

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
October 11, 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-17-181

To construct a Semi-detached House with Unenclosed Front Porches, fireplaces, rear uncovered decks, and to demolish a Single Detached House and Accessory Building (rear detached Garage).

10440 - 154 Street NW
Project No.: 257004199-001

II 11:00 A.M. SDAB-D-17-182

To construct a two-Storey Accessory Building (main floor Garage 6.40 metres by 11.58 metres, second floor Garage Suite with balcony 6.70 metres by 11.58 metres).

8611 - 221 Street NW
Project No.: 258156445-002

TO BE RAISED

III 1:30 P.M. SDAB-D-17-136

To demolish an existing Freestanding Off-premises Sign (existing without permit) and install a Freestanding Minor Digital Off-premises Sign (single-sided facing south east).

8715 - 109 Street NW
Project No.: 237601282-001

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-17-181

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 257004199-001

APPLICATION TO: Construct a Semi-detached House with Unenclosed Front Porches, fireplaces, rear uncovered decks, and to demolish a Single Detached House and Accessory Building (rear detached Garage).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 12, 2017

DATE OF APPEAL: September 14, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10440 - 154 Street NW

LEGAL DESCRIPTION: Plan 8266ET Blk 16 Lot 13

ZONE: (RF2) Low Density Infill Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Jasper Place Area Redevelopment Plan

Grounds for Appeal

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

Semi-detached houses are characteristic of the neighbourhood. The variance will not affect the neighbours or amenities of the neighbourhood. A Semi-detached House is preferable to a skinny house.

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.

Appeals

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

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

...

Hearing and Decision

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

...

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

...

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

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

- (i) the proposed development would not

- (A) unduly interfere with the amenities of the neighbourhood, or
- (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 120.2(6), **Semi-detached Housing** is a **Permitted Use** in the (RF2) Low Density Infill Zone.

Under section 7.2(7), **Semi-detached Housing** means:

development consisting of a building containing only two Dwellings joined in whole or in part at the side or rear with no Dwelling being placed over another in whole or in part. Each Dwelling has separate, individual, and direct access to Grade. This type of development is designed and constructed as two Dwellings at the time of initial construction of the building. This Use does not include Secondary Suites or Duplexes.

Under section 6.1(32), **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 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.

Section 120.1 states that the **General Purpose** of the **(RF2) Low Density Infill Zone** is "to retain Single Detached Housing, while allowing infill on narrow lots, and Secondary Suites and Garden Suites."

Location requirements

Section 120.4(4) states:

Semi-detached Housing shall be located:


- a. on Corner Sites;
- b. on Sites abutting an arterial or service road;
- c. where both Side Lot Lines abut existing Duplex or Semi-detached Housing; or
- d. where a minimum of one Side Lot Line:
 - i. abuts a Site where Row Housing, Apartment Housing, or a commercial Use is a Permitted Use; or
 - ii. is not separated from a Site where Row Housing, Apartment Housing or a commercial Use is a Permitted Use by a public roadway, including a Lane, more than 10.0 m wide.

