SUBDIVISION

AND

DEVELOPMENT APPEAL BOARD

AGENDA

Wednesday, 9:00 A.M. November 22, 2017

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-17-225	Construct exterior alterations to a Single Detached House, existing without permits (Driveway extension, 0.9m to north Side Lot Line and 0.9m to south Side Lot Line)
			3631 - 15A Street NW Project No.: 261536006-001
II	10:30 A.M.	SDAB-D-17-226	Move on a storage building (6.1 m x 2.4 m) Accessory to a General Retail Stores Use building
			10340 - 82 Avenue NW Project No.: 253125927-002
III	1:30 P.M.	SDAB-D-17-227	Construct a Single Detached House with Unenclosed Front Porch, rear attached Garage, rear partially covered deck, fireplace, Secondary Suite, and to demolish the existing rear detached Garage
			11300 - 58 Street NW Project No.: 257148833-001

NOTE: Unless otherwise stated, all references to "Section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.

<u>ITEM I: 9:00 A.M.</u> <u>FILE: SDAB-D-17-225</u>

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 261536006-001

APPLICATION TO: Construct exterior alterations to a Single

Detached House, existing without permits (Driveway extension, 0.9m to north Side Lot Line and 0.9m to south Side Lot Line)

DECISION OF THE

DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 19, 2017

DATE OF APPEAL: October 30, 2017

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 3631 - 15A Street NW

LEGAL DESCRIPTION: Plan 0940298 Blk 18 Lot 1

ZONE: RSL Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: Tamarack Neighbourhood Structure Plan

The Meadows Area Structure Plan

Grounds for Appeal

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

The extension leads to secondary suite entrance. The neighbours have no issue.

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

. . .

On October 26, 2017, section 1(65) of *An Act to Strengthen Municipal Government*, SA 2017 c13, was proclaimed in force. Section 1(65) provides, in part:

Section 686(1) [of the *Municipal Government Act*] is repealed and the following is substituted:

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
 - (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,

(A) within 21 days after the date on which the decision is made under section 642...

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:

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

Under section 115.2(5), **Single Detached Housing** is a **Permitted Use** in the RSL Residential Small Lot Zone Zone.

Section 6.1(30) states: "**Driveway** means an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway."

Section 6.1(122) states: "Walkway means a path for pedestrian circulation that cannot be used for vehicular parking."

Driveway Versus Walkway

Section 54.1(4)(a) states:

The Front Yard of any at Grade Dwelling in any Residential Zone, or in the case of a corner Site, either the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The Driveway shall:

a. lead directly from the roadway to the Garage or Parking Area;

Development Officer's Determination

The Development Officer referenced section 54.1(4)(a) and the definitions for Driveway and Walkway, and determined as follows:

Other than the approved front Driveway, the proposed Driveway extensions to both north and south Side Lot Lines, will not lead to an overhead garage door. The extensions can be used for vehicular parking.

Parking on Front Yard

Section 54.2(2)(e)(i) states, in part: "parking spaces shall not be located within a Front Yard".

Development Officer's Determination

The proposed Driveway extensions are in the Front Yard and can be used for parking. Parking is not allowed on the Front Yard, which should be suitably landscaped.

Maximum Width of Driveway

Section 54.1(4)(c) states, in part: "For a Garage or Parking Area with two or more parking spaces, [the Driveway shall] have a maximum width that shall be calculated as the product of 3.7 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or Parking Area, or the width of the Garage or Parking Area, whichever is the lesser".

Development Officer's Determination

Proposed width of driveway and extension: 8.2m Maximum width of driveway: 6.4m (width of Garage)

Exceeds by: 1.8m

Front Yard Landscaping

Section 55.3(1)(e) states, in part:

... all open space including Front Yards, Rear Yards, Side Yards and Yards, at Grade Amenity Areas, Private Outdoor Amenity Areas, Setback areas and Separation Spaces shall be landscaped with flower beds, grass, ground cover or suitable decorative hardscaping in addition to trees and shrubs. This requirement shall not apply to those areas designated for parking or vehicular circulation.

Development Officer's Determination

Hardsurfacing is proposed in the Front Yard and can be used as parking. Based on the landscaping regulations, the Front Yard must be suitably landscaped.

Development Authority Variance Powers

The Development Authority referenced section 11.3(1) and determined as follows:

Given the above observations, the proposed development would unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring properties in the opinion of the Development Officer.

- Other than areas approved as a Driveway, the Front Yard should be suitably landscaped. The proposed Driveway extensions will further reduce the landscaped area of the Front Yard. Parking on areas that should be landscaped, also takes away from desirable curb appeal. Onstreet parking may be affected by the Driveway extensions.

