

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:30 A.M.
November 23, 2017**

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

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

TO BE RAISED

I 9:30 A.M. SDAB-D-17-192 Construct exterior alteration to an existing Apartment building (removing the rooftop addition and rooftop patio, 5.54 metres by 4.04 metres)

10003 - 87 Avenue NW
Project No.: 258895254-001

II 1:00 P.M. SDAB-D-17-232 Add (1) additional Dwelling to an existing (13) Dwelling Apartment House for a total of 14 Dwellings and to construct exterior alterations (additional window for egress)

10003 - 87 Avenue NW
Project No.: 258470653-003

III 3:00 P.M. SDAB-D-17-233 Change the Use of the site from an Automotive and Minor Recreation Vehicle Sales/Rentals to a temporary Non-accessory Parking lot (surface parking lot with 52 vehicular parking stalls), and to construct exterior alterations (adding landscaping) that is valid for up to 5 years

10617 - 105 Street NW, 10430 - 106 Avenue NW
Project No.: 024987724-009

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

TO BE RAISED
ITEM III: 1:30 P.M.

FILE: SDAB-D-17-192

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

APPELLANT:

ADDRESS OF APPELLANT: 10003 - 87 Avenue NW

APPLICATION NO.: 258895254-001

APPLICATION TO: Construct exterior alteration to an existing Apartment building (removing the rooftop addition and rooftop patio, 5.54 metres by 4.04 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved

DECISION DATE: August 21, 2017

DATE OF APPEAL: September 11, 2017

NOTIFICATION PERIOD: Aug. 29, 2017 through Sept. 12, 2017

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10003 - 87 Avenue NW

LEGAL DESCRIPTION: Condo Common Area (Plan 0626935)

ZONE: RA7 Low Rise Apartment Zone

OVERLAY: Medium Scale Residential Infill Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan

General Matters

The Board is advised that all Parties agreed to the Hearing Date on October 19, 2017.

The Board tabled the hearing until November 23, 2017.

Appeal Information:

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

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.

Grounds for Appeal

- 685(1)** If a development authority
- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

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

Appeals

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

(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, or

(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires, or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

(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.

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 210.2(1), **Apartment Housing** is a **Permitted Use** in the **(RA7) Low Rise Apartment Zone**.

Under Section 7.2(1), **Apartment Housing** means development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use.

Section 210.1 states the **General Purpose** of the **(RA7) Low Rise Apartment Zone** is to provide a Zone for Low Rise Apartments.

Section 823.1 states that the **General Purpose** of the **Medium Scale Residential Infill Overlay** is to accommodate the development of medium-scale infill housing in Edmonton's mature residential neighbourhoods in a manner that ensures compatibility with adjacent properties while maintaining or enhancing a pedestrian-friendly streetscape.

<i>Non-Conformity</i>

Section 11.2(2) states that the Development Officer may approve, with or without conditions as a Class B Development, an enlargement, alteration or addition to a legal non-conforming building if the non-conforming building complies with the uses prescribed for the land in this Bylaw and the proposed development would not, in his opinion:

- a) unduly interfere with the amenities of the neighbourhood; or
- b) materially interfere with or affect the use, enjoyment or value of neighbouring properties.

Development Officer’s Determination:

Non-Conforming Building - The Apartment Housing which may have changed since it was originally constructed, no longer conforms to current zoning rules. (Section 11.3.3).

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

Application Number	Description	Decision
SDAB-D-17-232	To add (1) additional Dwelling to an existing (13) Dwelling Apartment House for a total of 14 Dwellings and to construct exterior alterations (additional window for egress).	In Progress

SDAB-D-09-074	To construct an addition to an Apartment building (4.88 metres by 5.49 metres access to a roof top deck)	June 5, 2009; that the appeal be ALLOWED and the DEVELOPMENT GRANTED and the excess of one storey in maximum allowable number of Storeys be permitted
SDAB-D-07-126	To construct an addition to an Apartment building (fourth floor addition)	June 29, 2007; that the appeal be DENIED and the DEVELOPMENT REFUSED

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: 258895254-001
Application Date: AUG 02, 2017
Printed: September 12, 2017 at 7:26 AM
Page: 1 of 3

Major Development Permit

This document is a record of a Development 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.

