

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
September 14, 2016**

**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-16-221

To construct exterior alterations to an existing Single Detached House - driveway extension in front of the front attached Garage

17040 - 73 Street NW
Project No.: 222806047-001

II 10:30 A.M. SDAB-D-16-222

To construct a two-storey addition to a Single Detached House (rec room, bonus room and bedroom).

3624 - 113B Street NW
Project No.: 221896019-001

III 2:00 P.M. SDAB-D-16-223

WITHDRAWN

To install (1) Fascia Off-premises Sign (8 metres by 8 metres - Imagine Outdoor Advertising Ltd.)

9925 - Jasper Avenue NW
Project No.: 224546084-001

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-16-221

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 222806047-001

ADDRESS OF APPELLANT: 17040 - 73 Street NW

APPLICATION TO: Construct exterior alterations to an existing Single Detached House - Driveway extension in front of the front attached Garage

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 3, 2016

DATE OF APPEAL: August 19, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 17040 - 73 Street NW

LEGAL DESCRIPTION: Plan 0725259 Blk 5 Lot 68

ZONE: RF1-Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: Schonsee Neighbourhood Structure Plan
Edmonton North Area Structure Plan

Grounds for Appeal

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

Refusal of extended concrete driveway while we did what the City asked to do like any other neighbours and very much the whole 73 Street, 72 and 71 Street driveways.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

The decision of refusal by the Development Officer is dated August 3, 2016. Fourteen days from the decision date is August 17, 2016 and the Notice of Appeal was filed on August 19, 2016.

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

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

...

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

...

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

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

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Section 110.2(4) states **Single Detached Housing** is a **Permitted Use** in the RF1 Single Detached Residential Zone.

Under Section 7.2(9), **Single Detached Housing** means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use Class in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use Class includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 110.1 states 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, Semi-detached Housing and Duplex Housing under certain conditions.

Driveway Location

Section 54.1(5) states the Driveway shall lead directly from the roadway to the required Garage or Parking Area.

Under Section 6.1(26), **Driveway** means an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area.

Under Section 6.1(42), **Garage** means an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport;

Under Section 6.1(70), **Parking Area** means an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.

Development Officer's Determination

Driveway location - The Driveway does not lead directly from the roadway to the required Garage or Parking Area. (Section 54.1.5),

Location of Vehicular Parking

Section 54.2(2)(e)(i) states parking spaces shall not be located within a Front Yard.

Under Section 6.1(41), **Front Yard** means the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.

Development Officer's Determination.

Location of Vehicular Parking - parking spaces shall not be located within a Front Yard. (Section 54.2.2.e.i)

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: **222806047-001**
 Application Date: **MAY 31, 2016**
 Printed: **August 30, 2016 at 1:07 PM**
 Page: **1 of 1**

Application for Minor Development Permit

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

Applicant TEWOLDE, MIHRETAB <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div>	Property Address(es) and Legal Description(s) 17040 - 73 STREET NW Plan 0725259 Blk 5 Lot 68
---------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------

Scope of Application
 To construct exterior alterations to an existing Single Detached House - driveway extension in front of the front attached Garage.

Permit Details # of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Exterior Alterations (Res.) Secondary Suite Included?: N	Class of Permit: (none) Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none)
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------

I/We certify that the above noted details are correct.
 Applicant signature: _____