Notice to Applicant/Appellant

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



Application for

Project Number: 261536006-001 Application Date: SEP 07, 2017 Printed: October 19, 2017 at 10:43 AM

1 of 3

Minor Development Permit

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

Applicant



Property Address(es) and Legal Description(s)

3631 - 15A STREET NW Plan 0940298 Blk 18 Lot 1

Specific Address(es)

3631 - 15A STREET NW Entryway: 3631 - 15A STREET NW Building: 3631 - 15A STREET NW

Scope of Application

To construct exterior alterations to a Single Detached House, existing without permits (Driveway extension, 0.9m to north Side Lot Line and 0.9m to south Side Lot Line)

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: Lot Grading Needed?: N

New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none)

I/We certify that the above noted details are correct.

Applicant signature:

Development Application Decision

Refused



Project Number: 261536006-001

Application Date: SEP 07, 2017

Printed: October 19, 2017 at 10:43 AM

Page: 2 of 3

Application for Minor Development Permit

Reason for Refusal

1. Section 6.1(29) - Driveway means an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.

Section 6.1(121) - Walkway means a path for pedestrian circulation that cannot be used for vehicular parking Section 54.1(4)(a) - The Driveway shall lead directly from the roadway to the Garage or Parking Area.

- Other than the approved front Driveway, the proposed Driveway extensions to both north and south Side Lot Lines, will not lead to an overhead garage door. The extensions can be used for vehicular parking.
- 2. Section 54.2(2)(e)(i) Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, shall be located in accordance with the following: parking spaces shall not be located within a Front Yard.
- The proposed Driveway extensions are in the Front Yard and can be used for parking. Parking is not allowed on the Front Yard, which should be suitably landscaped.
- 3. Section 54.1(4)(c)- The Driveway Shall for a Garage or Parking Area with two or more parking spaces, have a maximum width that shall be calculated as the product of 3.7 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or Parking Area, or the width of the Garage or Parking Area, whichever is the lesser.

Proposed width of driveway and extension: 8.2m Maximum width of driveway: 6.4m (width of Garage) Exceeds by: 1.8m

- 4. Section 55.3(1)(e) all open space including Front Yards, Rear Yards, Side Yards and Yards, at Grade Amenity Areas, Private Outdoor Amenity Areas, Setback areas and Separation Spaces shall be landscaped with flower beds, grass, ground cover or suitable decorative hardscaping in addition to trees and shrubs. This requirement shall not apply to those areas designated for parking or vehicular circulation.
- Hardsurfacing is proposed in the Front Yard and can be used as parking. Based on the landscaping regulations, the Front Yard must be suitably landscaped.
- 5. Section 11.3(1): Given the above observations, the proposed development would unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring properties in the opinion of the Development Officer.
- Other than areas approved as a Driveway, the Front Yard should be suitably landscaped. The proposed Driveway extensions will further reduce the landscaped area of the Front Yard. Parking on areas that should be landscaped, also takes away from desirable curb appeal. On-street parking may be affected by the Driveway extensions.

Notes:

- Sufficient on site parking is provided through the provision of a 2-car front attached garage and 2 parking spaces in tandem on the approved Driveway for a total for 4 spaces.
- · It is the opinion of the Development Authority that the Driveway extensions set a negative precedent for the neighbourhood.

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.

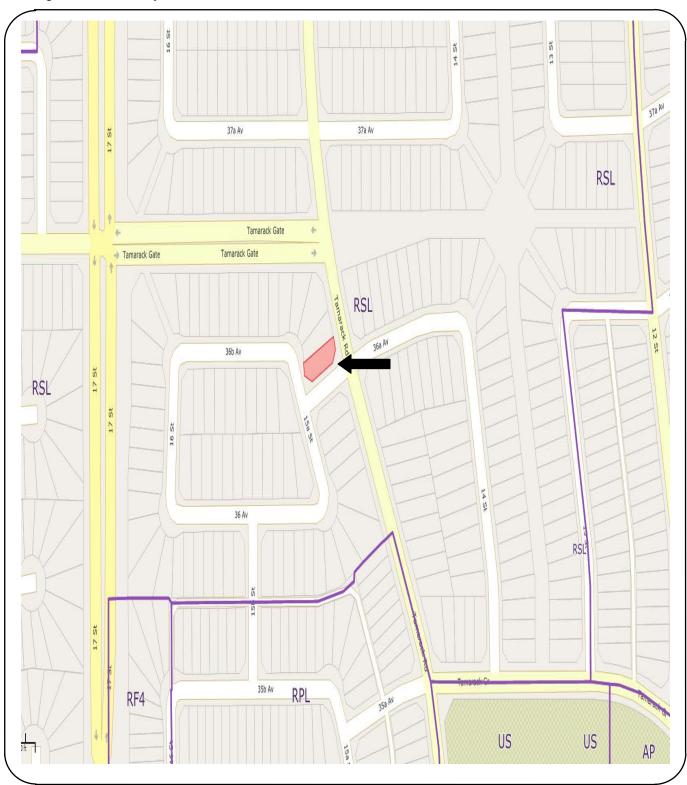


Application for Minor Development Permit

Project N	umber: 26	1536006-001
Application	Date:	SEP 07, 201
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e Date: Oct 19, 2017 Develo	opment Authority		3-8-	ature:	
Dev. Application Fee Existing Without Permit Penalty Fee Total GST Amount: Totals for Permit: (\$166.00 outstanding)	Fee Amount \$166.00 \$166.00 \$0.00 \$332.00	Amount Paid \$166.00 \$166.00	Receipt # 04435371	Date Paid Sep 07, 2017	