Applicant <div style="border: 1px solid black; width: 280px; height: 45px; margin: 10px 0;"></div>	Property Address(es) and Legal Description(s) 10003 - 87 AVENUE NW Condo Common Area (Plan 0626935)
	Specific Address(es) Entryway: 10003 - 87 AVENUE NW Entryway: 10007 - 87 AVENUE NW Building: 10003 - 87 AVENUE NW

Scope of Permit
 To construct exterior alteration to an existing Apartment building (removing the rooftop addition and rooftop patio, 5.54m x 4.04m).

Permit Details	
Class of Permit: Class B 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 Permit Decision
 Approved

The permit holder is advised to read the reverse for important information concerning this decision.



Project Number: 258895254-001
Application Date: AUG 02, 2017
Printed: September 12, 2017 at 7:26 AM
Page: 2 of 3

Major Development Permit

Subject to the Following Conditions

This Development Permit authorizes the proposed development to construct exterior alteration to an existing Apartment building (removing the rooftop addition and rooftop patio, 5.54m x 4.04m).

When an application for a Development Permit has been approved by the Development Officer, the Development Permit shall not be valid unless and until:

- a. any conditions of approval, except those of a continuing nature, have been fulfilled; and
- b. the time for filing a notice of appeal to the Subdivision and Development Appeal Board as specified in subsection 21.1 of this Bylaw and the Municipal Government Act has passed.

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21(1). (Reference Section 17(1))

Immediately upon demolition of the rooftop addition and rooftop patio, the site shall be cleared of all debris.

ADVISEMENTS:

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

An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

A Building Permit is Required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.

Signs require separate Development Applications.

NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.

Variiances

Non-Conforming Building - The Apartment Housing which may have changed since it was originally constructed, no longer conforms to current zoning rules. (Section 11.3.3).

