# SUBDIVISION

# AND

# DEVELOPMENT APPEAL BOARD

# AGENDA

Thursday, 10:30 A.M. September 13, 2018

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

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

I	10:30 A.M.	SDAB-D-18-145	Change the Use from General Retail Store to a Child Care Service (140 children) and to construct exterior alterations (new outdoor play space)
			9639 - 82 Avenue NW Project No.: 284186541-001
II	1:00 P.M.	SDAB-D-18-146	Construct a Garden Suite
			11146 – 66 Street NW
			Project No.: 279104362-001

<u>ITEM II: 10:30 A.M.</u>	FILE: SDAB-D-18-145		
AN APPEAL FROM THE DECISION OF T	THE DEVELOPMENT OFFICER		
APPELLANT:			
APPLICATION NO.:	284186541-001		
APPLICATION TO:	Change the Use from General Retail Store to a Child Care Service (140 children) and to construct exterior alterations (new outdoor play space)		
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused		
DECISION DATE:	August 15, 2018		
DATE OF APPEAL:	August 15, 2018		
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	9639 - 82 Avenue NW		
LEGAL DESCRIPTION:	Plan 4575S Blk 12 Lots 1-7		
ZONE:	(CB2) General Business Zone		
OVERLAY:	Main Streets Overlay		
STATUTORY PLAN:	Strathcona Area Redevelopment Plan		

## Grounds for Appeal

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

Section 80.2 a(v.) - The proposed child care space adjacent to an "automotive and equipment repair shop". The Certified radio building does not pose any safety issues for the child care facility. Certified Radio does not use any harmful chemicals or equipment in their daily business. Certified Radio uses a separate fenced area for their daily business of installing car stereos and navigation systems. - Evidence will be provided to demonstrate that there is no harm that would come to the children in the child care facility.

Hearing Date: Thursday, September 13, 2018

Section 54.2 Schedule 1 (C). The parking deficiency of 5 parking stalls. We have arrange the additional 5 parking stalls with business a few buildings away - Evidence will be provided.

## **General Matters**

## **Appeal Information:**

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

### **Grounds for Appeal**

685(1) If a development authority

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

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

#### Appeals

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

- (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 clause (a.4) and (d), must comply with any 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 340.3(7), Child Care Services is a Discretionary Use in the (CB2) General Business Zone.

Under section 7.8(2), Child Care Services means:

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

Section 340.1 states that the **General Purpose** of the (**CB2**) **General Business Zone** is "to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways."

Section 819.1 states that the General Purpose of the Main Streets Overlay is to:

to encourage and strengthen the pedestrian-oriented character of Edmonton's main street commercial areas that are located in proximity to residential and transit-oriented areas, by providing visual interest, transparent storefront displays, and amenities for pedestrians.

## **Discretionary Use**

### **Development Officer's Determination**

The proposed development, a Child Care Service is listed as a Discretionary Use in the CB2 Zone. Discretionary Uses means those uses of land, buildings or structures for which Permits may be issued only at the discretion of the Development Officer. In the opinion of the Development Officer, the proposed development is not a suitable use in the context of the site, and refused for the following reasons: [unedited]

## Location requirements

Section 80.2(a) states:

No portion of a Child Care Services Use, including the building bay and on-Site outdoor play space, where provided, shall be located adjacent to a building bay with an approved development permit for the following Uses:

## i. Automotive and Equipment Repair Shops

- ii. Fleet Services
- iii. Funeral, Cremation and Internment Services
- iv. General Industrial Uses
- v. Rapid Drive-through Vehicle Services, or
- vi. Vehicle and Equipment Sales/Rentals.

## **Development Officer's Determination**

**1.** Section 80.2.a(v.) - No portion of a Child Care Services Use, including the building bay and on-Site outdoor play space, where provided, shall be located adjacent to a building bay with an approved development permit for Automotive and Equipment Repair Shops.

The proposed Child Care Service is located adjacent to a building bay with an approved development permit for an Automotive and Equipment Repair Shop. Reference Development Permit number 013748966-001 [unedited]

## Parking

Section 819.3(11) of the Main Streets Overlay states "The minimum number of off-street parking spaces required shall be in accordance with <u>Section 54</u>, Schedule 1C."

Section 54.2, Schedule 1C provides the following with respect to **Non-Residential and non-Residential Related Uses**:

Use of Building or Site	Minimum or Maximum Number of Parking Spaces Required
7. All other non-residential Uses	1 parking space per $100.0 \text{ m}^2$ of Floor Area

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.

## **Development Officer's Determination**

2. Section 54.2 Schedule 1(C) - Parking shall be provided at 1 parking space per 100.0m2 of Floor Area

The proposed Child Care Service has provided 1 parking stall instead of 6. The deficiency of 5 parking stalls is concerning to Transportation and Parking Services. In the opinion of the Development Officer, the parking deficiency is significant and would have a negative impact on the surrounding properties. [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.

