides the following:

Schedule 1(A) Areas outside of the Downtown Special Area	
Use of Building or Site	Minimum Number of Parking Spaces or Garage Spaces Required
Community, Educational, Recreational and Cultural Service Use Classes	
33. Child Care Services	a) Passenger pick-up/drop-off spaces shall be provided at the rate of 2 pick-up/drop-off spaces for the first 10 children, plus 1 additional pick-up/drop-off space for every 10 additional children. i) Passenger pick-up/drop-off spaces shall be designated with signs to reserve the parking spaces for Child Care Service pick-up/drop-off, to the satisfaction of the Development Officer.

	<p>ii) Passenger pick-up/drop-off spaces shall be located as close as possible to the main entrance used by the Child Care Service, and shall not be located further than 100 m from the main entrance used by the Child Care Service. The distance between the farthest parking space in the pickup/drop-off area and the main entrance of the Child Care Service shall be measured along the shortest publically accessible pedestrian route.</p> <p>iii) An on-street loading zone shall satisfy a portion of the passenger pick-up/drop-off parking space requirement without a variance if the Development Officer, after consultation with Transportation Operations, is satisfied with the proposal.</p> <p>b) employee parking shall be provided at the rate of:</p> <p style="padding-left: 40px;">i) 1 parking space per 33.5 m² of Floor Area; or</p> <p style="padding-left: 40px;">ii) 1 parking space per 117.0 m² of Floor Area where the Child Care Service is proposed within 400 m of an LRT Station, Transit Centre, Transit Avenue, or all Lots within the boundaries of the Oliver Area Redevelopment Plan, as adopted by Bylaw 11618, as amended, or all Lots within the boundaries of the Strathcona Area Redevelopment Plan, as adopted by Bylaw 11890, as amended; or</p> <p style="padding-left: 40px;">iii) Where the Child Care Service is for a dayhome/group family care providing care to 7 or more children within the residence of the child care provider, 1 parking space for each non-resident employee, in addition to the parking required for the primary Dwelling. Where a Front Yard Driveway provides access to a parking space that is not within the Front Yard, the Development Officer may consider this Driveway as the provision of a parking space that is in tandem.</p>
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Development Officer’s Determination:

Child Care Service shall provide passenger pick-up and drop-off spaces, and employee parking spaces in accordance to Section 54.2, Schedule 1.

Required passenger pick-up and drop -off spaces: 10

Proposed: 0

Deficient by: 10

Required employee parking spaces: 5
Proposed: 2
Deficient by: 3 [unedited]

<i>Risk Assessment</i>

Section 14.9(1) states:


The Development Officer may require an applicant for a Development Permit to submit any information, including but not limited to: environmental site assessments, risk assessment studies and risk management plans and/or exposure control plans that, in the opinion of the Development Officer, is required to determine that the Site is suitable for the full range of uses contemplated in the Development Permit application.

Development Officer's Determination:

The proposed Child Care service is located within an Industrial Use building, and by surrounding General industrial use buildings. As such, the Development Officer has determined that a Risk Assessment study/plan is required. No risk assessment study has been provided, contrary to Section 14.9(1). [unedited]

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

	Project Number: 231481614-001 Application Date: SEP 27, 2016 Printed: November 16, 2016 at 9:35 AM Page: 1 of 2		
<h2 style="margin: 0;">Application for Major Development Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
Applicant <div style="border: 1px solid black; width: 250px; height: 50px; margin: 10px auto;"></div>	Property Address(es) and Legal Description(s) 10583 - 115 STREET NW Plan B4 Blk 14 Lot 158 Specific Address(es) Suite: 10583 - 115 STREET NW Entryway: 10583 - 115 STREET NW Building: 10583 - 115 STREET NW		
Scope of Application To change the use from a General Industrial use to a Child Care Service (90 children), and to construct interior and exterior alterations (removing loading bay doors and replacing them with windows, and adding a new door).			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): </td> <td style="width: 50%; border: none; vertical-align: top;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused			
THIS IS NOT A PERMIT			



Project Number: **231481614-001**
 Application Date: SEP 27, 2016
 Printed: November 16, 2016 at 9:35 AM
 Page: 2 of 2

Application for Major Development Permit

Reason for Refusal

1. Where Site conditions exist which may negatively impact the Child Care Services Use, including but not limited to trash collection areas, large parking lots, loading docks, rail lines, or arterial public roadways, the applicant shall design the building, entrances, playspaces, landscaping, and Fencing, or similar, to mitigate these conditions to the satisfaction of the Development Officer. (Reference Section 80(2)(d))

The proposed development, including the outdoor play space, is located directly adjacent to trash collection areas and a loading dock, and General Industrial Uses can be found in the buildings to the South, and across both the lane and 115 Street from this Child Care Service, contrary to Section 80(2)(d).