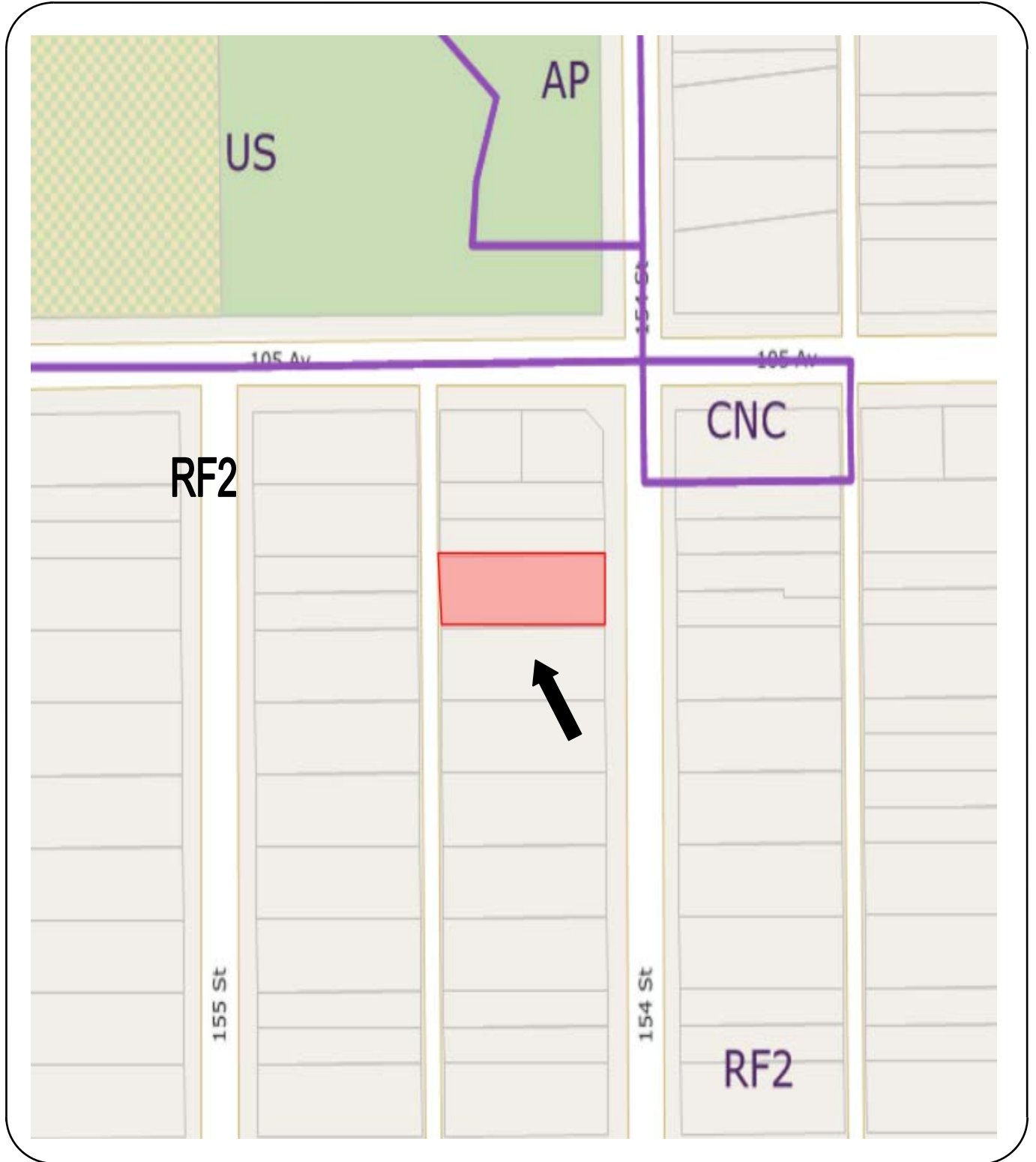
Development Officer's Determination

Location requirements: This site does not meet the location requirements for a Semi-detached House in the RF2 Zone. (Section 120.4.4). The Jasper Place ARP only supports Semi-detached houses in locations specified by the Zoning Bylaw. [unedited]

Notice to Applicant/Appellant

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

	Project Number: 257004199-001 Application Date: JUL 11, 2017 Printed: September 14, 2017 at 10:59 AM Page: 1 of 1																																			
<h2 style="margin: 0;">Application for Minor Development Permit</h2>																																				
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Applicant	Property Address(es) and Legal Description(s) 10440 - 154 STREET NW Plan 8266ET Blk 16 Lot 13 Specific Address(es) Entryway: 10440 - 154 STREET NW Entryway: 10442 - 154 STREET NW Building: 10440 - 154 STREET NW																																			
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Permit Details																																				
# of Dwelling Units Add/Remove: 1 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N	Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay																																			
I/We certify that the above noted details are correct. Applicant signature: _____																																				
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Issue Date: Sep 12, 2017 Development Authority: WATTS, STACY Signature: _____																																				
Fees <table style="width: 100%; border-collapse: collapse;"> <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: left;">Receipt #</th> <th style="width: 10%; text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$475.00</td> <td style="text-align: right;">\$475.00</td> <td>04281252</td> <td>Jul 11, 2017</td> </tr> <tr> <td>Lot Grading Fee</td> <td style="text-align: right;">\$140.00</td> <td style="text-align: right;">\$140.00</td> <td>04281252</td> <td>Jul 11, 2017</td> </tr> <tr> <td>Development Permit Inspection Fee</td> <td style="text-align: right;">\$200.00</td> <td style="text-align: right;">\$200.00</td> <td>04281252</td> <td>Jul 11, 2017</td> </tr> <tr> <td>Sanitary Sewer Trunk Fund</td> <td style="text-align: right;">\$1,566.00</td> <td style="text-align: right;">\$1,566.00</td> <td>04281252</td> <td>Jul 11, 2017</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;">\$2,381.00</td> <td style="text-align: right; border-top: 1px solid black;">\$2,381.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$475.00	\$475.00	04281252	Jul 11, 2017	Lot Grading Fee	\$140.00	\$140.00	04281252	Jul 11, 2017	Development Permit Inspection Fee	\$200.00	\$200.00	04281252	Jul 11, 2017	Sanitary Sewer Trunk Fund	\$1,566.00	\$1,566.00	04281252	Jul 11, 2017	Total GST Amount:	\$0.00				Totals for Permit:	\$2,381.00	\$2,381.00		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-181



ITEM II: 11:00 A.M.

FILE: SDAB-D-17-182

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

APPELLANT:

APPLICATION NO.: 258156445-002

APPLICATION TO: Construct a two-Storey Accessory Building (main floor Garage 6.40 metres by 11.58 metres, second floor Garage Suite with balcony 6.70 metres by 11.58 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: August 25, 2017

NOTIFICATION PERIOD: August 31, 2017 through September 14, 2017

DATE OF APPEAL: September 13, 2017

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8611 - 221 Street NW

LEGAL DESCRIPTION: Plan 1624116 Blk 13 Lot 51

ZONE: (RPL) Planned Lot Residential Zone

OVERLAY: N/A

STATUTORY PLAN: Lewis Farms Area Structure Plan

Grounds for Appeal

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

I received city file #258156445-002 in the mail on Sept. 7 2017 which outlines an intended development variance to allow a garage suite to be added to home(s) across the alley from my brand new home.

I have spoken to a few of my neighbors who haven't, at this time received this notice. In fact, I didn't receive the last variance application in time to appeal the last development permit notice, and therefore my ability to appeal it then was compromised. I would have appealed it also, as would have a good number of my neighbors. I feel the notification process appears to be flawed in that it's not being fair in assuring adjacent owners are given due process and opportunity to respond.

