

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
November 28, 2019**

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

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

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I	9:00 A.M.	SDAB-D-19-209	To construct a Single Detached House with balcony, fireplace and Secondary Suite in the Basement  9538 - 100A Street NW Project No.: 341268346-001
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II	10:30 A.M.	SDAB-D-19-146	To construct an addition (4.6 square metres) created by the exterior alteration to an existing Apartment House building (balcony enclosure on 15th floor) (Carlisle)  11826 - 100 Avenue NW Project No.: 325100871-001
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III	1:30 P.M.	SDAB-D-19-210	To construct a Public Education Service Building (GARTH WORTHINGTON K-9 SCHOOL)  351 - Chappelle Drive SW Project No.: 325820880-002
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**NOTE:** *Unless otherwise stated, all references to “section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-209

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 341268346-001

APPLICATION TO: Construct a Single Detached House with balcony, fireplace and Secondary Suite in the Basement.

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 7, 2019

DATE OF APPEAL: November 10, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9538 - 100A Street NW

LEGAL DESCRIPTION: Plan Q Blk 3 Lot 19

ZONE: (RF3) Small Scale Infill Development Zone

OVERLAY(S): Mature Neighbourhood Overlay

North Saskatchewan River Valley and Ravine System Protection Overlay

Floodplain Protection Overlay

STATUTORY PLAN(S): Rossdale Area Redevelopment Plan

North Saskatchewan River Valley Area Redevelopment Plan

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***Grounds for Appeal***

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

The proposed development does not conform to the RF3/MNO per the below two variances. As one of the variances is height, the City is unable to approve, and the file must be rejected and appealed. References to the ARP below are per the document **Rossdale Area Redevelopment Plan – Bylaw**

**8139 – Approved as Amended June 10, 1986 Office Consolidation August 2013 found online at:**

[https://www.edmonton.ca/residential\\_neighbourhoods/plans\\_in\\_effect/Rossdale\\_ARP\\_Consolidation.pdf](https://www.edmonton.ca/residential_neighbourhoods/plans_in_effect/Rossdale_ARP_Consolidation.pdf)

Variances Sought:

- 1) **Site Coverage - The Single Detached House covers 35% of the site, instead of 28%. (Section 140.4.10).**
  - a. ARP Reference:
    - i. ARP - 5.3.4. (c) "The maximum site coverage for a Principal Building should not exceed 35%"
    - ii. ARP 2.3.9 – “Substantial portions of South and North Rossdale lie within the 1:100 floodplain as defined by Alberta Environment”. The site coverage is required to locate all HVAC, Electrical and Water Heating on the main floor.
  
- 2) **Height - The Height of the Single Detached House is 11.1m high, instead of 8.9m (Section 814.3.5).**
  - a. ARP Reference:
    - i. ARP 2.3.9 – “Substantial portions of South and North Rossdale lie within the 1:100 floodplain as defined by Alberta Environment”. The height of the project provides for all basement windows and egress points to be above the 1:100 flood plain to minimize flood impact. The entire main floor is above the 1:100 flood plain. Additionally, all HVAC, Electrical and Water Heating is placed on the main floor, as such additional vertical space is required to house ducting and mechanical services which would otherwise exist in basement ceilings/bulkheads below the main floor.
    - ii. ARP 3.5 - "Housing forms which are close to the street are encouraged up to 3 1/2 storeys". The project is a three-storey house with rear and front balconies designed to minimize massing and sun shadowing and to be complementary to the neighborhood.

Further Details/Design Rationale:

**"The aim of the Rossdale Area Redevelopment Plan is to assist in the rehabilitation of the South Rossdale sub-area in a manner compatible with the existing development".** The proposed house is a single-family house. This development is in keeping with the existing development in South Rossdale, to ensure ensure that the area remains a low density predominantly "single family enclave". Several similar housing forms in terms of height and coverage exist in South Rossdale.

The proposed house is designed within the ARP guidelines with respect to site coverage and height. Significant portions of Rossdale lie within a floodplain. It is appropriate that the ARP encourages houses with 3 1/2

storeys in height and up to 35% site coverage to account for the floodplain hardship.

The proposed house may be considered a modern design. The ARP Plan Concept section 3.2 states that "over time, Rosssdale will be transformed from a sparsely developed mixed use area to a dynamic urban environment with various housing forms". The modern style of the proposed house will strengthen the future of Rosssdale as a residential neighbourhood and will help to create a diverse and attractive urban landscape which complements both the River Valley and the Downtown.