2. Unless otherwise specified in this Bylaw, no required parking spaces shall be provided as Tandem Parking (Reference Section 54.1(2)(f))

Two Tandem Parking spaces are proposed, contrary to Section 54.1(2)(f).

3. Child Care Service shall provide passenger pick-up and drop-off spaces, and employee parking spaces in accordance to Section 54.2, Schedule 1.

Required passenger pick-up and drop -off spaces: 10
 Proposed: 0
 Deficient by: 10

Required employee parking spaces: 5
 Proposed: 2
 Deficient by: 3

4. The Development Officer may require an applicant for a Development Permit to submit any information, including but not limited to: environmental site assessments, risk assessment studies and risk management plans and/or exposure control plans that, in the opinion of the Development Officer, is required to determine that the Site is suitable for the full range of uses contemplated in the Development Permit application. (Reference Section 14.9(1)).

The proposed Child Care service is located within an Industrial Use bulding, and by surrounding General iNdustrial use buildings. As such, the Development Officer has determined that a Riska Assessment study/plan is required. No risk assessment study has been provided, contrary to Section 14.9(1).

Rights of Appeal

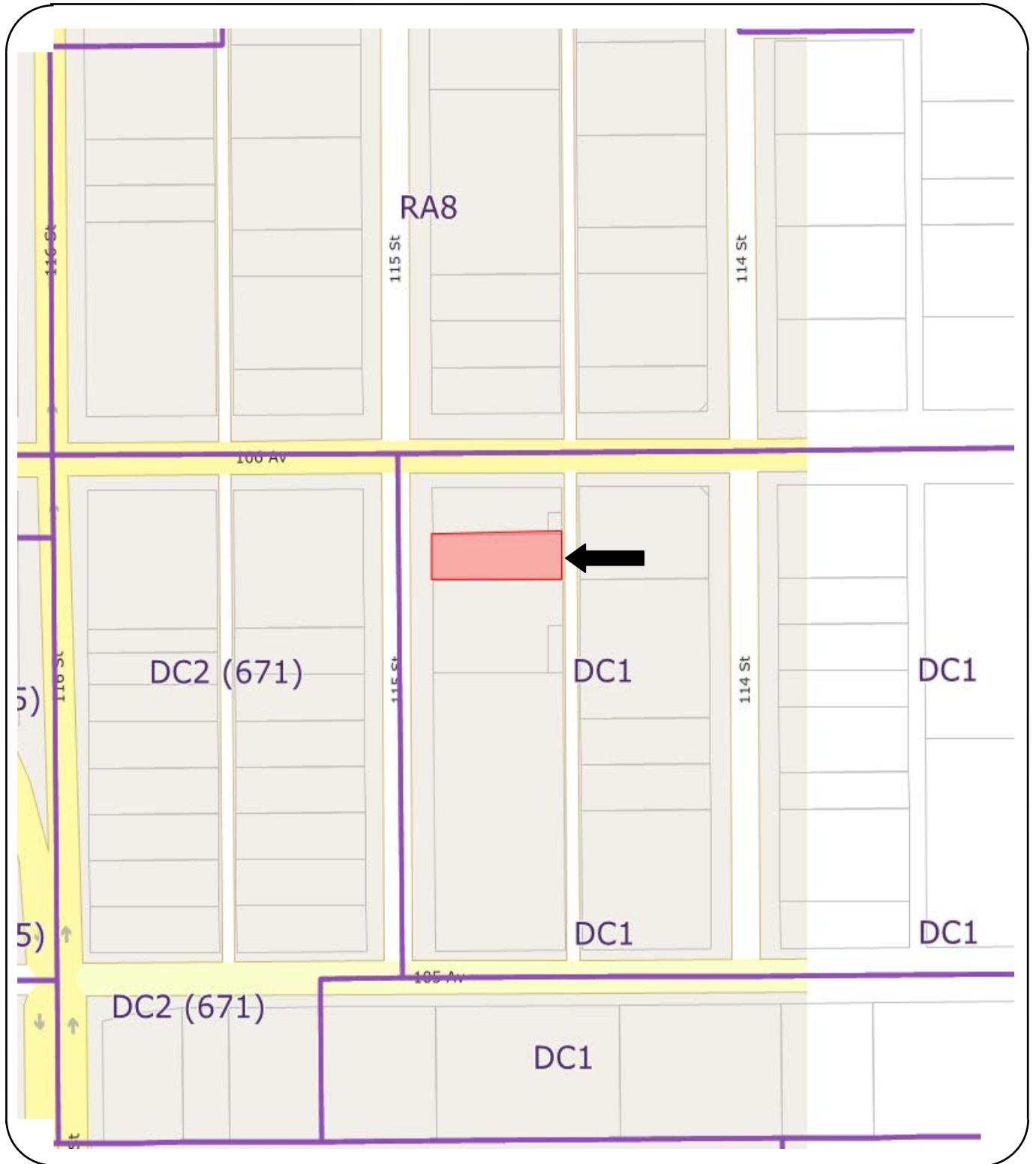
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Nov 09, 2016 **Development Authority:** ADAMS, PAUL **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$260.00	\$260.00	03637365	Sep 28, 2016
Total GST Amount:	\$0.00	_____		
Totals for Permit:	\$260.00	\$260.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-306