I'm intending to be appealing for generally the following reasons:

- I was told when I purchased my home in April 2017, that the same garages that I own (garages without suites above them) would be sharing the common back alley. These structures, if allowed to proceed, significantly interfere with my sun exposure to my back deck and yard
- This development allowance could also bring possible tenants into a zone for single family into my area.
- This will take away from parking in the rear and have the consequence of adding further congestion to an already narrow alley width
- The proposed building will also, at the height needed to accommodate the suite, restrict my view and sight line that I currently have, and enjoy. It was one of the reasons I purchased in this location. My enjoyment and use intended would be compromised.

I also am unfamiliar with the formal process for filing this appeal (as will a number of my neighbours) so I ask for guidance as to how to acquire the documents needed and then the filing procedures. Would you be kind enough to direct me with this protocol.

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.

(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 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

...

(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.

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*:

It should be noted that on July 10, 2017, City Council passed Bylaw 18115, to be effective September 1, 2017. This Bylaw amended the regulations pertaining to Garden Suites and Garage Suites.

Section 3.2(1)(i) states for the purpose of any Development Permit or Direct Control Provision, Garage Suites is deemed to be Garden Suites.

Under section 130.2(2), a **Garden Suite** is a **Permitted Use** in the **(RPL) Planned Lot Residential Zone**.

Under section 7.2(1), **Garden Suite** means:

an Accessory building containing a Dwelling, which is located separate from the principal Use which is Single Detached Housing, and which may contain a Parking Area. A Garden Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are separate from those of the principal Dwelling located on the Site. This Use Class does not include Secondary Suites, Blatchford Lane Suites, or Blatchford Accessory Suites.

Under section 6.1(32), **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 130.4(18) states “Garden Suites shall comply with Section 87 of this Bylaw.”

Section 130.1 states that the **General Purpose** of the **(RPL) Planned Lot Residential Zone** is:

to provide for small lot Single Detached Housing, serviced by both a Public Roadway and a Lane that provides the opportunity for the more efficient utilization of land in developing neighbourhoods, while maintaining the privacy and independence afforded by Single Detached Housing forms.

Development Officer's Determination:

**Discretionary Use - Garage Suite is approved as a Discretionary Use
(Section 130.3.2) [unedited]**

Notice to Applicant/Appellant

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



Project Number: **258156445-002**
 Application Date: JUL 25, 2017
 Printed: September 14, 2017 at 8:47 AM
 Page: 1 of 3

Application for 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) 8611 - 221 STREET NW Plan 1624116 Blk 13 Lot 51
	Location(s) of Work Entryway: 8611A - 221 STREET NW Building: 8611A - 221 STREET NW

Scope of Application

To construct a two-Storey Accessory building (main floor Garage 6.40m x 11.58m, second floor Garage Suite with balcony 6.70m x 11.58m)

Permit Details

Affected Floor Area (sq. ft.): 716 Class of Permit: Class B Front Yard (m): Rear Yard (m): 2.85 Side Yard, left (m): .05 Site Area (sq. m.): 454.38 Site Width (m): 7.79	Building Height to Midpoint (m): 6.31 Dwelling Type: Garage Suite Home Design Type: Secondary Suite Included?: N Side Yard, right (m): 3.89 Site Depth (m): 37.01 Stat. Plan Overlay/Annex Area: (none)
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Permit Decision

Approved

THIS IS NOT A PERMIT



Project Number: **258156445-002**
 Application Date: JUL 25, 2017
 Printed: September 14, 2017 at 8:47 AM
 Page: 2 of 3

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. (Section 17.1)

The development shall be constructed in accordance with the stamped and approved drawings.

The East elevation wall shall be a blank wall and a maintenance and encroachment easement to be caveated against the title of Lot 50, Block 13, Plan 1624116, before issuance of a building permit. (Section 130.4(5)(b)(v))

All roof leaders from the Dwelling shall be connected to the storm sewer service. (Section 130.4(5)(b)(ii))

No roof leader discharge shall be directed to the maintenance easement. (Section 130.4(5)(b)(iv))

All roof leaders from Accessory Buildings are to be connected to the storm sewer service or directed to drain directly to an adjacent lane. (Reference Section 130.4(5)(b)(iii))

A 0.30 m eave encroachment easement must be registered to the property with the requirement that the eaves must not be closer than 0.90 m to the eaves on the adjacent building. (Reference Section 130.4(5)(b)(v)(1))

Only one of a Secondary Suite, a Garage Suite or Garden Suite may be developed in conjunction with a principal Dwelling. (Reference Section 87)

A Garage Suite shall not be allowed within the same Site containing a Group Home or Limited Group Home, or a Major Home Based Business and an associated principal Dwelling, unless the Garage Suite is an integral part of a Bed and Breakfast Operation in the case of a Major Home Based Business. (Reference Section 87)

Notwithstanding the definition of Household within this Bylaw, the number of unrelated persons occupying a Garage Suite shall not exceed three. (Reference Section 87)

The Garage Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision. (Reference Section 87)

As far as reasonably practicable, the design and use of exterior finishing materials used shall be similar to, or better than, the standard of surrounding development. (Reference Section 57.2)

Landscaping shall be installed and maintained in accordance with Section 55.

Landscaping features shall be installed around and near the proposed development in order to enhance the Site and the streetscape; these features include planters, trees, shrubs, bushes, outdoor furniture, and/or surface treatments. (Reference Section 55)

Landscaping features shall be installed to maintain privacy between the Site and the west and east Abutting lots.