SURROUNDING LAND USE DISTRICTS

Site Location

File: SDAB-D-17-225



<u>ITEM II: 10:30 A.M.</u> <u>FILE: SDAB-D-17-226</u>

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 253125927-002

APPLICATION TO: Move on a storage building (6.1 m x 2.4

m) Accessory to a General Retail Stores

Use building

DECISION OF THE

DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 10, 2017

DATE OF APPEAL: October 27, 2017

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 10340 - 82 Avenue NW

LEGAL DESCRIPTION: Plan I Blk 68 Lot 9

ZONE: DC1 Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Strathcona Area Redevelopment Plan

Grounds for Appeal

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

I understand that the rejection of my application is due to the DC1, bit it's important to note the rationale of the heritage planner in approving sub area two, located directly across the alley from our development, which indicated that "...recognizing that 83 Avenue NW is not the primary pedestrian oriented shopping street that is 82 Avenue NW, this Sub Area allows for the redevelopment of the Varscona Theatre with architectural and design regulations more fitting of this use...". Given that alleys are even less pedestrian oriented than 83rd avenue, and that the seacan is of identical cladding to the recently approved Varscona, the same rationale could very well be applied to our situation.

I appreciate the DC1, and the distinct character of the street facing structures in our community, but for many struggling businesses, these containers are an important tool to allow local independents a cost-

affordable extra square footage in a part of the city with some of the highest square foot costs. There are many examples of seacans within our ARP, and several examples beyond ours which are also located in DC1 which are without permit. In speaking with other members of BIA, there is appetite within our community, both within the business and arts community, to apply to amend the DC1 zoning to allow for seacan storage, and will be moving forward with this in the next several months.

I will followup with further documentation within the next week. [unedited]

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

• • •

On October 26, 2017, section 1(65) of *An Act to Strengthen Municipal Government*, SA 2017 c13, was proclaimed in force. Section 1(65) provides, in part:

Section 686(1) [of the *Municipal Government Act*] is repealed and the following is substituted:

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
 - (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the decision is made under section 642...

The decision of the Development Officer is dated October 10, 2017. The Notice of Appeal was filed on October 27, 2017.

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.

General Provisions from the *Edmonton Zoning Bylaw*:

The proposed development falls under **DC1 Strathcona Area Redevelopment Plan** ("ARP") **Historical Commercial**, amended by Bylaw 18164, passed by City Council on September 11, 2017.

Section 1 of this direct control provision states:

This Provision comprises the original, core commercial area of the town of Strathcona. This Provision is required in order to preserve the 19 buildings which are on the Register of Historic Resources in Edmonton (6 of which are designated by the Province) as they have significant architectural and historic value, and to ensure that future renovation and redevelopment of surrounding buildings result in developments which are compatible in architectural and built form with the historic buildings of the area. This Provision also contains four Sub-Areas as described in Sections 6, 7, 8 and 9.

Under section 4 of this direct control district, General Retail Stores up to a maximum gross Floor Area of 929 m2 is a listed use.

The proposed development is Accessory to the General Retail Store. Section 6.1(2) states: "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".

Retention of Characteristics of the Area

Section 3(c) of the direct control provision states: "This provision is intended to emphasize and retain the original, historic architectural and urban design characteristics of this area in future renovations and redevelopments".

Development Officer's Determination

In the opinion of the Development Officer, the proposed sea-can storage building does not emphasize or retain the original, historic architectural and urban design characteristics of the area. The proposed sea-can has an industrial characteristic that would be more suitable in an IM or IH zoned property.

Heritage Officer Consultation

Section 5(h) of the direct control provision states: "All Development Permits relating to exterior alterations, signs, renovation to existing buildings or new construction within this area will be reviewed by the Development Officer in consultation with the Heritage Officer."

Development Officer's Determination

The Heritage Management Unit is not satisfied that the proposed development is consistent with the Historical Commercial DC1 Provision requirements addressing the architectural treatment of new development, particularly as they relate to the requirement to emphasize traditional materials.

Traditional Building Materials

Section 5(1) of the direct control provision states: "The traditional, historic building materials in Strathcona were quite limited. They included: brick, wood, pressed metal and cast stone. New construction should emphasize the use of these traditional materials. Reflective glass windows are NOT permitted".

Development Officer's Determination

In the opinion of the Development Officer, the propose development does not emphasize traditional materials. The sea-can storage building is constructed with corrugated steel.

Exterior Finishing Materials

Section 57.3(1) states: "In all non-industrial developments, the design and use of exterior finishing materials shall be to the satisfaction of the Development Officer who shall ensure, as far as reasonably practicable, that materials shall be used that ensure that the standard of the proposed buildings and structures shall be similar to, or better than, the standard of surrounding development."