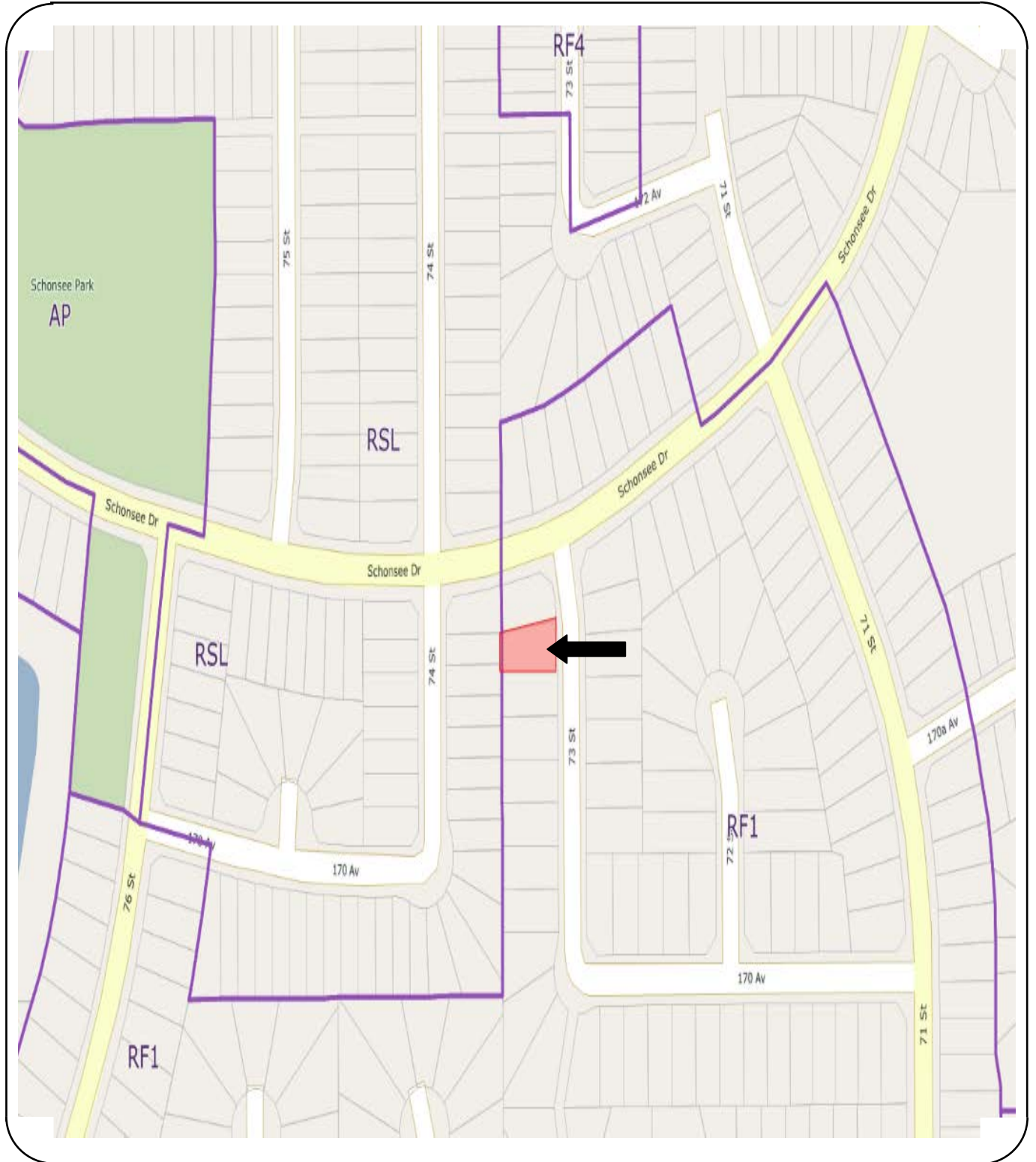
Development Application Decision
 Refused
Reason for Refusal
 Driveway location - The Driveway does not lead directly from the roadway to the required Garage or Parking Area. (Section 54.1.5),

 Location of Vehicular Parking - parking spaces shall not be located within a Front Yard. (Section 54.2.2.e.i)
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: Aug 03, 2016 **Development Authority:** WATTS, STACY **Signature:** _____

Fees	Fee Amount	Amount Paid	Receipt #	Date Paid
Existing Without Permit Penalty Fee	\$159.00	\$159.00	03320954	May 31, 2016
Dev. Application Fee	\$159.00	\$159.00	03320954	May 31, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$318.00	\$318.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location



File: SDAB-D-16-221



AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 221896019-001

ADDRESS OF APPELLANT: 3624 - 113B Street NW

APPLICATION TO: Construct a two-storey addition to a Single Detached House (rec room, bonus room and bedroom).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 17, 2016

DATE OF APPEAL: August 18, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3624 - 113B Street NW

LEGAL DESCRIPTION: Plan 590NY Blk 65 Lot 35

ZONE: RF1-Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

My understanding is that my appeal is being rejected for a number of reasons, some of which I do not have control over, some of which I'm asking the Board to approve variances that I've requested, and another where I feel the Development Office has made an incorrect conclusion. I have not received my formal rejection letter yet, but this is my understanding from my discussion over the phone:

1. Something about the front of the house being contrary to the MNO - this is pre-existing. My application doesn't change the front of the house.

2. Side yard distance of application - the existing house is already contrary to the MNO, and my proposed construction simply extends the wall that currently contravenes (new wall lines up with existing wall).

3. Height of main floor - proposal would match existing house floor level, which is contrary to the bylaw. Matching the floor height makes sense to me, if I ever want to open the wall between the addition and the existing house, for wheelchair accessibility.

4. Minimum Rear Yard Setback - I would ask the Board to approve the 18" (approximate) additional space, such that the rear yard is permitted to be 1.25 percent (approx.) less than the minimum requirement.

5. Maximum principal house site coverage - I would ask the Board to approve the site coverage of the house, to exceed the maximum permitted by approx. 1.1% (29.1 % instead of the maximum of 28% permitted in the bylaw).

6. I do not understand how the Development office determined that my house extension is a secondary suite. It's an extension to a current house, so my wife and I have privacy away from my adult children who live with us. My wife is an artist that needs studio space with natural light, so the existing master bedroom (which only has a two piece ensuite) would be re-deployed as an art room, and the addition would provide a main floor sitting area, and exercise room, and a new master bedroom with a five piece ensuite. Other than open up the concrete wall common to the existing house and the proposed addition, I have revised the plans to ensure open flow between the existing house and the addition. I believe the Development Office erred in interpreting a proposed wet bar in the family room to be a kitchen. THIS IS NOT A SECONDARY SUITE, and I am at a complete loss as to how I can prove this.