All yards, visible from a public roadway other than a lane, shall be seeded or sodded within eighteen (18) consecutive months of the issuance of an Occupancy Certificate for the development. Alternative forms of landscaping may be substituted for seeding or sodding. (Reference Section 55)

ADVISEMENTS:

Lot grades must match the Edmonton Drainage Bylaw 16200 and/or comply with the Engineered approved lot grading plans for the area. Contact Drainage Services at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.

The driveway access must maintain a minimum clearance of 1.5m from the service pedestal and all other surface utilities.

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

Dwelling means a self contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a

THIS IS NOT A PERMIT



Project Number: **258156445-002**
 Application Date: JUL 25, 2017
 Printed: September 14, 2017 at 8:47 AM
 Page: 3 of 3

Application for House Development and Building Permit

principal kitchen for food preparation, cooking, and serving. A dwelling is used permanently or semi-permanently as a residence for a single Household. (Reference Section 6.1)

Household means: one or more persons related by blood, adoption, foster care, marriage relationship; or a maximum of three unrelated persons; all living together as a single social and economic housekeeping group and using cooking facilities shared in common. For the purposes of this definition, two people living together in an adult interdependence relationship shall be deemed to be in a marriage relationship and each of the relatives of the parties to an adult interdependence relationship shall be considered to be related to the partners and to the other relatives thereof. One domestic worker or one boarder may be deemed the equivalent of a blood relative. (Reference Section 6.1)

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.

A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.

Variations

Discretionary Use - Garage Suite is approved as a Discretionary Use (Section 130.3.2)

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 25, 2017 Development Authority: XIE, JASON Signature: _____
 Notice Period Begins: Aug 31, 2017 Ends: Sep 14, 2017