Development Officer's Determination

In the opinion of the Development Officer, the proposed materials used for the storage building are not to the standard of buildings and structures in the surrounding development.

General Performance Standards for a Safe Physical Environment

Section 58 states:

The Development Officer shall encourage the inclusion of design elements that readily allow for casual surveillance, particularly for commercial, industrial, multi-unit residential Uses and parkade structures. These elements may include, but are not limited to, large window areas, high quality interior and exterior lighting, physical layout that reduces the vulnerability of pedestrians (avoiding long public corridor spaces, stairwells, or other movement predictors), the placement and use of Landscaping that limits areas of concealment, and the location of parking areas close to building access points. The Development Officer shall require a Crime Prevention Through Environmental Design

assessment prepared by a qualified security consultant for multi-unit residential/commercial/institutional/industrial developments that, in the opinion of the Development Officer, requires such an assessment. The Development Officer shall advise applicants of the approved crime prevention design guidelines contained in the Design Guide for a Safer City, such as the layout and design of buildings and associated parking and loading areas, yards and landscaped areas, to promote a safe, well-lit physical environment. In addition, the Development Officer shall apply the requirements of subsection 54 (7) to Parking Garages.

Development Officer's Determination

There is evidence to prove that the sea-can storage building is being used by people to access the rooftop of the principal building and adjacent buildings to vandalize adjacent properties with graffiti.

Notice to Applicant/Appellant

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



Application for Major Development Permit

Project Number: 253125927-002 Application Date: JUL 24, 2017 October 10, 2017 at 1:28 PM

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

Applicant



Property Address(es) and Legal Description(s)

10340 - 82 AVENUE NW Plan I Blk 68 Lot 9

Scope of Application

To move on a storage building (6.1 m x 2.4 m) Accessory to a General Retail Stores Use building.

Permit Details

Class of Permit:

Gross Floor Area (sq.m.): 14.9 New Sewer Service Required: N

Site Area (sq. m.):

Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)

I/We certify that the above noted details are correct.

Applicant signature:

Development Application Decision

Refused



Project Number: **253125927-002**Application Date: JUL 24, 2017

Printed: October 10, 2017 at 1:28 PM

Page: 2 of 3

Application for Major Development Permit

Reason for Refusal

1) The provision is intended to emphasize and retain the original, historic architectural and urban design characteristics of this area in future renovations and redevelopments. (Strathcona ARP - Historical Commercial DC1, Section 3.c)

In the opinion of the Development Officer, the proposed sea-can storage building does not emphasize or retain the original, historic architectural and urban design characteristics of the area. The proposed sea-can has an industrial characteristic that would be more suitable in an IM or IH zoned property.

2) All Development Permits relating to exterior alterations, signs, renovation to existing buildings or new construction within this area will be reviewed by the Development Officer in consultation with the Heritage Officer. (Strathcona ARP - Historical Commercial DC1, Section 5.h)

The Heritage Management Unit is not satisfied that the proposed development is consistent with the Historical Commercial DC1 Provision requirements addressing the architectural treatment of new development, particularly as they relate to the requirement to emphasize traditional materials.

3) The traditional, historic building materials in Strathcona were quite limited. They included: brick, wood, pressed metal and cast stone. New construction should emphasize the use of these traditional materials. (Strathcona ARP - Historical Commercial DC1, Section 5.1)

In the opinion of the Development Officer, the propose development does not emphasize traditional materials. The sea-can storage building is constructed with corrugated steel.

4) In all non-industrial developments, the design and use of exterior finishing materials shall be to the satisfaction of the Development Officer who shall ensure, as far as reasonably practicable, that materials shall be used that ensure that the standard of the proposed buildings and structures shall be similar to, or better than, the standard of surrounding development. (Section 57)

In the opinion of the Development Officer, the proposed materials used for the storage building are not to the standard of buildings and structures in the surrounding development.

5) The Development Officer shall encourage the inclusion of design elements that readily allow for casual surveillance, particularly for commercial, industrial, multi-unit residential Uses and parkade structures. These elements may include, but are not limited to, large window areas, high quality interior and exterior lighting, physical layout that reduces the vulnerability of pedestrians (avoiding long public corridor spaces, stairwells, or other movement predictors), the placement and use of Landscaping that limits areas of concealment, and the location of parking areas close to building access points. The Development Officer shall require a Crime Prevention Through Environmental Design assessment prepared by a qualified security consultant for multi-unit residential/commercial/institutional/industrial developments that, in the opinion of the Development Officer, requires such an assessment. The Development Officer shall advise applicants of the approved crime prevention design guidelines contained in the Design Guide for a Safer City, such as the layout and design of buildings and associated parking and loading areas, yards and landscaped areas, to promote a safe, well-lit physical environment. In addition, the Development Officer shall apply the requirements of subsection 54 (7) to Parking Garages.