<b><i>General Matters</i></b>
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**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,

- (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 written decision is given under section 642, [...]

**Hearing and Decision**

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

...

- (a.1) must comply with the land use policies;

- (a.2) subject to section 638, must comply with any applicable statutory plans;
  - (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
  - (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;
  - ...
  - (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
  - (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
    - (i) the proposed development would not
      - (A) unduly interfere with the amenities of the neighbourhood, or
      - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
- and
- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

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

Under section 140.2(8), **Single Detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development Zone**.

Under section 7.2(8), **Single Detached Housing** means “development consisting of a building containing one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.”

Section 140.1 states that the **General Purpose** of **(RF3) Small Scale Infill Development Zone** is “to provide for a mix of small scale housing.”

Section 811.1 states that the **General Purpose** of the **North Saskatchewan River Valley and Ravine System Protection Overlay** is “to provide a development Setback from the North Saskatchewan River Valley and Ravine System.”

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

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

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.

<b><i>Site Coverage</i></b>
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Section 140.4(7)(a) states:

Maximum Site Coverage shall be as follows:

	Principal Dwelling/building	Accessory building	Principal building with attached Garage	Total Site Coverage
Single Detached, Semi-detached and Duplex Housing	28%	14%	42%	42%

Under section 6.1, **Site Coverage** means:

the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 m above Grade, including Accessory buildings or Structures, calculated by perpendicular projection onto a horizontal plane from one point located at an infinite distance above all buildings and structures on the Site. This definition shall not include:

- a. steps, eaves, cornices, and similar projections;
- b. driveways, aisles and parking lots unless they are part of a Parking Garage which extends 1.0 m or more above Grade; or
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 m above Grade.

**Development Officer's Determination**

**Site Coverage - The Single Detached House covers 35% of the site, instead of 28%. (Section 140.4.10). [unedited]**

***Mature Neighbourhood Overlay - Height***

Section 814.3(5) states "The maximum Height shall not exceed 8.9 m."

Under section 6.1, Height means "a vertical distance between two points."

**Development Officer's Determination**

**Height - The Height of the Single Detached House is 11.1m high, instead of 8.9m (Section 814.3.5) [unedited]**

***Community Consultation***

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a 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) and 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 11.3 and 11.4.

Section 814.5(2) states:


Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	814.3(5) - Height

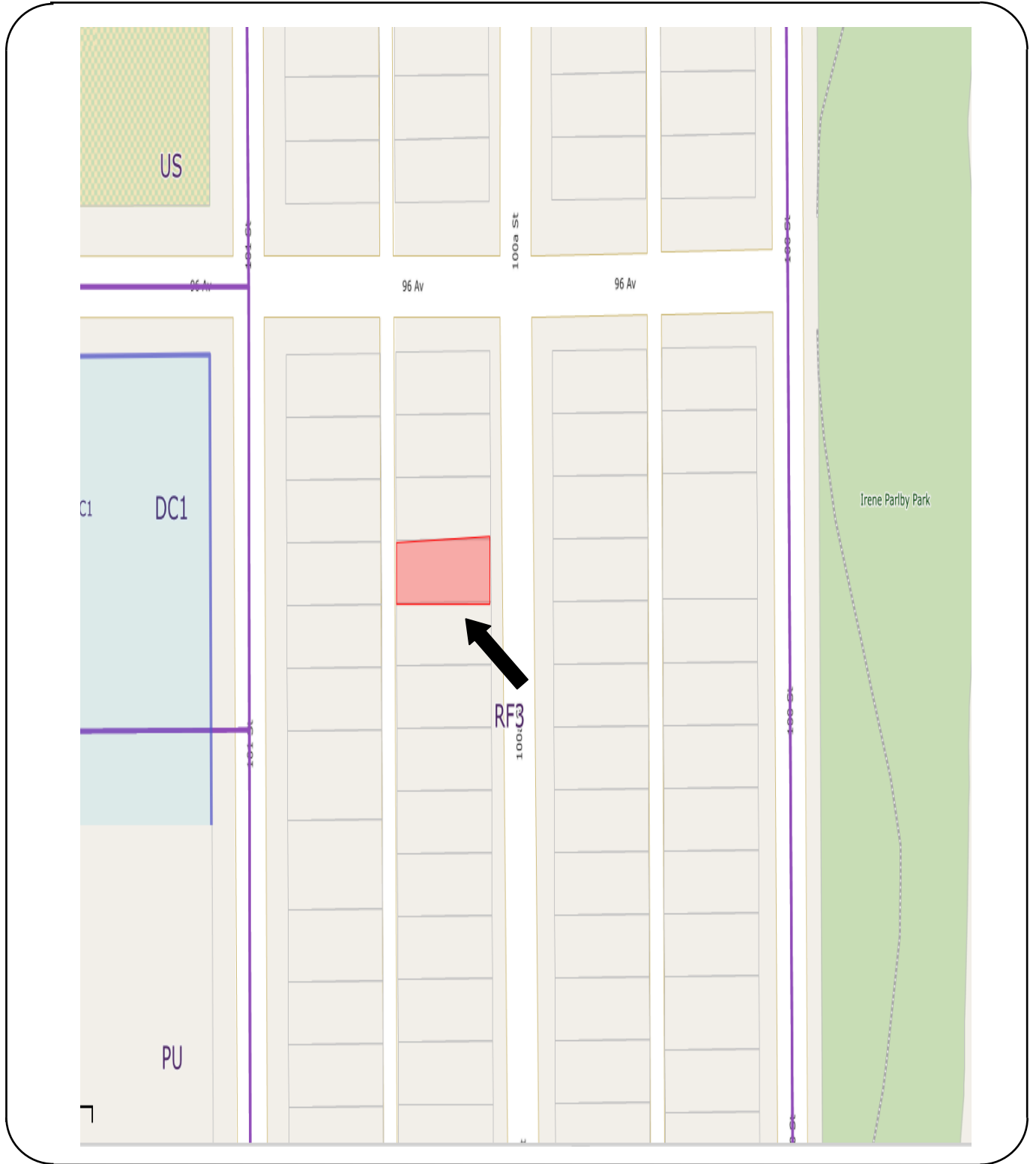
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Notice to Applicant/Appellant