	Project Number: 284186541-001 Application Date: JUN 05, 2018 Printed: August 16, 2018 at 8:16 AM Page: 1 of 2
Major De	velopment Permit
This document is a Development Permit Decision for the develo	•
Applicant	Property Address(es) and Legal Description(s) 9639 - 82 AVENUE NW Plan 4575S Blk 12 Lots 1-7 Specific Address(es) Building: 9645 - 82 AVENUE NW
Scope of Application	Care Service (140 Children) and to construct exterior alterations (new
outdoor playspace). Permit Details	are service (140 children) and to consulter exterior antifations (new
	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none) 
opinion of the Development Officer, the proposed der following reasons: 1. Section 80.2.a(v.) - No portion of a Child Care Ser provided, shall be located adjacent to a building bay v Shops.	velopment is not a suitable use in the context of the site, and refused for the vices Use, including the building bay and on-Site outdoor play space, where with an approved development permit for Automotive and Equipment Repair to a building bay with an approved development permit for an Automotive and
	cing stall instead of 6. The deficiency of 5 parking stalls is concerning to of the Development Officer, the parking deficiency is significant and would
THIS	IS NOT A PERMIT

	Ĩ	Application	for	Project Number: <b>28418654</b> Application Date: JUN 0 Printed: August 16, 2018 at 8 Page:	05, 201
	Majo	r Developm	ent Permit		
<b>Rights of Appeal</b> The Applicant has the rig through 689 of the Muni	ght of appeal within 2	21 days after the date o		is made, as outlined in Section 683	
Fees	Fee Amount	Amount Paid	Receipt #	Date Paid	
Major Dev. Application Fee	\$326.00	\$326.00	05078518	Jun 05, 2018	
Total GST Amount: Totals for Permit:	\$0.00	\$326.00			
		THIS IS NOT A PE	RMIT		



Site Location

File: SDAB-D-18-145

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AN AFFEAL FROM THE DECISION OF T	HE DEVELOPMENT OFFICER
APPELLANT:	
APPLICATION NO .:	279104362-001
APPLICATION TO:	Construct a Garden Suite
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	July 18, 2018
DATE OF APPEAL:	August 17, 2018
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	11146 - 66 Street NW
LEGAL DESCRIPTION:	Plan 600U Blk 13 Lots 23-24
ZONE:	(RF1) Single Detached Residential Zone
OVERLAY:	Mature Neighbourhood Overlay
STATUTORY PLAN:	N/A

## AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

## Grounds for Appeal

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

My clients garden suite was refused due to the site coverages & suite size. When my clients began the design of their garden suite two years ago with the architect they were going by the older bylaws that were in place at the time. They invested heavily in fee for the design and drawings and time and energy. As you know to build a custom product such as a garden suite there is a tremendous amount of effort that goes into making the home you dream of once the process of design is complete with the architect. Now they have invested in a product that no longer fits the current bylaws. The structure is still plenty under the maximum sq footage of the lot combined with the principal dwelling and has full support of the neighbours and the community.

## **General Matters**

The decision of approval by the Development Officer is dated July 18, 2018. The Notice of Appeal was filed on August 17, 2018.

#### **Appeal Information:**

Section 15 of Subdivision and Development Appeal Board Bylaw 18307 states "the fees for filing an appeal are those prescribed in Schedule B - Fees."

Section 21(1) of the *Edmonton Zoning Bylaw* states "Subject to the provisions of the *Municipal Government Act*, any person applying for a Development Permit may appeal the decision of the Development Officer to the Subdivision and Development Appeal Board by filing a written notice of appeal with the Subdivision and Development Appeal Board within 21 days after the date a decision concerning the Development Permit was made."

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

## Fees

**630.1** A council may establish and charge fees for matters under this Part.

## **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,

## Permitted and discretionary uses

**642**(1) When a person applies for a development permit in respect of a development provided for by a land use bylaw pursuant to section 640(2)(b)(i), the development authority must, if the application otherwise conforms to the land use bylaw and is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.

(2) When a person applies for a development permit in respect of a development that may, in the discretion of a development authority, be permitted pursuant to section 640(2)(b)(ii), the development authority may, if the application is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.

(3) A decision of a development authority on an application for a development permit must be in writing, and a copy of the decision, together with a written notice specifying the date on which the written decision was given and containing any other information required by the regulations, must be given or sent to the applicant on the same day the written decision is given.

(4) If a development authority refuses an application for a development permit, the decision must include the reasons for the refusal.

(5) Despite subsections (1) and (2), a development authority must not issue a development permit if the proposed development does not comply with the applicable requirements of 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.

## **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 clause (a.4) and (d), must comply with any land use bylaw in effect;
  - •••
  - (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
  - (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
    - (i) the proposed development would not
      - (A) unduly interfere with the amenities of the neighbourhood, or
      - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
    - and
    - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

## General Provisions from the Edmonton Zoning Bylaw

# Section 110.2(1) states a Garden Suite is a Permitted Use in the (RF1) Single Detached Residential Zone.

Under Section 7.2(3), **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.