There is evidence to prove that the sea-can storage building is being used by people to access the rooftop of the principal building and adjacent buildings to vandalize adjacent properties with graffiti.

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.



Application for **Major Development Permit**

Project Nur	nber: 2	25312	592	7-0	02
Application D	ate:		JUL	24, 2	01
Printed:	Octob	er 10, 20	017 at	1:28	PΝ

Page:

Issue Date: Oct 10, 2017	Development Authorit	v•BFLZILE PALII	Sign	ature:	
	Development Authorit	y. BELEZIEE, FACE	Sign	ature	
Fees Major Dev. Application Fee Total GST Amount: Totals for Permit:	Fee Amount \$929.00 \$0.00 \$929.00	Amount Paid \$929.00 	Receipt # 04339059	Date Paid Aug 01, 2017	
		THIS IS NOT A PER	MIT		



SURROUNDING LAND USE DISTRICTS

Site Location

File: SDAB-D-17-226



Hearing Date: Wednesday, November 22, 2017

<u>ITEM III: 1:30 P.M.</u> <u>FILE: SDAB-D-17-227</u>

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

APPELLANT:

APPLICATION NO.: 257148833-001

APPLICATION TO: Construct a Single Detached House with

with Unenclosed Front Porch, rear attached Garage, rear partially covered deck, fireplace, Secondary Suite, and to demolish the existing rear detached

Garage

DECISION OF THE

DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: October 20, 2017

DATE OF APPEAL: October 29, 2017

NOTIFICATION PERIOD: Oct 26, 2017 through Nov 9, 2017

(See page 4 of permit)

RESPONDENT: Ricky Soni

ADDRESS OF RESPONDENT: 11300 - 58 Street NW

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 11300 - 58 Street NW

LEGAL DESCRIPTION: Plan 707HW Blk 20 Lot 28

ZONE: RF1 Single Detached Residential Zone

OVERLAY: MNO 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 received notice that the City has approved the development permit for 11300A 58 Street, a proposed residence in the Highlands neighbourhood, northeast Edmonton. This notice was not the first time that I was made

aware of the proposed development at this location. The developer/owner, Rick and Shoshi Soni had circulated a brief description of their plans to existing residents in the area of the proposed development and indicating their desire to obtain a variance from the City regarding a proposed pedway/vestibule connection between their proposed home and garage, effectively attaching both two storey buildings with a one-storey connection that is part of the house. The developers were seeking approval from neighbouring properties, including mine.

The proposed residence is a two-storey home with an attached garage, including secondary suite above the garage. Given that the home is on a corner lot, the owners have elected to face the longest frontage on 58 Street NW. The lot coverage is 40.43%, based on a lot coverage of 251.62 m2, excluding the stairs and covered landing to the secondary suite over the garage, and a surveyed area of the lot of 622.42 m2. (I note that the surveyed lot area appears to be in discrepancy with the lot area shown on the City's online mapping tool, 618.209 m2. Using the City's lot area, the lot coverage would be 40.70%).

I began communicating with the aforementioned developers by email and was able to gain a better understanding of the actual variance they had sought, as the letter seemed to focus on the location of the driveway entrance. I have at no time in my communication with the developers or subsequently with George Richardson of the City of Edmonton, indicated my support of the project. The intent of this letter is to describe my grounds for this appeal. I wish to note that I have not met with the owners at any time, only communicated by email.

In developing this appeal, I have considered the following:

1) Highlands is a historic neighbourhood with a Historic Society that is actively involved in documenting the history of the neighbourhood. Many of the homes in the immediate area of the proposed development were built in the years following WWII, on lots subdivided from Buttercup Farm. The original house in the area, Buttercup Farmhouse, is located opposite the subject property at 11251 58 Street. That house has a plaque from the Historic Society that indicates that it was built in 1912. It is one of the few homes on the block with an attached garage. See Figure 1. Otherwise, the home is set back from the property line approximately six metres, measured from the veranda.



Figure 1: Buttercup Farmhouse located directly opposite the subject Property. The total frontage of the house and side-attached, recessed garage is approximately 15 metres.

- 2) The surrounding homes are, generally, one storey bungalows or the more common storey and a half homes, built after WWII. This housing type, typically with detached garages, allows for green space that serves as semi private to private areas, often with mature trees on site.
- 3) Highlands is actively under re-generation. If they have been maintained, the homes are being updated/enhanced by new owners and if they have not been maintained, new owners are knocking down homes and, often, replacing them with larger homes. Regeneration is an exciting prospect, in my opinion, when done sensitively and creatively.
- 4) The older neighbourhood overlay, which includes this area, does not allow for rear attached garages, although side attached garages may be permitted. My understanding is that the subject application was received prior to the effective date of the overlay. The overlay document does not indicate any circumstance for which attached garages can be permitted, such as in the case of corner lots or when a developer indicates that a mobility-challenged person might be living in the home.
- 5) The average width of the front elevation of homes in the area is between 9.8 metres (11231 58 Street NW) and 15 metres (Buttercup farmhouse). The front elevation of the proposed subject home, with and without the vestibule/garage, is 29.11m and 18.59m, respectively.