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.

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	Project Number: <b>341268346-001</b> Application Date: SEP 17, 2019 Printed: November 12, 2019 at 8:19 AM Page: 1 of 1																														
<h2 style="margin: 0;">Application for Minor Development Permit</h2>																															
This document is a Development Permit Decision for the development application described below.																															
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 9538 - 100A STREET NW Plan Q Blk 3 Lot 19  <b>Specific Address(es)</b> Suite: 9538 - 100A STREET NW Suite: BSMT, 9538 - 100A STREET NW Entryway: 9538 - 100A STREET NW Building: 9538 - 100A STREET NW																														
<b>Scope of Application</b> To construct a Single Detached House with balcony, fireplace and Secondary Suite in the Basement.																															
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                     # of Dwelling Units Add/Remove: 2                      # of Secondary Suite Dwelling Units To Construct: 1                      Client File Reference Number:                      Minor Dev. Application Fee: Single Detached House                      Secondary Suite Included?: Y                 </td> <td style="width: 50%; border: none; vertical-align: top;">                     # of Primary Dwelling Units To Construct: 1                      Class of Permit: Class B                      Lot Grading Needed?:                      New Sewer Service Required: N                      Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay                 </td> </tr> </table>		# of Dwelling Units Add/Remove: 2 # of Secondary Suite Dwelling Units To Construct: 1 Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: Y	# of Primary Dwelling Units To Construct: 1 Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay																												
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I/We certify that the above noted details are correct. Applicant signature: _____																															
<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Nov 07, 2019 <b>Development Authority:</b> BERNUY, MICHELLE  <b>Reason for Refusal</b> Site Coverage - The Single Detached House covers 35% of the site, instead of 28%. (Section 140.4.10).  Height - The Height of the Single Detached House is 11.1m high, instead of 8.9m (Section 814.3.5)  <b>Rights of Appeal</b> The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.																															
<b>Fees</b> <table style="width: 100%; border: none;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 10%; text-align: right;">Fee Amount</th> <th style="width: 10%; text-align: right;">Amount Paid</th> <th style="width: 10%; text-align: right;">Receipt #</th> <th style="width: 10%; text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$493.00</td> <td style="text-align: right;">\$493.00</td> <td style="text-align: right;">06163394</td> <td style="text-align: right;">Sep 24, 2019</td> </tr> <tr> <td>Lot Grading Fee</td> <td style="text-align: right;">\$145.00</td> <td style="text-align: right;">\$145.00</td> <td style="text-align: right;">06163394</td> <td style="text-align: right;">Sep 24, 2019</td> </tr> <tr> <td>Development Permit Inspection Fee</td> <td style="text-align: right;">\$207.00</td> <td style="text-align: right;">\$207.00</td> <td style="text-align: right;">06163394</td> <td style="text-align: right;">Sep 24, 2019</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$845.00</td> <td style="text-align: right; border-top: 1px solid black;">\$845.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$493.00	\$493.00	06163394	Sep 24, 2019	Lot Grading Fee	\$145.00	\$145.00	06163394	Sep 24, 2019	Development Permit Inspection Fee	\$207.00	\$207.00	06163394	Sep 24, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$845.00	\$845.00		
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<b>THIS IS NOT A PERMIT</b>																															