Rights of Appeal

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


Issue Date: Aug 21, 2017 Development Authority: ANGELES, JOSELITO

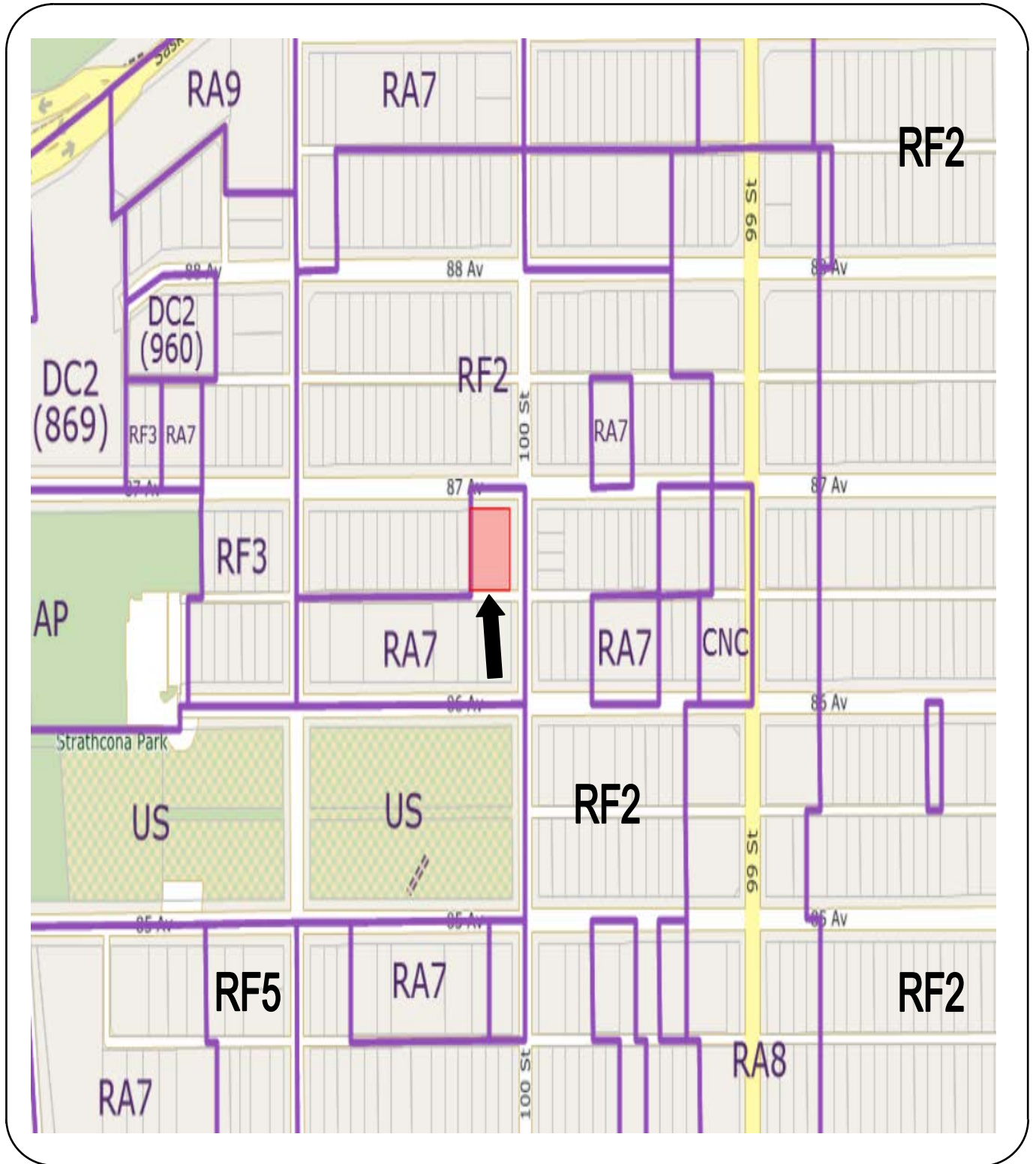
Signature: _____

Notice Period Begins: Aug 29, 2017

Ends: Sep 12, 2017

The permit holder is advised to read the reverse for important information concerning this decision.

	Project Number: 258895254-001			
	Application Date: AUG 02, 2017			
	Printed: September 12, 2017 at 7:26 AM			
	Page: 3 of 3			
Major Development Permit				
Fees				
	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$84.00	\$84.00	04342985	Aug 02, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$84.00	\$84.00		
The permit holder is advised to read the reverse for important information concerning this decision.				



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-192



ITEM II: 1:00 P.M.

FILE: SDAB-D-17-232

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 258470653-003

APPLICATION TO: Add (1) additional Dwelling to an existing (13) Dwelling Apartment House for a total of 14 Dwellings and to construct exterior alterations (additional window for egress)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 13, 2017

DATE OF APPEAL: October 27, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10003 - 87 Avenue NW

LEGAL DESCRIPTION: Condo Common Area (Plan 0626935)

ZONE: RA7 Low Rise Apartment Zone

OVERLAY: Medium Scale Residential Infill Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan

Grounds for Appeal

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

We want to present our plan to the Appeal Board to legalize the rental unit. It has been used as such for the past 30 years. We believe it provides a safe home and doesn't impact negatively the neighbourhood.

On behalf of the Board of Directors, I would like to appeal the decision to refuse our development permit application for an additional dwelling to our existing 13 unit condominium building.

The additional suite has, in fact, existed since the 1980's. After receiving notice of an illegal structure on the developer's suite built by the developer, the Board performed a search by the city to discern what else may be amiss.

This additional suite was revealed to have been converted by the developer without development permits, however we believe the suite existed since the original build. We have acted in good faith and applied for the proper permit in order to remediate any issues required.

The reasons for the refusal are based on density, amenity area and parking. As the suite is pre-existing, we cannot do anything about the density. We are open to finding a solution for the amenity area. The parking has never been an issue, as our lot is rarely filled to capacity and so does not affect the neighbourhood street parking. Because we are situated in one of the most walkable areas in the city, some of our residents do not even own a car.

The suite is owned by the condominium corporation. Its rental income is used towards the corporation's operating costs, and losing that income would create financial hardship on all the owners. The majority of the current owners have bought into the building with the assumption that the rental suite was legal and its income was a constant.

We have had many exceptional long term tenants in this suite, including university students and professionals, who have had great things to say about their time of residence in the suite and in the area. We consider this additional suite a great amenity to the neighbourhood as well as our building.

Please know that we applied for the development permit with the intention of conforming to the city's requirements, to right past wrongs so to speak. We hope that the result of the application is not punitive and that you will consider our appeal.

General Matters

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

Grounds for appeal

685(1) If a development authority

(a) fails or refuses to issue a development permit to a person,
(b) issues a development permit subject to conditions, or
(c) issues an order under section 645, the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

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

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

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, or

(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires, or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

(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.

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 210.2(1), **Apartment Housing** is a **Permitted Use** in the **(RA7) Low Rise Apartment Zone**.