My appeal is predicated on the argument that the proposed development, in choosing to have the front elevation on the longest frontage and by including a covered vestibule and attached garage, will be creating a front elevation that is longer by over ten metres compared to the widest homes in the area, including the original home, Buttercup Farmhouse, directly opposite it. In effect, the proposed residence, at two storeys and with its width increased by the vestibule and garage, will have made itself the most prominent home within viewing distance. The proposed home design has effectively incorporated all of minimums/maximums available to it: minimum setbacks, maximum height, maximum lot coverage. The approved variances are just one more set of minimums.

Although the design meets the standards of the City, the effect is that it will compete with the most important house in the area and overwhelm the abutting home and others in the surrounding area. For example, incorporating the minimum setback from the south elevation (113 Avenue) means that proposed home will obscure nearly all of the view of the abutting house, from the sidewalk intersection of 58 Street and 113 Avenue. I note that this house is well maintained and it is unlikely to be replaced by a larger house in the near future. The proposed home will be closer than any other surrounding home to the front and side property line, overwhelming the corner of 113 Avenue and 58 Street.

I understand that in approving these variances, the City has considered the particular stated needs of the developer/future resident. However, by approving this variance, the City is allowing a permanent feature for a temporary situation that is associated with this particular owner, at this particular time. Going forward, it may be difficult to deny any similar requests for other attached garages in the area, forcing the City to amend the overlay regarding attached garages in this neighbourhood.

To conclude, I want to be clear that I value a mixture of facades and approaches within the neighbourhood- a sign of a mature neighbourhood. Although I have not met the proponents, I have no reason to believe that they will not be good neighbours. My objection to the variances on the development permit are not personal in nature. At the same time, the integration of different housing types needs to be done sensitively. In the case of the area surrounding the subject lot, introducing a home that becomes a rival to the oldest and most distinct home in the area and appears to overwhelm the other homes, should be done carefully and sensitively. I trust that the aforementioned is a helpful description of my appeal of the approval of the above noted development permit and associated variance to allow the attached garage and the subsequent reduction of the setback to the home/vestibule/garage combination.

General Matters

Appeal Information:

The Municipal Government Act, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

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

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

On October 26, 2017, section 1(65) of *An Act to Strengthen Municipal Government*, SA 2017 c13, was proclaimed in force. Section 1(65) provides, in part:

Section 686(1) [of the *Municipal Government Act*] is repealed and the following is substituted:

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

• • •

(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

The Edmonton Zoning Bylaw 12800 provides as follows:

20. Notification of Issuance of Development Permits

20.2 Class B Development

1. Within seven days of the issuance of a Development Permit for a Class B Discretionary Development, the Development Officer shall

dispatch a written notice by ordinary mail to all relevant parties listed below that are wholly or partially within 60.0 m of the boundaries of the Site which is the subject of the Development Permit:

- a. each assessed owner of the Site or a part of the Site of the development;
- b. each assessed owner of land;
- c. the President of each Community League; and
- d. the President of each Business Revitalization Zone.
- 2. The notice shall describe the development and state the decision of the Development Officer, and the right of appeal therefrom.
- 3. Within 10 days of the issuance of a Development Permit for Class B Discretionary Development, the Development Officer shall cause to be published in a daily newspaper circulating within the City, a notice describing the development and stating their decision, and the right to appeal therefrom.
- 4. Where, in the opinion of the Development Officer, a proposed development is likely to affect other owners of land beyond 60.0 m, the Development Officer shall notify owners of land at such additional distance and direction from the Site as, in the opinion of the Development Officer, may experience any impact attributable to the development.

The decision of the Development Officer is dated October 20, 2017. Notice of the development was published in the Edmonton Journal on October 26, 2017. The Notice of Appeal was filed on October 29, 2017.

Determining an Appeal

The Municipal Government Act states the following:

Hearing and decision

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

• • •

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

. . .

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

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

and

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

General Provisions from the Edmonton Zoning Bylaw:

Section 110.1 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, and Garden Suites, as well as 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.

Section 7.2(8) states:

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 in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

...to regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Mature Neighbourhood Overlay Community Consultation

814.5 Additional Development Regulations for Specific Areas

- 1. When the Development Officer receives a Development Permit Application for a new principal building, new Garage Suite, or new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) or 814.3(9) of this Overlay:
 - a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
 - b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and
 - c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit Application in accordance with Sections 11.2 and 11.3.

Table 814.5(2)					
Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay Proposed to be Varied		
Tier 2	adjacent across a Lane from	The assessed owners of the land Abutting the Site and directly adjacent across a Lane from the Site of the proposed development	814.3(4) – Rear Setback 814.3(19) – Rear Attached Garage 814.3(22) – Detached Garage Rear Setback		

Reduced Rear Setback

Section 814.3(4) states: "The minimum Rear Setback shall be 40% of Site Depth."