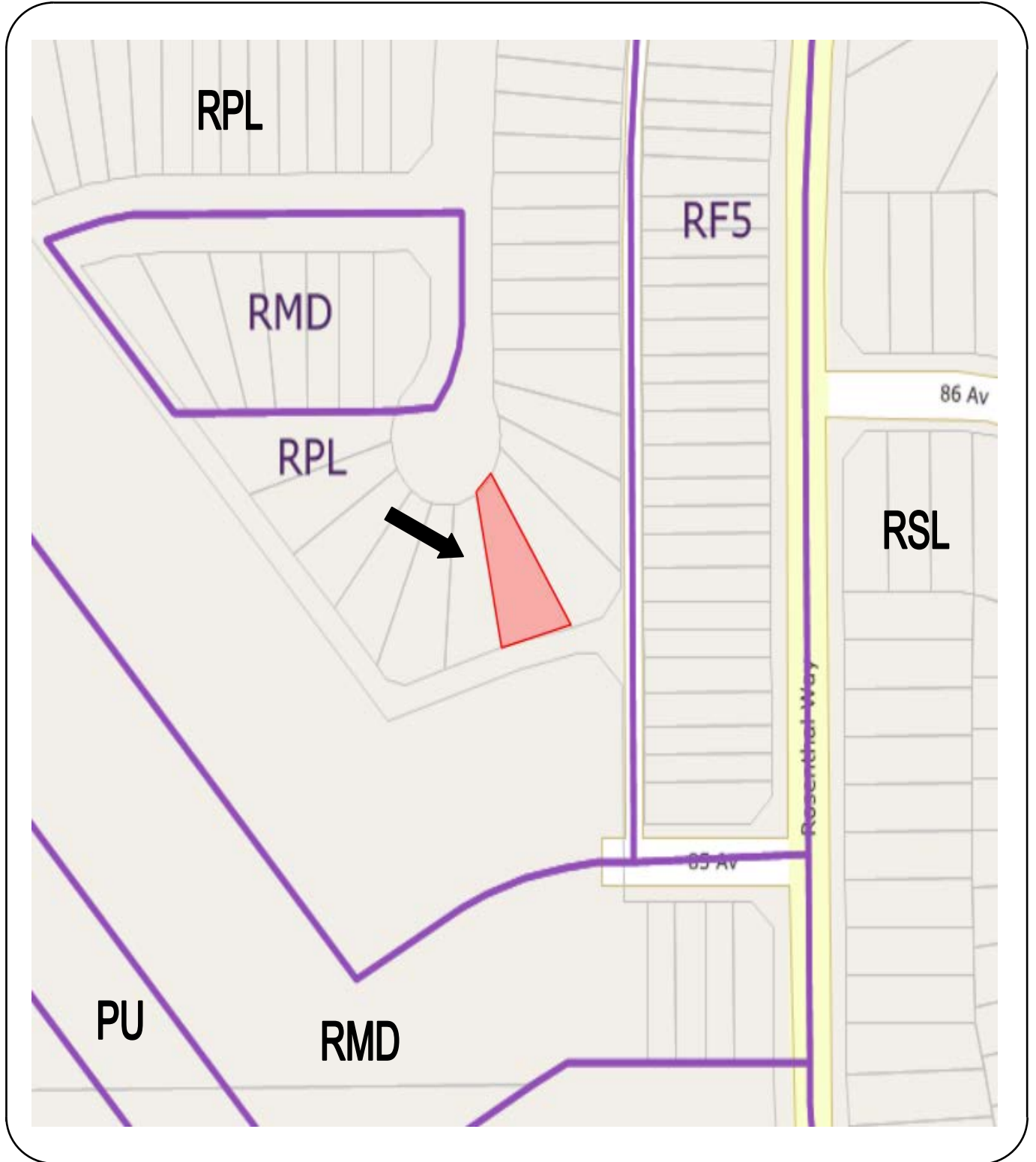
Building Permit Decision

No decision has yet been made.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Temporary Gas Heat Fee	\$105.00	\$105.00	04322682	Jul 26, 2017
Building Permit Fee	\$1,064.00	\$1,064.00	04322682	Jul 26, 2017
Lot Grading Fee	\$140.00	\$140.00	04322682	Jul 26, 2017
Safety Codes Fee	\$42.56	\$42.56	04322682	Jul 26, 2017
Sanitary Sewer Trunk Fund	\$693.00	\$693.00	04322682	Jul 26, 2017
Electrical Safety Codes Fee	\$13.42	\$13.42	04322682	Jul 26, 2017
Water Usage Fee	\$25.41	\$25.41	04322682	Jul 26, 2017
Electrical Fees (House)	\$223.00	\$223.00	04322682	Jul 26, 2017
Electrical Fee (Service)	\$79.00	\$79.00	04322682	Jul 26, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,385.39	\$2,385.39		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-182



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

FILE: SDAB-D-17-136

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 237601282-001

APPLICATION TO: Demolish an existing Freestanding Off-premises Sign (existing without permit) and install a Freestanding Minor Digital Off-premises Sign (single-sided facing southeast)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 14, 2017

DATE OF APPEAL: June 28, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8715 - 109 Street NW

LEGAL DESCRIPTION: Plan EDMONTO Lot 7

ZONE: DC2.528 (Area A) Site Specific Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: 109 Street Corridor Area Redevelopment Plan

Grounds for Appeal

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

We are replacing an existing static billboard with a digital billboard. It is the same size and going on the same footprint.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board, at a hearing on September 20, 2017, made and passed the following motion:

“That the hearing for SDAB-D-17-136 be tabled to October 11 or 12, 2017, at the request of the Appellant in order to provide additional time to review and provide further information to the Board.”

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

...

Designation of direct control districts

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

...

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

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

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

...

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

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

At the time of the creation of the subject 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*.

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.

DC2.528 (Area A) Site Specific Development Control Provision:

DC2.528.1 states that the **General Purpose** of **DC2.528 (Area A)** is:

To establish a Site Specific Development Control District for low intensity commercial, office and service uses with parking to be provided in Area B.

General Provisions from the *Edmonton Zoning Bylaw 12800*:

Under section 7.9(6), **Minor Digital Off-premises Signs** means:

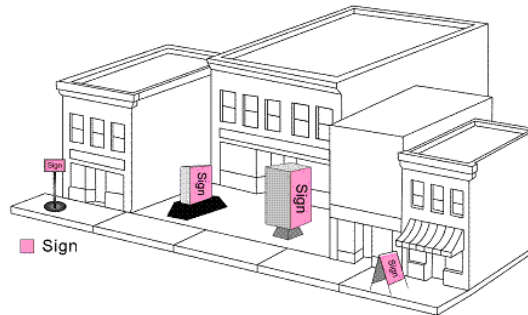
any Sign that is remotely changed on or off Site and has a Message Duration greater than or equal to 6 seconds. Minor Digital Off-premises Signs incorporate a technology or method allowing the Sign to change Copy without having to physically or mechanically replace the Sign face or its components. The Copy on such Sign directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, entertainment or service provided on the premises or Site where the Sign is displayed.

Under section 7.9(7), **Minor Digital On-premises Off-premises Signs** means:

any Sign that is remotely changed on or off Site and has a Message Duration greater than or equal to 6 seconds. Minor Digital On-premises Off-premises Signs incorporate a technology or method allowing the Sign to change Copy without having to physically or mechanically replace the Sign face or its components. The Copy on such Sign may include Copy from Minor Digital On-premises Signs and Minor Digital Off-premises Signs.

Under section 6.2(8), **Freestanding Signs** means:

any On-premises or Off-premises Sign supported independently of a building. The Sign may take the form of single or multiple icons, product or corporate symbol, may involve a three dimensional or volumetric representation, may have single or multiple faces and may or may not be permanently fixed to the ground;



Section 720.3(3) states:

All Regulations in the Zoning Bylaw shall apply to development in the Direct Control Provision, unless such Regulations are specifically excluded or modified in a Direct Control Provision.

Section 720.3(4) states “Signs shall comply with the regulations found in Schedule 59H.”

Section 800.2(2)(a) of the *City-Wide Master Overlay* states “The Overlay shall not be used in conjunction with a Direct Control Provision”.

Schedule 59H.2(2) states:

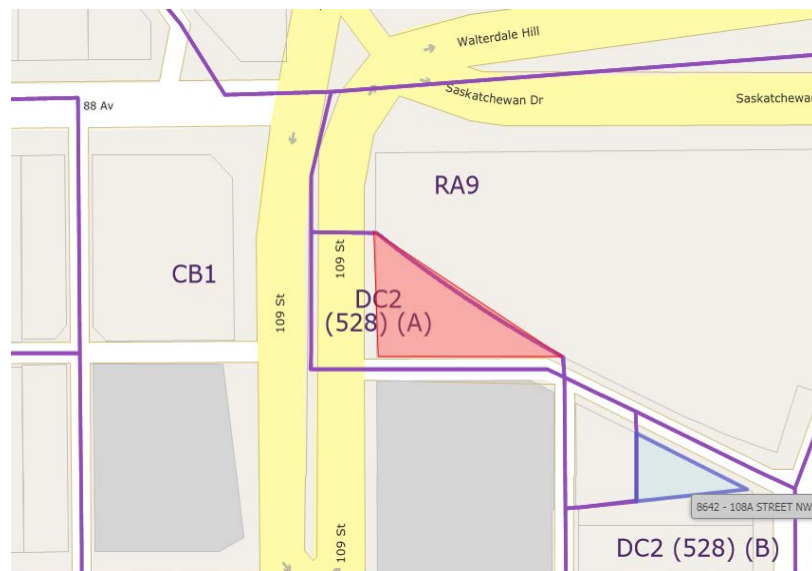
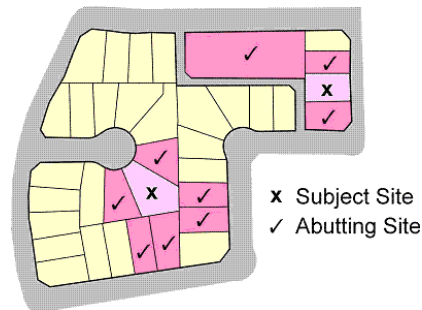
Where there is no Sign Schedule or criteria contained within the DC2 Provision, **Signs requiring a Development Permit shall be Discretionary Developments in a DC2 Provision** [*emphasis added*]. The Development Officer may consider Sign Applications having regard for all or any of the following:

- a. Sign criteria specified within the Development Agreement approved by Council to regulate the Use and development of the Site where the Sign is proposed;

- b. the Sign provisions of the Sign Schedules applicable to the Land Use Zones abutting the DC2 Site where the proposed Sign is to be erected; and
- c. the visual harmony and compatibility of the proposed Sign with the architectural character and finish of the development and with the design, location and appearance of other Signs on the development.

Under section 6.1(1), **Abut** or **abutting** means:

immediately contiguous to or physically touching, and when used with respect to a lot or Site, means that the lot or Site physically touches upon another lot, Site, or piece of land, and shares a property line or boundary line with it;



Section 330.4(10) of the **(CB1) Low Intensity Business Zone** states “Signs shall comply with the regulations found in Schedule 59F.”

Schedule 59F.3(6) states:

Minor Digital On-premises Off-premises Signs and Minor Digital Off-premises Signs shall be subject to the following regulations:

- a. ...
- b. the maximum Height shall be 8.0 m;
- c. the maximum Width shall be 16.0 m;
- d. the maximum Area shall be:
 - i. ...
 - ii. 65.0 m² for proposed Signs that are Freestanding Signs. The maximum combined Area of Digital Sign Copy and any other type of Copy on the same Sign face shall not exceed 65.0 m²;
- e. proposed Sign locations shall be separated from any other Digital Sign greater than 8.0 m² or Off-premises Sign as follows:

Proposed Sign Area	Minimum separation distance from Digital Signs greater than <u>8.0 m²</u> or other Off-premises Sign
Greater than <u>8.0 m²</u> to less than <u>20 m²</u>	<u>100 m</u>
<u>20 m²</u> to <u>40 m²</u>	<u>200 m</u>
Greater than <u>40 m²</u>	<u>300 m</u>

The separation shall be applied from the larger Off-premises Sign or Digital Sign location.

- f. ...
- g. ...
- h. ...
- i. ...
- j. proposed Signs with an Area greater than 8.0 m² shall not be located within any Setback;

- k. the maximum number of Freestanding On-premises Signs, Roof On-premises Signs, Major Digital Signs, Minor Digital On-premises Signs, Minor Digital On-premises Off-premises Signs and Minor Digital Off-premises Signs on a Site shall be four; and
- l. an application for the renewal of a Sign with a lawful permit existing at the time of the passage of Bylaw 15892 will not be refused for the sole reason that it does not comply with all development regulations of this Bylaw. Application renewals shall demonstrate that the Sign meets the automatic light level controls outlined in Section 59.2(5) and traffic safety regulations in Section 59.2(2).

Development Officer's Determination:

As per the sign schedule of abutting CB1 Zone, proposed Digital Signs shall be separated from other Off-premises Sign and the separation distance shall be applied from larger off premises sign (Section 59F.3(6)(e))

The Roof Off-premises sign located west of proposed sign requires a 300 m separation

Proposed Separation: 57 m

Deficient by: 243 m

Section 59 Sign Regulations – General Provisions and Section 13 Development Permit Application (Additional Information)

Section 13.1(3) states:

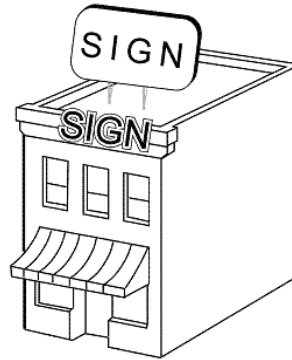
The Development Officer may require an applicant to submit such additional information as considered necessary to verify the compliance of the proposed Use or development with the regulations of this Bylaw.

Section 59.2(15) states:

Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall not be Roof Signs, Projecting Signs or Temporary Signs.

Under section 6.2(21), **Roof Signs** means:

any Sign erected upon, against, or above a roof, or on top of or above, the parapet of a building;



Development Officer's Determination:

3) The Development Officer may require an applicant to submit such additional information as considered necessary to verify the compliance of the proposed Use or development with the regulations of this Bylaw (Section 13.1(3))

The proposed Freestanding Minor Digital Off-premises Sign is located 7 m east of property line abutting 109 street with no dimension from north property line contrary to Section 13.4(3)(v). The building as per survey plan submitted located 0.6 m from North property line. There was no clarity provided on how the sign pole can be installed behind the building with varied setback and an existing fence wall 0.2 m wide.