Under Section 7.2(1), **Apartment Housing** means development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use.

Section 210.1 states the **General Purpose** of the **(RA7) Low Rise Apartment Zone** is to provide a Zone for Low Rise Apartments.

Section 823.1 states that the **General Purpose** of the **Medium Scale Residential Infill Overlay** is to accommodate the development of medium-scale infill housing in Edmonton's mature residential neighbourhoods in a manner that ensures compatibility with adjacent properties while maintaining or enhancing a pedestrian-friendly streetscape.

<i>Density</i>

Section 210.4(2) states the maximum Density shall be 125 Dwellings/hectares.

Under Section 6.1(25), **Density** means, when used in reference to Residential and Residential-Related development, the number of Dwellings on a Site expressed as Dwellings per hectare.

Under Section 6.1(31), **Dwelling** means a self contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household.

Section 11.3(1)(b) states in approving a Development Permit Application pursuant to Section 11.2, the Development Officer shall adhere to the following: except as otherwise provided in this Bylaw, there shall be no variance from maximum Height, Floor Area Ratio or Density regulations.

Development Officer's Determination

RA7 (Low Rise Apartment Zone) maximum Density requirement is 125 Dwellings/ha.

- The total proposed number of Dwellings for this Site is 14. The Site area is 1,065.83 square metres or 0.1065 hectares.
- $14/0.1065 = 131.46$ Dwellings/ hectares will be the proposed Density. This exceeded the maximum requirement.
- As per Section 11.3.1.b: ... there shall be no variance from maximum Density regulations

<i>Amenity Area</i>

Section 823.4(3) states:

- a. A minimum Private Outdoor Amenity Area of 7.5 square metres shall be provided for each Apartment Housing Dwelling except that for ground Storey Dwellings a minimum of 15.0 m² of Private Outdoor Amenity Area shall be provided.
- b. Notwithstanding Section 47 of this Bylaw, the Private Outdoor Amenity Area for Apartment Housing Dwellings shall have a minimum width and length of 2.0 metres and may be located within a Front Setback provided that a minimum Setback of 1.0 metres is maintained between the property line and the Private Outdoor Amenity Area.
- c. Development containing ten (10) to nineteen (19) Apartment Housing Dwellings shall provide a minimum of 2.5 square metres of common Amenity Area per Dwelling in addition to the 7.5 metres of Private Outdoor Amenity Area required under Section 823.3(3)(a). Common Amenity Area shall be designed to facilitate active or passive recreational activities and shall:
 - i. be located outdoors at ground level,
 - ii. be aggregated into areas of not less than 25.0 square metres,
 - iii. have a minimum width and length of 4.0 metres,
 - iv. have access to sunlight,
 - v. include seating and artificial lighting, and
 - vi. be directly accessible from the building.

Development Officer’s Determination

Amenity Area - Amenity Area is not provided instead of the minimum 7.5 square metres per Dwelling. (Section 823.3(3)(a))

<i>Parking</i>

Section 54.2, Schedule 1(A)(1) states the following:

Dwelling Size	Minimum
Studio	1
1 Bedroom Dwelling	1
2 Bedroom Dwelling	1.5
3 or more Bedroom Dwelling	1.7

Visitor parking shall be provided at a minimum rate of 0 visitor parking spaces for the first 7 Dwellings, and 1 visitor parking space per 7 Dwellings thereafter. Visitor parking spaces shall be readily available to the primary building entrance for each multi-unit residential building on Site, and be clearly identified as visitor parking, to the satisfaction of the Development Officer.

Development Officer’s Determination

Parking - Parking spaces are 18 instead of 20. (Section 54.2 Schedule 1(A))