ITEM III: 2:00 P.M.

FILE: SDAB-D-16-273

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 127227523-004

APPLICATION TO: Construct an addition (3.33 metres by 7.39 metres carport) to a Single Detached House, existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 4, 2016

DATE OF APPEAL: October 7, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 15921 - 94 Avenue NW

LEGAL DESCRIPTION: Plan 2034KS Blk 33 Lot 10

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:

I wish to appeal on grounds of Section 643; this is a non-conforming carport that has been attached to the house for nearly 50 years, some 30 years before I purchased the home in Nov. 1998.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board at a hearing on November 2, 2016, made and passed the following motion:

That the hearing for SDAB-D-16-273 be TABLED to November 30, 2016 or December 1, 2016 at the written request of Legal Counsel for the Appellant.

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
 - ...

Determining an Appeal

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.

Non-Conforming Use

Non-conforming use and non-conforming buildings

643(1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

(2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months

or more, any future use of the land or building must conform with the land use bylaw then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.

(4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.

(5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

- (a) to make it a conforming building,
- (b) for routine maintenance of the building, if the development authority considers it necessary, or
- (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75 percent of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 110.1 states 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.

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

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 6.1(42) states:

Garage means an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.

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.

Mature Neighbourhood Overlay: 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.

Mature Neighbourhood Overlay (Side Setbacks)

Section 814.3(3) states:

Where the Site Width is 18.3 m or greater:

- a. Side Setbacks shall total 20% of the Site Width but shall not be required to exceed 6.0 m in total.
- b. the minimum interior Side Setback shall be 2.0 m, except if the requirements of the underlying Zone are greater, the underlying Zone requirements shall apply; and
...

Development Officer's Determination:

Side Yards shall total at least 20% of the site width. (Reference Section 814.3(8)(a))

Proposed: 3.01m

Deficient by: 0.65m

The minimum Side Yard shall be 2.0m (Reference Section 814.3(8)(b))

Proposed: 1.21m

Deficient by: 0.79m [unedited].

Mature Neighbourhood Overlay (Rear Setback)

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

Development Officer's Determination:

A non-conforming building may continue to be used, but the building shall not be enlarged, added to, rebuilt or structurally altered. (Reference Section MGA 643(1)(5)).

The building is non-conforming for the following reason:

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

Required: $31.025 \times 40\% = 12.41\text{m}$

Proposed: 10.26m

Deficient by: 2.15m [unedited].