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-209



**TO BE RAISED**

ITEM II: 10:30 A.M.

FILE: SDAB-D-19-146

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 325100871-001

APPLICATION TO: Construct an addition (4.6 square metres) created by the exterior alteration to an existing Apartment House building (balcony enclosure on the 15th floor) (Carlisle)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 9, 2019

DATE OF APPEAL: August 13, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11826 - 100 Avenue NW

LEGAL DESCRIPTION: Condo Common Area (Plan 8222325)

ZONE: DC1 Direct Development Control Provision (Area 7 of the Oliver Area Redevelopment Plan)

OVERLAY: N/A

STATUTORY PLAN: Oliver Area Redevelopment Plan

***Grounds for Appeal***

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

The application is to enclose a balcony on the 15th floor of the 19 storey Carlisle residential tower. The building was built in the 1980's prior to the establishment of a maximum FAR of 3.0, Area 7, Section 2. No area is being added to the building, however, by definition, enclosing the balcony increases the FAR. We note that there are numerous enclosed balconies on various floors throughout the building and, enclosing the balcony has no negative impact.

*General Matters*

**Appeal Information:**

**The Subdivision and Development Appeal Board made and passed the following motion on September 11, 2019:**

**“That the appeal hearing be postponed to a date to be determined in order to allow additional time for the Appellant to seek the advice of Legal Counsel. The hearing will be scheduled to a date based on the availability of Legal Counsel and the other affected parties.”**

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,

- (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 written decision is given under section 642, [...]

**685(4)** Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

- (a) ...
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the

directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

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

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

...

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

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

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

**General Provisions from the DC1 (Area 7 of the Oliver Area Redevelopment Plan) Direct Development Control Provision ("DC1 Direct Development Control Provision"):**

Under section 15.8.3(i), **Apartment Housing** is a listed Use in the **DC1 Direct Development Control Provision**.

Section 15.8.2 states the following with respect to the **Rationale** of the **DC1 Direct Development Control Provision**:

To provide an area for high rise residential uses with design requirements to ensure that the siting and design of buildings does not unduly interfere with adjacent properties' views of the River Valley; and to provide

opportunity for the conversion of existing low density residences to small scale, low impact commercial uses.

Section 15.8.4(a) states “The maximum Floor Area Ratio shall be 3.0”

**Development Officer’s Determination**

**The maximum Floor Area Ratio (FAR) is 3.0 (Reference-: Oliver ARP, Area 7, Section 2).**

**Proposed: 4.93**

**Exceeds by: 1.93 [unedited]**

**General Provisions from the *Edmonton Land Use Bylaw 5996*:**

Under section 10.1(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 Class.

Under section 9.1(21), **Gross Floor Area** means:

the total floor area of the building or structure, contained within the outside surface of the exterior and basement walls, provided that in the case of a wall containing windows, the glazing line of windows may be used.

Under section 9.1(23), **Floor Area Ratio** means:

the numerical value of the gross floor area of the building or structure located upon a lot or building site, excluding: (a) basement areas used exclusively for storage or service to the building, (b) parking areas below grade, (c) walkways required by the Development Officer, and (d) floor areas devoted exclusively to mechanical or electrical equipment servicing the development, divided by the area of the site.

**General Provisions from the *Edmonton Zoning Bylaw 12800*:**

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.