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

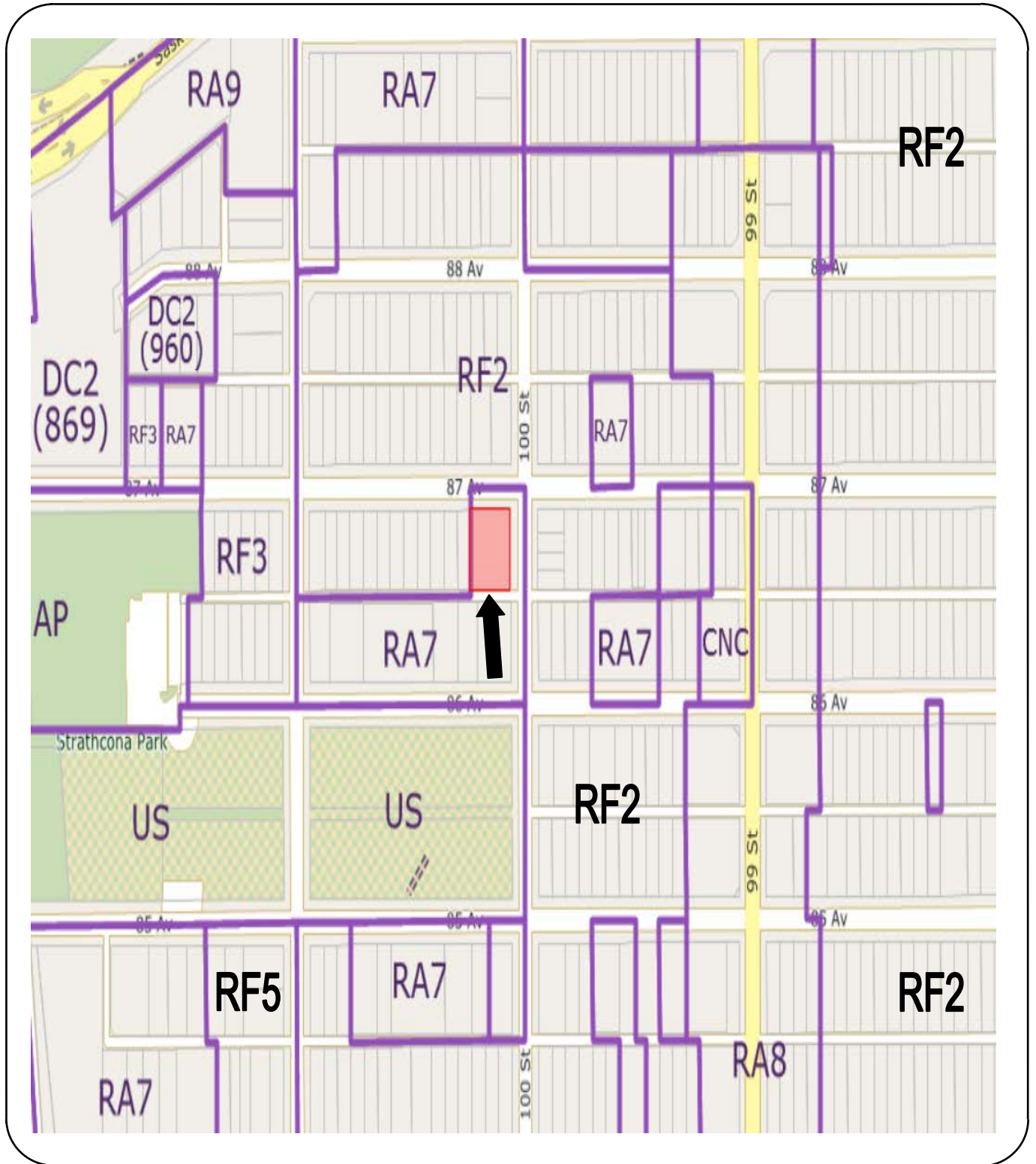
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SDAB-D-07-126	To construct an addition to an Apartment building (fourth floor addition)	June 29, 2007; that the appeal be DENIED and the DEVELOPMENT REFUSED
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Notice to Applicant/Appellant