Moreover, the sign as indicated on survey plan overhangs on top of the roof which as per Section 6.2(21) will be classified as a Roof Sign, which is contrary to Section 59.2(15), as Minor Digital Signs shall not be Roof Signs.

Note: The sign location does not have required accessibility for installation and maintenance of sign.

109 Street Corridor Area Redevelopment Plan

Policy 3.2.3.5 of the *109 Street Corridor Area Redevelopment Plan* states:

Signage must be of a scale and type that respects the compact, pedestrian-oriented character of the District and related to local businesses. Billboards, roof-top, digital and off-premise signage of any type will not be permitted.

Development Officer's Determination:

Off-premises signage is not permitted in 109 Street Corridor Area Redevelopment Plan. Furthermore, the proposed Sign does not relate to local businesses and does not confirm to the pedestrian oriented character of the district.

Edmonton Land Use Bylaw 5996

Schedule 79J - Sign Schedule for Land Use Districts: DC1, DC2 and HA

Schedule 79J.1(2) states:

Signs requiring a Development Permit may be allowed for developments in a DC2 District at the discretion of the Development Officer who shall have regard for all or any of the following:

- a) Sign criteria specified within the Development Agreement approved by Council to regulate the use and development of the site where the Sign is proposed;
- b) the Sign provisions of the Sign Schedules applicable to the Land Use Districts abutting the DC2 site where the proposed Sign is to be erected; and
- c) the visual harmony and compatibility of the proposed Sign with the architectural character and finish of the development and with the design, location and appearance of other Signs on the development.

Development Officer's Determination:

2) Signs requiring a Development Permit may be allowed for developments in a DC2 District at the discretion of the Development Officer who shall have regard for all or any of the following:

b) The Sign provisions of the Sign Schedules applicable to the Land Use Districts abutting the DC2 site where the proposed Sign is to be erected (79J.1(2)(b) - LUB 5996)

c) The visual harmony and compatibility of the proposed Sign with the architectural character and finish of the development and with the design, location and appearance of other Signs on the development (79J.1(2)(c) - LUB 5996)

In the opinion of Development Authority the location of proposed sign does not blend with architectural character of existing development. The existing building has a varied roof pitch and there is no rendering/ evidence provided by the applicant showing the compatibility of sign with the existing building.

Previous Subdivision and Development Appeal Board Decisions

SDAB Number	Application	DECISION
SDAB-D-13-089	To convert an existing Off-premises Freestanding Sign to a Minor Digital Off-premises Freestanding Sign	June 13, 2013; that the appeal be DENIED and the decision of refusal by the Development Authority CONFIRMED.
SDAB-D-11-052	To replace the copy portion of an existing Freestanding Off-premises Sign with a Digital Freestanding Off-premises Sign with support structure to remain.	March 25, 2011; the Board does not have jurisdiction (Based on the evidence provided, the Board applied the provisions of Section 686(1)(a)(i) of the Municipal Government Act, and finds that the appeal was not filed within the allowable 14 days).

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: **237601282-001**
 Application Date: DEC 15, 2016
 Printed: June 29, 2017 at 3:25 PM
 Page: 1 of 3

Application for Sign Combo Permit

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

Applicant	Property Address(es) and Legal Description(s) 8715 - 109 STREET NW Plan EDMONTO Lot 7
	Location(s) of Work Suite: 8715 - 109 STREET NW Entryway: 8715 - 109 STREET NW Building: 8715 - 109 STREET NW

Scope of Application
 To demolish an exiting Freestanding Off-premises Sign (Existing without Permit) & install a Freestanding Minor Digital Off-premises Sign (Single sided facing SE)

Permit Details	
ASA Sticker No./Name of Engineer: Construction Value: 110000	Class of Permit: Expiry Date:
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 1 Minor Digital On/Off-premises Sign: 0	Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0

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

Applicant signature: _____

Development Application Decision
 Refused

THIS IS NOT A PERMIT



Project Number: **237601282-001**
 Application Date: DEC 15, 2016
 Printed: June 29, 2017 at 3:25 PM
 Page: 2 of 3

Application for Sign Combo Permit

Reason for Refusal

1) Signage must be of a scale and type that respects the compact, pedestrian-oriented character of the District and related to local businesses. Billboards, roof-top, digital and off-premise signage of any type will not be permitted (Section 3.2.3.5 109 Street Corridor ARP)

Off-premises signage is not permitted in 109 Street Corridor Area Redevelopment Plan. Furthermore, the proposed Sign does not relate to local businesses and does not confirm to the pedestrian oriented character of the district.

2) Signs requiring a Development Permit may be allowed for developments in a DC2 District at the discretion of the Development Officer who shall have regard for all or any of the following:

b) The Sign provisions of the Sign Schedules applicable to the Land Use Districts abutting the DC2 site where the proposed Sign is to be erected (79J.1(2)(b) - LUB 5996)

As per the sign schedule of abutting CB1 Zone, proposed Digital Signs shall be separated from other Off-premises Sign and the separation distance shall be applied from larger off premises sign (Section 59F.3(6)(e))

The Roof Off-premises sign located West of proposed sign requires a 300 m separation

Proposed Separation: 57 m

Deficient by: 243 m

c) The visual harmony and compatibility of the proposed Sign with the architectural character and finish of the development and with the design, location and appearance of other Signs on the development (79J.1(2)(c) - LUB 5996)

In the opinion of Development Authority the location of proposed sign does not blend with architectural character of existing development. The existing sign building has a varied roof pitch and there is no rendering/ evidence provided by the applicant showing the compatibility of sign with the existing building.