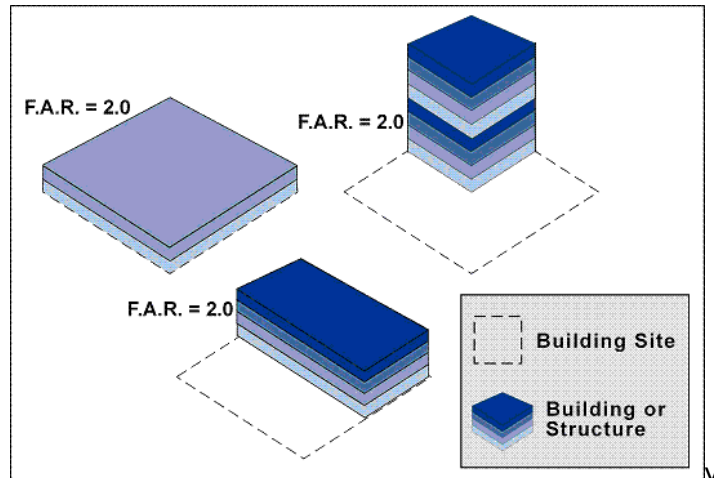
Under section 6.1, **Floor Area** means:

the total Floor Area of the building or structure, contained within the outside surface of the exterior and Basement walls, provided that in the case of a wall containing windows, the glazing line of windows may be used.

Under section 6.1, **Floor Area Ratio** means:

the numerical value of the Floor Area of the building or structure relative to the Site upon which it is located, excluding:

- a. Basement areas used exclusively for storage or service to the building, or as a Secondary Suite;
- b. Parking Areas below ground level;
- c. Walkways required by the Development Officer;
- d. Floor Areas devoted exclusively to mechanical or electrical equipment servicing the development, divided by the area of the Site; and
- e. indoor Common Amenity Area, divided by the area of the Site.




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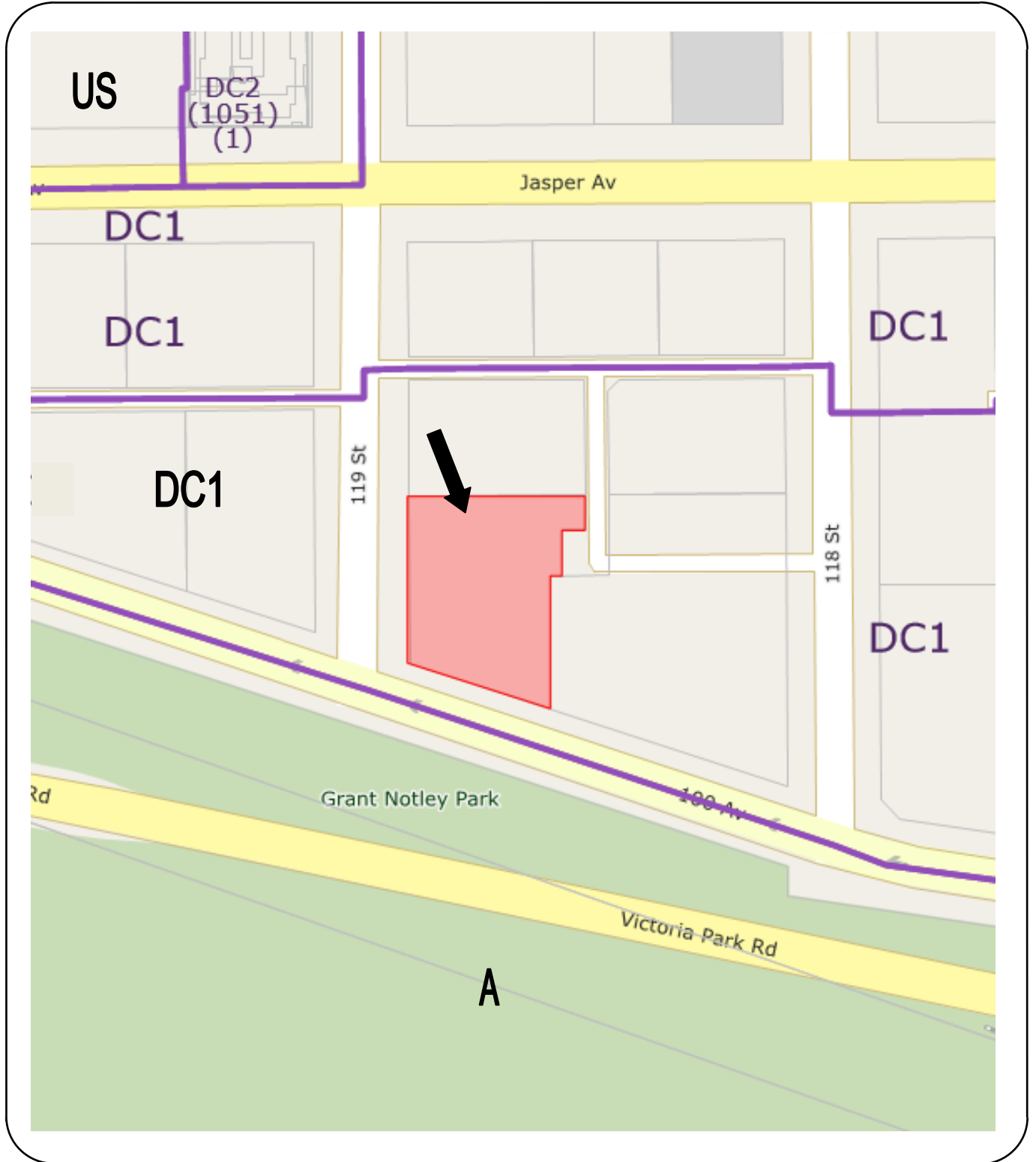
Notice to Applicant/Appellant