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

	Project Number: 258470653-003 Application Date: JUL 28, 2017 Printed: October 27, 2017 at 1:44 PM Page: 1 of 1																														
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Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Medium Scale Residential Infill </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: Stat. Plan Overlay/Annex Area: Medium Scale Residential Infill																												
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Development Application Decision Refused Reason for Refusal <ol style="list-style-type: none"> 1. RA7 (Low Rise Apartment Zone) maximum Density requirement is 125 Dwellings/ha. <ul style="list-style-type: none"> - The total proposed number of Dwellings for this Site is 14. The Site area is 1,065.83 sm or 0.1065 ha. - $14/0.1065 = 131.46$ Dwellings/ha will be the proposed Density. This exceeded the maximum requirement. - As per Section 11.3.1.b: ... there shall be no variance from maximum Density regulations 2. Amenity Area - Amenity Area is not provided instead of the minimum 7.5 sm per Dwelling. (Section 823.3(3)(a)) 3. Parking- Parking spaces are 18 instead of 20. (Section 54.2 Schedule 1(A)) 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 13, 2017 Development Authority: ANGELES, JOSELITO Signature: _____																															
Fees <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right; width: 15%;">Fee Amount</th> <th style="text-align: right; width: 15%;">Amount Paid</th> <th style="text-align: right; width: 10%;">Receipt #</th> <th style="text-align: right; width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$271.00</td> <td style="text-align: right;">\$271.00</td> <td style="text-align: right;">04329354</td> <td style="text-align: right;">Jul 28, 2017</td> </tr> <tr> <td>Development Permit Inspection Fee</td> <td style="text-align: right; color: red;">(\$500.00)</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; color: red; border-top: 1px solid black;">(\$229.00)</td> <td style="text-align: right; border-top: 1px solid black;">\$271.00</td> <td></td> <td></td> </tr> <tr> <td colspan="5" style="padding-left: 20px;">(overpaid by \$500.00)</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$271.00	\$271.00	04329354	Jul 28, 2017	Development Permit Inspection Fee	(\$500.00)				Total GST Amount:	\$0.00				Totals for Permit:	(\$229.00)	\$271.00			(overpaid by \$500.00)				
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THIS IS NOT A PERMIT																															



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-232



ITEM III: 3:00 P.M.

FILE: SDAB-D-17-233

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 024987724-009

APPLICATION TO: Change the Use of the site from an Automotive and Minor Recreation Vehicle Sales/Rentals to a temporary Non-accessory Parking lot (surface parking lot with 52 vehicular parking stalls), and to construct exterior alterations (adding landscaping) that is valid for up to 5 years

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 20, 2017

DATE OF APPEAL: November 1, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10617 - 105 Street NW, 10430 - 106 Avenue NW

LEGAL DESCRIPTION: Plan B3 Blk 4 Lot 211, Plan B3 Blk 4 Lots 209-210

ZONE: CB1 Low Intensity Business Zone

OVERLAY: Medium Scale Residential Infill Overlay

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:

The Appellant respectfully appeals the decision of the development officer refusing the development permit at 10617 - 105 STREET NW (Plan B3 Blk 4 Lot 211 – area: 697.414 m2) and 10430 - 106 AVENUE NW (Plan B3 Blk 4 Lots 209-210 – area: 1,393.413 m2) on the following grounds:

1. The development officer failed to consider or properly interpret the Central McDougall/Queen Mary Park Area Redevelopment Plan (“ARP”). The Appellant’s application for a development permit is compliant with the provisions under Precinct B: Medium Rise Apartments of the ARP.
2. The Appellant submits that a Non-accessory Parking lot is a suitable use for the site. The site is zoned Low Intensity Business Zone (CB1). Non-accessory Parking is allowed on the site.
3. The development officer failed to properly consider the relevant facts and apply them to the consideration and interpretation of both the Municipal Government Act and the Edmonton Zoning Bylaw (and other related planning documents).
4. In the second point (#2) in the Reason for Refusal in the Development Application Decision, the development officer states the following: “Non-accessory Parking is a Discretionary Use. (Reference: Section 330.3(26) of the Edmonton Zoning Bylaw 12800)”. This is not a reason for refusal. It is simply a statement of fact. The development officer did not provide any reason for refusal. The Appellant agrees with the following: Section 330.3(26) of the Edmonton Zoning Bylaw 12800 states that Non-accessory Parking is a discretionary use.
5. The purpose of the CB1 zone is to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas.
6. Non-accessory Parking (s. 7.4(41), Edmonton Zoning Bylaw) means development providing vehicular parking which is not primarily intended for the Use of residents, employees or clients of a particular development. Typical Uses include surface parking lots and parking structures located above or below Grade.
7. Such further and other reasons as may be presented at the hearing of this matter.

<i>General Matters</i>

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

Grounds for appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645, the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

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

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

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, or

(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires, or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

(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.

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 330.1 states that the **General Purpose** of the **CB1 Low Intensity Business 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.

Discretionary Use

Under Section 330.3(26), **Non-accessory Parking** is a **Discretionary Use** in the CB1 Low Intensity Business Zone.