3) The Development Officer may require an applicant to submit such additional information as considered necessary to verify the compliance of the proposed Use or development with the regulations of this Bylaw (Section 13.1(3))

The proposed Freestanding Minor Digital Off-premises Sign is located 7 m east of property line abutting 109 street with no dimension from north property line contrary to Section 13.4(3)(v). The building as per survey plan submitted located 0.6 m from North property line. There was no clarity provided on how the sign pole can be installed behind the building with varied setback and an existing fence wall 0.2 m wide.

Moreover, the sign as indicated on survey plan overhangs on top of the roof which as per Section 6.2(21) will be classified as a Roof Sign, which is contrary to Section 59.2(15), as Minor Digital Signs shall not be Roof Signs.

Note: The sign location does not have required accessibility for installation and maintenance of sign.

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: Jun 14, 2017 **Development Authority:** AHUJA, SACHIN **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$44.00	\$44.00	03812107	Dec 15, 2016
Sign Building Permit Fee	\$1,100.00	\$1,100.00	03812107	Dec 15, 2016

THIS IS NOT A PERMIT



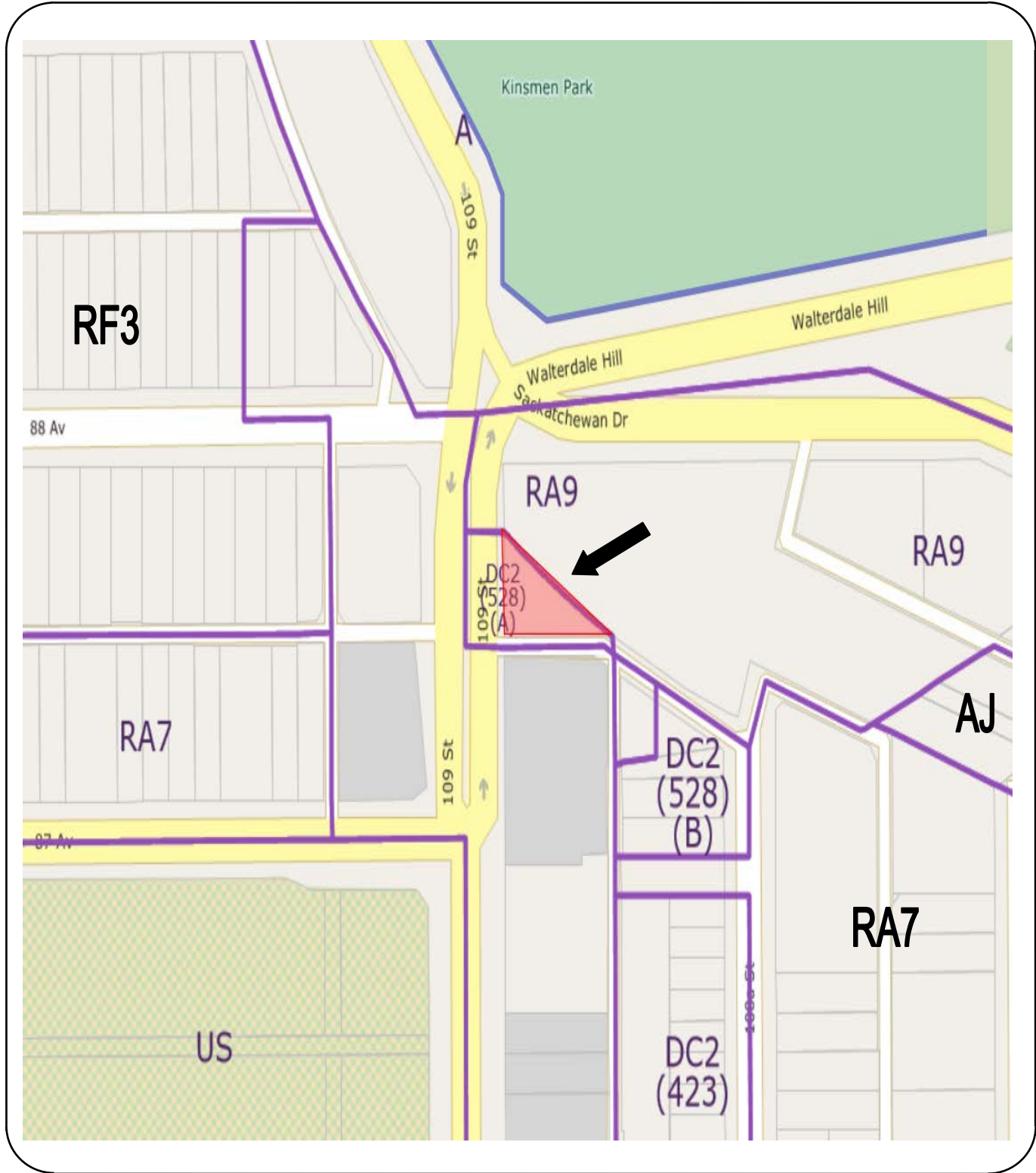
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Application for Sign Combo Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sign Dev Appl Fee - Digital Signs	\$425.00	\$425.00	03812107	Dec 15, 2016
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$1,569.00	\$1,569.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-136