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.

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	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: <b>325100871-001</b> Application Date: JUL 10, 2019 Printed: August 13, 2019 at 3:19 PM Page: 1 of 1																				
This document is a Development Permit Decision for the development application described below.																						
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 11826 - 100 AVENUE NW Condo Common Area (Plan 8222325)																					
	<b>Specific Address(es)</b> Suite: 1501, 11826 - 100 AVENUE NW Suite: 1502, 11826 - 100 AVENUE NW Building: 11826 - 100 AVENUE NW																					
<b>Scope of Application</b> To construct an addition (4.6 square meters) created by the exterior alteration to an existing Apartment House building (balcony enclosure on 15th floor). (Carlisle)																						
<b>Permit Details</b>																						
Class of Permit: Gross Floor Area (sq.m.): 4.6 New Sewer Service Required: Site Area (sq. m.): 1961.13	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: _____																						
<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Aug 09, 2019 <b>Development Authority:</b> ANGELES, JOSELITO  <b>Reason for Refusal</b> The maximum Floor Area Ratio (FAR) is 3.0 (Reference:- Oliver ARP, Area 7, Section 2).  Proposed: 4.93 Exceeds by: 1.93  <b>Rights of Appeal</b> The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.																						
<b>Fees</b> <table style="width: 100%; border-collapse: collapse;"> <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;">\$963.00</td> <td style="text-align: right;">\$963.00</td> <td style="text-align: right;">05981227</td> <td style="text-align: right;">Jul 10, 2019</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$963.00</td> <td style="text-align: right; border-top: 1px solid black;">\$963.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$963.00	\$963.00	05981227	Jul 10, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$963.00	\$963.00		
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Major Dev. Application Fee	\$963.00	\$963.00	05981227	Jul 10, 2019																		
Total GST Amount:	\$0.00																					
Totals for Permit:	\$963.00	\$963.00																				
<b>THIS IS NOT A PERMIT</b>																						



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-146



ITEM III: 1:30 P.M.

FILE: SDAB-D-19-210

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 325820880-002

APPLICATION TO: Construct a Public Education Service Building (GARTH WORTHINGTON K-9 SCHOOL)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 8, 2019

DATE OF APPEAL: November 12, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 351 - Chappelle Drive SW

LEGAL DESCRIPTION: Plan 1420393 Blk 3 Lot 1MR

ZONE: (AGU) Urban Reserve Zone

OVERLAY: N/A

STATUTORY PLAN: Chappelle Neighbourhood Area Structure Plan

***General Matters***

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

Regarding the refusal of the above noted development permit issued November 8th, 2019, we wish to formally appeal this decision to the Subdivision and Development Appeal Board on behalf of our client, Edmonton Public Schools. According to the current zoning of the site the proposed development has been refused for the following reasons:

1. The proposed site area of 5.18 ha is deficient (8 ha required), and
2. The proposed building height (11.3m) exceeds the maximum building height for non-agricultural and natural resource development uses (10.0m).

The site was designated for school use as part of the Chappelle Neighbourhood Area Structure Plan in 2008 (consolidated version 2017). It is our understanding that the site has not been rezoned from its AGU designation to a zoning category that is more appropriate for school use. We are appealing the refusal decision for the following reasons:

1. The site boundaries were determined by the area structure plan. The site is bisected by a property line that breaks the site into a north area of 5.18 ha and a smaller south area of 1.72 ha for a total site area of 6.9 ha. It appears that insufficient area was allocated to the school site in the area structure plan.