Section 7.4(41) defines **Non-accessory Parking** as “development providing vehicular parking which is not primarily intended for the use of residents, employees or clients of a particular development. Typical uses include surface parking lots and parking structures located above or below Grade.”

Development Officer’s Determination

Non-accessory Parking is a Discretionary Use. (Reference: Section 330.3(26) of the Edmonton Zoning Bylaw 12800)

Central McDougall/Queen Mary Park Area Redevelopment Plan

Precinct B: Medium Rise Apartments

Purpose

To preserve and maintain the residential character of the area by maintaining the existing low-rise (walk-up) apartment building stock and allowing compatible 6 storey infill at higher densities under the existing (RA8) Medium Rise Apartment Zone.

Objectives

- Preserve existing rental housing stock;
- Allow compatible infill development;
- Replacement of sidewalks and road rehabilitation as required by the Transportation and Streets Department;
- Preserve existing treed streets; and
- Provide consistent front yard setbacks.

Development Officer’s Determination

The proposed Non-accessory Parking lot (surface parking lot) is located in Precinct B: Medium Rise Apartments of the Central McDougall/Queen Mary Park Area Redevelopment Plan (ARP). Precinct B is designated in the ARP for the purpose of preserving and maintaining the residential character of the area of Medium Rise Apartments under the existing RA8 (Medium Rise Apartment) Zone. (Reference: Central McDougall/Queen Mary Park Area Redevelopment Plan, pages 22 & 64)

In the opinion of the Development Officer, a Non-accessory Parking lot is not a suitable Use for the site, that is adjacent to existing apartment housing. The subject site is located in an area that is designated for the purpose of medium-rise apartments.

Previous Subdivision and Development Appeal Board Decisions

Application Number	Description	Decision
SDAB-D-17-025 SDAB-D-17-024	Order to Cease the Use (Non-Accessory Parking), REMOVE all signage associated with the Use (Non-Accessory Parking) from the site and PREVENT the recurrence of the Use (Non-Accessory Parking) by barricading the site to restrict vehicles from accessing the site	February 16, 2017; The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The Stop Orders are UPHeld as issued.

	for the Use (Non-Accessory Parking) on or before January 23, 2017	
SDAB-D-17-153	To install (1) Freestanding Minor Digital Off-premises Sign (2 sided facing E/W)	September 8, 2017; The Board does not assume jurisdiction (late filing).
SDAB-D-16-283	To demolish an existing Automotive and Recreational Vehicle Sales/Rentals building and change the use of the site to Non-accessory Parking	November 24, 2016; The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is REFUSED.

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: 24987724-009
Application Date: JUN 01, 2017
Printed: November 1, 2017 at 2:03 PM
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Application for Major Development Permit

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

Applicant



Property Address(es) and Legal Description(s)

10617 - 105 STREET NW
Plan B3 Blk 4 Lot 211
10430 - 106 AVENUE NW
Plan B3 Blk 4 Lots 209-210

Scope of Application

To change the Use of the site from an Automotive and Minor Recreation Vehicle Sales/Rentals to a temporary Non-accessory Parking lot (surface parking lot with 52 vehicular parking stalls), and to construct exterior alterations (adding landscaping) that is valid for up to 5 years.

Permit Details

Class of Permit: Class B
Gross Floor Area (sq.m.):
New Sewer Service Required: Y
Site Area (sq. m.): 2090.8

Contact Person:
Lot Grading Needed?: Y
NumberOfMainFloorDwellings:
Stat. Plan Overlay/Annex Area: Central McDougall

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

Applicant signature: _____

Development Application Decision

Refused

Reason for Refusal

1. The proposed Non-accessory Parking lot (surface parking lot) is located in Precinct B: Medium Rise Apartments of the Central McDougall/Queen Mary Park Area Redevelopment Plan (ARP). Precinct B is designated in the ARP for the purpose of preserving and maintaining the residential character of the area of Medium Rise Apartments under the existing RA8 (Medium Rise Apartment) Zone. (Reference: Central McDougall/Queen Mary Park Area Redevelopment Plan, pages 22 & 64)

In the opinion of the Development Officer, a Non-accessory Parking lot is not a suitable Use for the site, that is adjacent to existing apartment housing. The subject site is located in an area that is designated for the purpose of medium-rise apartments.

2. Non-accessory Parking is a Discretionary Use. (Reference: Section 330.3(26) of the Edmonton Zoning Bylaw 12800)

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.