<i>Previous Subdivision and Development Appeal Board Decisions</i>

<u>Application Number</u>	<u>Description</u>	<u>Decision</u>
<u>SDAB-D-13-155</u>	Construct an addition to a Single Detached House (7.39 metres by 3.3 metres - Carport)	July 26, 2013: "that the appeal be ALLOWED and the development REFUSED."
<u>SDAB-D-98-374</u>	Leave as built a single detached house	December 10, 1998: "that the appeal be ALLOWED and the DEVELOPMENT GRANTED, subject to the condition that the carport be removed forthwith."

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: 127227523-004
Application Date: SEP 22, 2016
Printed: October 4, 2016 at 12:24 PM
Page: 1 of 2

Application for Minor Development Permit

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

Applicant <div style="border: 1px solid black; width: 200px; height: 30px;"></div>	Property Address(es) and Legal Description(s) 15921 - 94 AVENUE NW Plan 2034KS Blk 33 Lot 10
	Specific Address(es) Entryway: 15921 - 94 AVENUE NW Building: 15921 - 94 AVENUE NW

Scope of Application
To construct an addition (3.33m x 7.39m carport) to a Single Detached House, existing without permits.

Permit Details	
# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Exterior Alterations (Res.) Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay

I/We certify that the above noted details are correct.
Applicant signature: _____

Development Application Decision
Refused

Reason for Refusal
Side Yards shall total at least 20% of the site width. (Reference Section 814.3(8)(a))
Proposed: 3.01m
Deficient by: 0.65m

The minimum Side Yard shall be 2.0m (Reference Section 814.3(8)(b))
Proposed: 1.21m
Deficient by: 0.79m

A non-conforming building may continue to be used, but the building shall not be enlarged, added to, rebuilt or structurally altered. (Reference Section MGA 643(1)(5)).
The building is non-conforming for the following reason:
The minimum Rear Yard shall be 40% of lot depth. (Reference Section 814.3(5))
Required: 31.025 x 40%= 12.41m
Proposed: 10.26m
Deficient by: 2.15m

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 04, 2016 Development Authority: BAUER, KERRY Signature: _____

THIS IS NOT A PERMIT



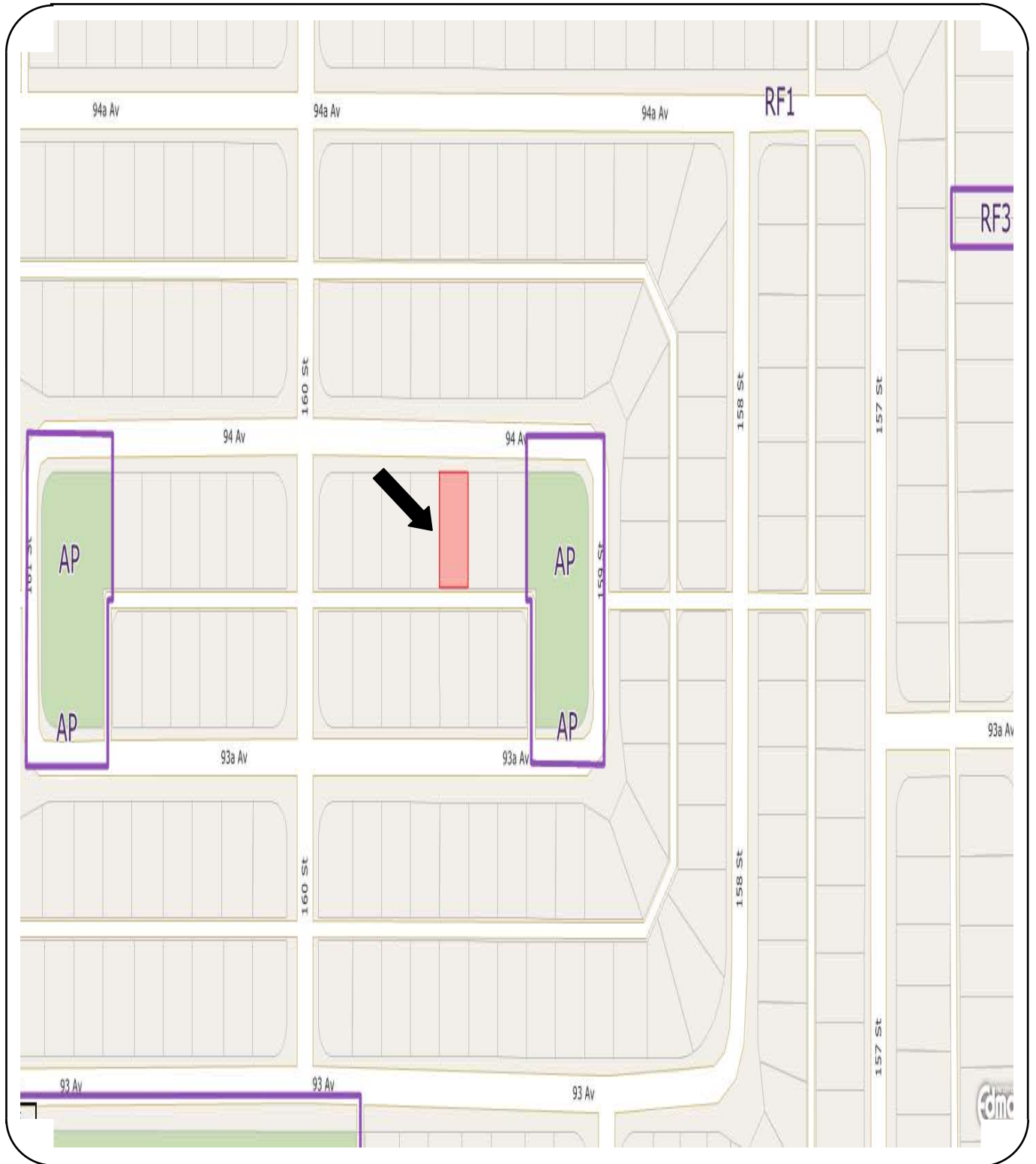
Project Number: **127227523-004**
Application Date: SEP 22, 2016
Printed: October 4, 2016 at 12:24 PM
Page: 2 of 2