2. The building height cannot be reduced without compromising the function of the gymnasium. It is our understanding that under the current zoning the Development Officer does not have the ability to permit a variance for building height.

Further documentation will be provided to the SDAB in advance of the hearing date. Please do not hesitate to contact us with any questions.

<i>General Matters</i>
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**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,

- (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 written decision is given under section 642, [...]

### **Hearing and Decision**

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (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 620.3(8), **Public Education Services**, where the Site is designated as a school/park Site by a Neighbourhood Structure Plan, is a **Discretionary Use** in the **(AGU) Urban Reserve Zone**.

Under section 7.8(11), **Public Education Services** means:

development which is publicly supported or subsidized involving public assembly for educational, training or instruction purposes, and includes the administration offices required for the provision of such services on the same Site. This Use includes public and separate schools, community colleges, universities, and technical and vocational schools, and their administrative offices. This Use does not include Private Education Services and Commercial Schools.

Section 620.1 states that the **General Purpose** of the (AGU) **Urban Reserve Zone** is “to allow for agricultural and rural Uses and a limited range of other uses, that do not prejudice the future use of these lands for urban use.”

***Site Area***

Section 620.4(1) states “The minimum Site Area shall be 8 ha.”

Under section 6.1, **Site** means “an area of land consisting of one or more abutting Lots.”

**Development Officer’s Determination**

**1. Section 620.4(1): The minimum Site Area shall be 8 ha.**

**Proposed Site Area: 51,844.191 m<sup>2</sup> (5.18 ha)**

**Deficient by 2.82 ha**

**Project boundary: 18,975 m<sup>2</sup> (1.90 ha) [unedited]**

***Height***

Section 620.4(5) states:

Height is not restricted for Buildings or structures for Agricultural and Natural Resource Development Uses. Excluding buildings or structures for Agricultural and Natural Resource Development Uses, the maximum building Height shall not exceed 10.0 m, in accordance with Section 52.

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

**Development Officer’s Determination**

**2. Section 620.4(5): Height is not restricted for Buildings or structures for Agricultural and Natural Resource Development Uses. Excluding buildings or structures for Agricultural and Natural Resource Development Uses, the maximum building Height shall not exceed 10.0 m, in accordance with Section 52.**


**Proposed Building Height: 11.30m (from main floor to roof parapet of the gym).**  
**Exceed by 1.30 m [unedited]**

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Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

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	Project Number: <b>325820880-002</b> Application Date: JUL 18, 2019 Printed: November 13, 2019 at 8:34 AM Page: 1 of 2			
<h2 style="margin: 0;">Application for Major Development Permit</h2>				
This document is a Development Permit Decision for the development application described below.				
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 351 - CHAPPELLE DRIVE SW Plan 1420393 Blk 3 Lot 1MR  <b>Specific Address(es)</b> Suite: 351 - CHAPPELLE DRIVE SW Entryway: 351 - CHAPPELLE DRIVE SW Building: 351 - CHAPPELLE DRIVE SW			
<b>Scope of Application</b> To Construct a Public Education Service Building (GARTH WORTHINGTON K-9 SCHOOL)				
<b>Permit Details</b>				
Class of Permit: Gross Floor Area (sq.m.): 7587 New Sewer Service Required: Y Site Area (sq. m.): 18975	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)			
I/We certify that the above noted details are correct. Applicant signature: _____				
<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Nov 08, 2019 <b>Development Authority:</b> LI, CINDY  <b>Reason for Refusal</b> 1. Section 620.4(1): The minimum Site Area shall be 8 ha.  Proposed Site Area: 51,844.191 m2 (5.18 ha) Deficient by 2.82 ha Project boundary: 18,975 m2 (1.90 ha)  2. Section 620.4(5): Height is not restricted for Buildings or structures for Agricultural and Natural Resource Development Uses. Excluding buildings or structures for Agricultural and Natural Resource Development Uses, the maximum building Height shall not exceed 10.0 m, in accordance with Section 52.  Proposed Building Height: 11.30m (from main floor to roof parapet of the gym). Exceed by 1.30 m  <b>Rights of Appeal</b> The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.				
<b>Fees</b>				
	Fee Amount	Amount Paid	Receipt #	Date Paid
<b>THIS IS NOT A PERMIT</b>				