Development Officer's Determination

1. Reduced Rear Setback - The distance from the house to the rear property line is 7.53 m (19% of site depth) instead of 15.84m (40% of site depth). (Section 814.3.4)

Rear Attached Garages Prohibited

Section 814.3(19) states: "Rear attached Garages shall not be allowed."

Development Officer's Determination

2. Attached Garage - The rear garage is allowed to be attached, instead of detached (Section 814.3.19).

Notice to Applicant/Appellant

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



Application for

Project Number: **257148833-001**Application Date: JUL 12, 2017
Printed: October 20, 2017 at 11:58 AM

House Development and Building Permit

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



Property Address(es) and Legal Description(s)

11300 - 58 STREET NW Plan 707HW Blk 20 Lot 28

Location(s) of Work

Entryway: 11300 - 58 STREET NW Entryway: 11300A - 58 STREET NW Building: 11300 - 58 STREET NW

Scope of Application

To construct a Single Detached House with with Unenclosed Front Porch, rear attached Garage, rear partially covered deck, fireplace, Secondary Suite, and to demolish the existing rear detached Garage.

Permit Details

Affected Floor Area (sq. ft.): 3133 Class of Permit: Class B Front Yard (m): 3 Rear Yard (m): 7.53 Side Yard, left (m): 2 Site Area (sq. m.): 622.42 Site Width (m): 19.63 Building Height to Midpoint (m): 8.51 Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included ?: Y Side Yard, right (m): 4.34 Site Depth (m): 39.64

Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay

I/We certify that the above noted details are correct.

Applicant signature:

Development Permit Decision

Approved



Project Number: **257148833-001**Application Date: JUL 12, 2017
Printed: October 20, 2017 at 11:58 AM
Page: 2 of 4

Application for

House Development and Building Permit

Subject to the Following Conditions

NOTE: This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

This Development Permit authorizes the development of a Single Detached House with with Unenclosed Front Porch, rear attached Garage, rear partially covered deck, fireplace, Secondary Suite, and to demolish the existing rear detached Garage. The development shall be constructed in accordance with the stamped and approved drawings.

- 1. Immediately upon demolition of the building, the site shall be cleared of all debris.
- The Height of the principal building shall not exceed 8.9 m (Reference Sections 6.1(49) and 52).
- 3. Platform Structures greater than 1.0 m above Grade shall provide Privacy Screening to prevent visual intrusion into adjacent properties. (Reference Section 814.3(9))
- 4. The proposed Basement development(s) shall NOT be used as an additional Dwelling. Proposed wet bar shall only be used by the household which uses the principal kitchen on the main floor.
- 5. A Secondary Suite shall be developed in such a manner that the exterior of the principal building containing the Secondary Suite shall appear as a single Dwelling. (Reference Section 86.4)
- 6. Only one of a Secondary Suite or Garden Suite may be developed in conjunction with a principal Dwelling. (Reference Section 86.5)
- 7. A Secondary Suite shall not be developed within the same principal Dwelling containing a Group Home or Limited Group Home, or a Major Home Based Business, unless the Secondary Suite is an integral part of a Bed and Breakfast Operation in the case of a Major Home Based Business; (Reference Section 86.6)
- 8. Notwithstanding the definition of Household within this Bylaw, the number of unrelated persons occupying a Secondary Suite shall not exceed three.
- 9. The Secondary Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision. (Reference Section 86.7)
- 10. This structure shall not be used as a Lodging House. A Congregate Living facility requires separate Development Permit approval. (Reference Section 7.3.6 and Section 76)
- 11. Locked separation that restricts the nonconsensual movement of persons between each Dwelling unit shall be installed.
- 12. The area hard surfaced for a Driveway shall comply with Section 54.6 of the Zoning Bylaw 12800.
- 13. Except for the hard surfacing of Driveways and/or Parking Areas approved on the site plan for this application, the remainder of the site shall be landscaped in accordance with the regulations set out in Section 55 of the Zoning Bylaw 12800.
- 14. Landscaping shall be provided on a Site within 18 months of the occupancy of the Single Detached House. Trees and shrubs shall be maintained on a Site for a minimum of 42 months after the occupancy of the Single Detached House (Reference Section 55.2.1).
- 15. Two deciduous tree with a minimum Caliper of 50 mm, two coniferous tree with a minimum Height of 2.5 m and eight shrubs shall be provided on the property. Deciduous shrubs shall have a minimum Height of 300 mm and coniferous shrubs shall have a minimum spread of 450 mm (Reference Section 55.2.1).
- 16. All Yards visible from a public roadway, other than a Lane, shall be seeded or sodded. Seeding or sodding may be substituted with alternate forms of ground cover, including hard decorative pavers, washed rock, shale or similar treatments, perennials, or



Application for

 Project Number:
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House Development and Building Permit

artificial turi, provided that all areas of exposed earth are designed as either flower beds or cultivated gardens (Reference Section 55.2.1).