Application for Minor Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Existing Without Permit Penalty Fee	\$159.00	\$159.00	03623827	Sep 22, 2016
Dev. Application Fee	\$159.00	\$159.00	03623827	Sep 22, 2016
DP Notification Fee	\$41.00			
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$359.00	\$318.00		
((\$41.00 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location

File: SDAB-D-16-273



BUSINESS LAID OVER

SDAB-D-16-144	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 <i>December 7, 2016</i>
SDAB-D-16-263	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. <i>December 7 or 8, 2016</i>
SDAB-D-16-264	An appeal by <u>413140 Alberta Ltd.</u> to construct exterior alterations to an approved Accessory Building (rear detached Garage 7.3 metres by 6.1 metres) <i>December 7 or 8, 2016</i>
SDAB-D-16-293	An appeal by <u>Vishal Aggarwal</u> to change the Use of a General retail Store to a Major Alcohol Sales. <i>January 11, 2017</i>
SDAB-D-16-294	An appeal by <u>Wigalo Holdings Ltd.</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. This Order is to be complied with on or before September 28, 2016. <i>January 18 or 19, 2017</i>
SDAB-D-16-295	An appeal by <u>Wigalo Holdings Ltd.</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. This Order is to be complied with on or before September 28, 2016. <i>January 18 or 19, 2017</i>
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 <i>January 25, 2017</i>
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) <i>February 2017</i>

APPEAL HEARINGS TO BE SCHEDULED

228839673-001	An appeal by <u>C. Jorritsma</u> to park a Recreational Vehicle in the Front Yard of a Single Detached House. <i>December 7 or 8, 2016</i>
182548244-007	An appeal by <u>Stephanie Chan VS Deborah & Terence Nekolaichuk</u> to construct an Accessory Building (Shed, 3.20 metres by 3.12 metres), existing without permits <i>December 7 or 8, 2016</i>
231692613-001	An appeal by <u>Loan Star Jewellery & Loans; and Inglewood Business Association VS Cash Canada</u> to change the use of a Restaurant to a Pawn Store, a Secondhand Store and a Professional, Financial and Office Support Service, and to construct interior alterations. (Cash Canada) <i>January 4 or 5, 2017</i>