THIS IS NOT A PERMIT



Application for Major Development Permit

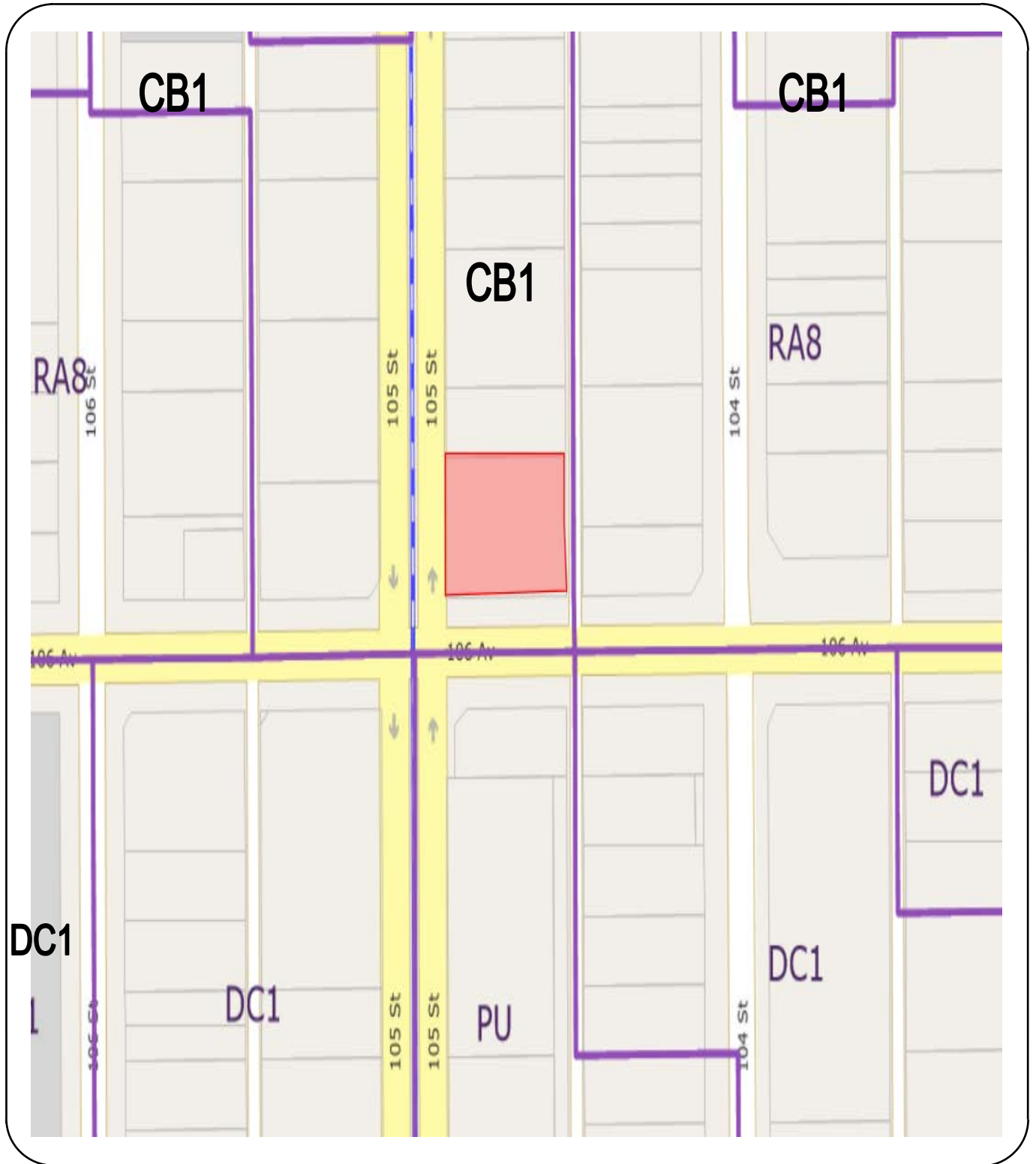
Project Number: **24987724-009**
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Issue Date: Oct 20, 2017 Development Authority: LOUIE, CINDY Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$500.00	\$500.00	04173626	Jun 01, 2017
Lot Grading Fee	\$227.00			
Sanitary Sewer Trunk Fund 2012+	\$1,636.89			
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$2,363.89</u>	<u>\$500.00</u>		
(\$1,863.89 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-233