Section 110.1 states that the **General Purpose** of the **(RF1) Single Detached Residential Zone** is to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

## Floor Area

Section 87.4 states the maximum total Floor Area for a Garden Suite shall be 120 square metres.

## **Development Officer's Determination**

Floor Area - The maximum total Floor Area for a Garden Suite is 143m2 instead of 120m2 (Section 87.4).

## Second Storey Floor Area

Section 87.5(d) states in the RF1, RF2, RF3, RF4, RF5, RF6, RA7, RA8, and RA9 Zones, the maximum Second Storey Floor Area shall be 50 square metres.

## **Development Officer's Determination**

Floor Area - The maximum Second Storey Floor Area is 60m2 instead of 50m2 (Section 87.5.d).

## Site Coverage

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 metres 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 metres or more above Grade; or
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 metres above Grade.

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 and Duplex Housing – Site area 300 square	28 percent	12 percent	40 percent	40 percent

metres o	or		
greater			

Section 50.3(4) states the Site Coverage of Accessory buildings or structures shall not exceed 12 percent.

Section 87.6 states Notwithstanding the maximum Site Coverage prescribed for Accessory Buildings in the underlying Zone:

- a. in the RF1, RF2, RF3, RF4, RF5, RF6, RA7, RA8, and RA9 Zones:
  - i. the maximum Site Coverage of a Garden Suite shall be in accordance with the following:
    - A. the total maximum Site Coverage of the Garden Suite and other Accessory buildings shall not exceed 18 percent;
    - B. the total maximum Site Coverage of other Accessory buildings and any Parking Area within the Garden Suite shall not exceed 12 percent; and
    - C. the total maximum Site Coverage including Accessory buildings and the principal Dwelling shall not exceed the total maximum Site Coverage as prescribed by the regulations of the underlying Zone by more than 2 percent of Site Area.

Site Area:	565.85 square metres
<ul><li>12 percent Allowable Site Coverage:</li><li>28 percent Allowable Site Coverage:</li><li>40 percent Allowable Site Coverage:</li></ul>	67.90 square metres 158.44 square metres 226.34 square metres
Accessory Building: Principal Dwelling: Proposed Total Site Coverage:	84.21 square metres 102.84 square metres 187.05 square metres

The maximum allowable Site Coverage for an Accessory Building is 67.90 square metres, proposed is 84.21 square metres, which exceeds the maximum allowable Site Coverage for an Accessory Building by 16.31 square metres.

## **Development Officer's Determination**

Site Coverage - The maximum Site Coverage for Parking Area within the Garden Suite is 14% instead of 12% (Section 87.6.a.i.B).

## 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.

THE CITY OF					Project N Application	Number: 279104362-00 n Date: APR 10, 201		
					Printed: Page:	August 17, 2018 at 11:26 AM		
Application for						1 of		
	Minor	r Develop	ment	Permi	it			
This document is a Development Perr	nit Decision for the	e development ap	plication d	lescribed bel	low.			
Applicant								
				6 - 66 STRE	ET NW Blk 13 Lots 23-24			
		-						
			-	Address(es)				
			Suite:		66 STREET NW			
					66 STREET NW			
			-		STREET NW			
		1	Building:	11146A - 6	66 STREET NW			
Scope of Application								
To construct a Garden Suite.								
Permit Details								
# of Dwelling Units Add/Remove: 1			Class of Perr	mit: Class B				
Client File Reference Number:			Lot Grading					
Minor Dev. Application Fee: Garden Se	uite		-	Service Require	ed: Y			
Secondary Suite Included ?: Y			Stat. Plan Overlay/Annex Area: Mature Neighbourhood					
		[	Overlay					
I/We certify that the above noted details	are correct.							
Applicant signature:								
Development Application Decision								
Refused								
Issue Date: Jul 18, 2018 Dev	elopment Author	rity: YEUNG, KE	NNETH					
Reason for Refusal								
Floor Area - The maximum	total Floor Area f	for a Garden Suite	is 143m2	instead of 1	20m2 (Section 87.4	4)		
						·).		
Floor Area - The maximum	Second Storey Fl	oor Area 1s 60m2	instead of	[50m2 (Sect	tion 87.5.d).			
Site Coverage - The maxim	um Site Coverage	for Parking Area	within the	e Garden Sui	ite is 14% instead o	f 12% (Section 87.6.a.i.B).		
Rights of Appeal								
The Applicant has the right through 689 of the Municip			ate on whi	ich the decisi	ion is made, as outl	ined in Section 683		
Fees								
	Fee Amount	Amount Paid	i 1	Receipt #	Date Paid			
Sanitary Sewer Trunk Fund (Secondary/Garden Suite)	\$721.00	\$721.00		2022328001	Apr 10, 2018			
Dev. Application Fee	\$283.00	\$283.00		2022328001	Apr 10, 2018			
Development Permit Inspection Fee Total GST Amount:	\$204.00 \$0.00	\$204.00	/18512	2022328001	Apr 10, 2018	3		
Totals for Permit:	\$1,208.00	\$1,208.00	ī					
	+ - 3-							
		THIS IS NOT A	PERMI	т				