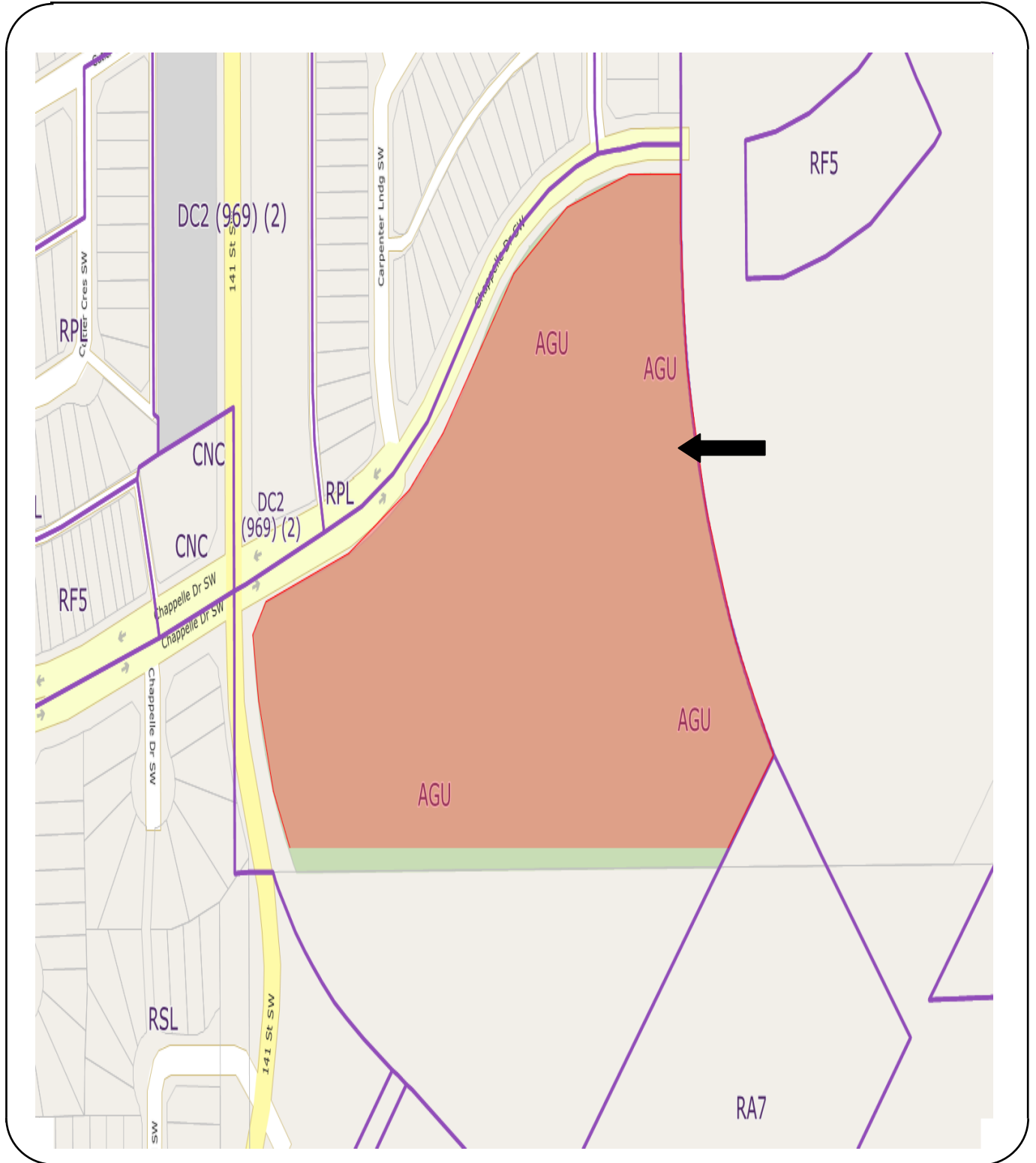
## Application for Major Development Permit

Project Number: **325820880-002**  
Application Date: JUL 18, 2019  
Printed: November 13, 2019 at 8:34 AM  
Page: 2 of 2

### Fees

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Dev. Application Fee for GFA	\$6,958.00	\$6,958.00	06019543	Jul 26, 2019
Major Dev. Application Fee	\$963.00	\$963.00	06019543	Jul 26, 2019
Sanitary Sewer Trunk Fund 2012+	\$15,770.12			
Development Permit Inspection Fee	\$518.00			
Lot Grading Fee	\$447.81			
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$24,656.93</u>	<u>\$7,921.00</u>		
(\$16,735.93 outstanding)				

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-210