- 17. All access locations and curb crossings shall have the approval of the City Transportation prior to the start of construction. Vehicular access shall be from the rear lane only (Reference Section 53(1)).
- 18. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Sanitary Sewer Trunk Charge fee of \$693.00. The SSTC charge is quoted at year 2017 rate. Please contact Private Development, Drainage Services, at 780-496-5665 for further details regarding the fee. The final SSTC is based on the prevailing rate at the time the applicant/owner makes payment at the 2nd Floor cashiers, Edmonton Tower, 10111 104 Avenue NW.
- 19. WITHIN 14 DAYS OF THE END OF THE NOTIFICATION PERIOD with NO APPEAL and prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.2)

ADVISEMENTS:

- i.) The applicant is advised that there may be complications in obtaining a Development Permit for a future covered or uncovered deck because of excess in Site Coverage.
- ii.) Lot grades must comply with the Edmonton Drainage Bylaw 16200. Contact Drainage Planning and Engineering at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.
- iii.) Any future deck development greater than 0.6m (2ft) in height will require development and building permit approvals
- iv.) Any future deck enclosure or cover requires a separate development and building permit approval.
- v.) The driveway access must maintain a minimum clearance of 1.5m from the service pedestal and all other surface utilities.
- vi.) Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at: www.edmonton.ca/transportation/on_your_streets/on-street-construction-maintenance-permit.aspx
- vii.) Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.
- viii.) An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site.

Variances

- 1. Reduced Rear Setback The distance from the house to the rear property line is 7.53 m (19% of site depth) instead of 15.84m (40% of site depth). (Section 814.3.4)
- 2. Attached Garage The rear garage is allowed to be attached, instead of detached (Section 814.3.19).

NOTE: application meets Inclusive Design requirements as per Section 93.

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

Rights of Appeal

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

JUL 12, 2017



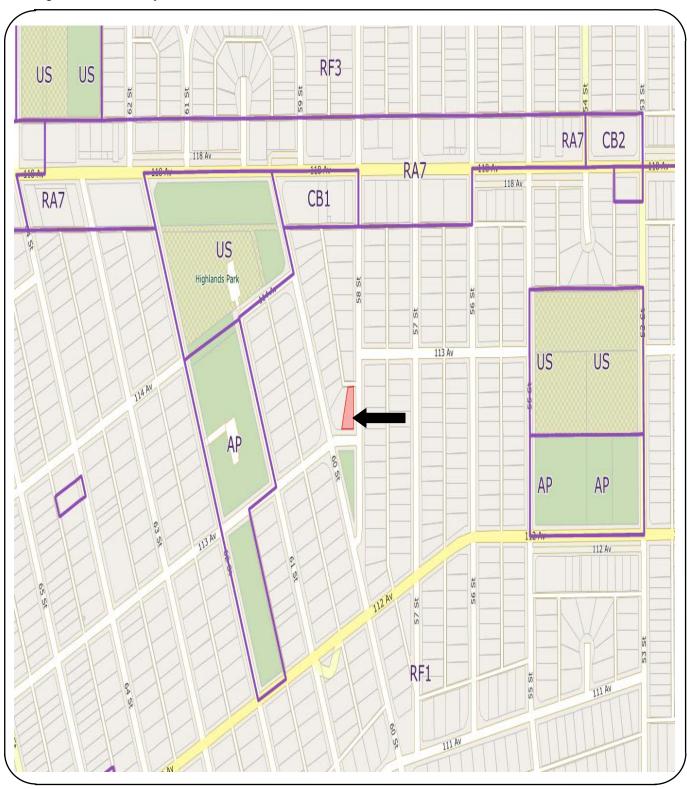
Application Date: October 20, 2017 at 11:58 AM

Project Number: 257148833-001

Application for

House Development and Building Permit

Issue Date: Oct 20, 2017 Development Authority: ROBINSON, GEORGE Signature:_ Notice Period Begins:Oct 26, 2017 Ends:Nov 09, 2017 **Building Permit Decision** No decision has yet been made. Fees Amount Paid Receipt # Date Paid Fee Amount Development Permit Inspection Fee \$200.00 \$200.00 04285633 Jul 12, 2017 Water Usage Fee \$84.70 \$84.70 04285633 Jul 12, 2017 **Building Permit Fee** \$2,650.00 \$2,650.00 04285633 Jul 12, 2017 Electrical Fee (Service) \$79.00 04285633 Jul 12, 2017 Lot Grading Fee Jul 12, 2017 \$140.00 \$140.00 04285633 Safety Codes Fee \$106.00 \$106.00 04285633 Jul 12, 2017 Electrical Safety Codes Fee \$17.70 \$17.70 04285633 Jul 12, 2017 Electrical Fees (House) \$330.00 \$330.00 04285633 Jul 12, 2017 Sec Suite SSTC Fee \$693.00 Total GST Amount: \$0.00 Totals for Permit: \$4,300.40 \$3,607.40 (\$693.00 outstanding)



SURROUNDING LAND USE DISTRICTS

Site Location

File: SDAB-D-17-227