7. There might be other reasons, if I'm forgetting to mention some aspect that the development officer mentioned to me over the phone.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

(a) in the case of an appeal made by a person referred to in section 685(1), after

(i) the date on which the person is notified of the order or decision or the issuance of the development permit,

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

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

appeal board

...

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

...

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

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

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Section 110.2(4) states **Single Detached Housing** is a **Permitted Use** in the RF1 Single Detached Residential Zone.

Under Section 7.2(9), **Single Detached Housing** means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use Class in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use Class includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 110.1 states 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, Semi-detached Housing and Duplex Housing under certain conditions.

Section 814.1 state the **General Purpose** of the Mature Neighbourhood Overlay is to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

Use

Section 110.2(3) states a **Secondary Suite** is a **Permitted Use** in the RF1 Single Detached Residential Zone.

Under Section 7.2(7), **Secondary Suite** means development consisting of a Dwelling located within, and Accessory to, a structure in which the principal use is Single Detached Housing. A Secondary Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are physically separate from those of the principal Dwelling within the structure. A Secondary Suite also has an entrance separate from the entrance to the principal Dwelling, either from a common indoor landing or directly from the side or rear of the structure. This Use Class includes the Development or Conversion of Basement space or above Grade space to a separate Dwelling, or the addition of new floor space for a Secondary Suite to an existing Single Detached Dwelling. This Use Class does not include Apartment Housing, Duplex Housing, Garage Suites, Garden Suites, Semi-detached Housing, Lodging Houses, Blatchford Lane Suites, Blatchford Accessory Suites, or Blatchford Townhousing.

Section 7.1(3) states the following guidelines shall be applied in interpreting the Use Class definitions:

- a. the typical Uses, which may be listed in the definitions, are not intended to be exclusive or restrictive. Reference should be made to the definition of the Use Class in determining whether or not a use is included within a particular Use Class;
- b. where a specific use does not conform to the wording of any Use Class definition or generally conforms to the wording of two or more Use Class definitions, the

- c. Development Officer may, in his discretion, deem that the use conforms to and is included in that Use Class which he considers to be the most appropriate in character and purpose. In such a case, the use shall be considered a Discretionary Use, whether or not the Use Class is listed as Permitted or Discretionary within the applicable Zone; and
- d. the Use Class headings such as Residential or Commercial do not mean that the Use Classes listed under these headings are permitted only in Residential or Commercial Zones of this Bylaw. Reference must be made to the lists of Permitted and Discretionary Use Classes within each Zone.

Section 110.4(17) states Secondary Suites shall comply with Section 86 of this Bylaw.

Development Officer's Determination

The Development Officer deems the addition to be a Secondary Suite (Reference Section 7.1(3), 7.2(7), and Section 11.2)

Rear Setback

Section 814.3(5) states the minimum Rear Setback shall be 40 percent of Site depth.

Development Officer's Determination

Reduced Rear Setback - The distance from the Single Detached House to the rear property line is 14.18 metres (39 percent of site depth) instead of 14.63 metres (40 percent of site depth). (Section 814.3.5)

Basement Elevation

Section 814.3(16) states the Basement elevation of structures of two or more Storeys in Height shall be no more than 1.2 metres above Grade. The Basement elevation shall be measured as the distance between Grade level and the floor of the first Storey.

Development Officer's Determination

Basement Elevation - The Basement elevation of a two Storey structure is 1.3 metres instead of 1.2 metres (Section 814.3.16)

Site Coverage

Section 110.4(7)(a) states the Maximum Site Coverage shall be as follows:

	Principal Dwelling building /	Accessory building	Principal building with attached Garage	Total Site Coverage
Single Detached – Site area 300 square metres or greater	28 percent	12 percent	40 percent	40 percent

Under Section 6.1(94), **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.

The Development Officer has provided the following information:

Site Area:	557.42 square metres
12 percent allowable Site Coverage:	66.89 square metres
28 percent allowable Site Coverage:	156.08 square metres
40 percent allowable Site Coverage:	222.97 square metres
Existing Principal Building:	120.41 square metres
Proposed Addition:	41.66 square metres
 Total Site Coverage:	 162.07 square metres

The maximum allowable Site Coverage for a Principal Building is 156.08 square metres, proposed is 162.07 square metres, which exceeds the maximum allowable Site Coverage for a Principal Building by 5.99 square metres.

Development Officer's Determination

Site Coverage - The Single Detached House covers 29 percent of the site, instead of 28 percent (Section 110.4.7(a))

Floor Area of a Secondary Suite

Section 86.2(b) states in the case of a Secondary Suite developed completely or partially above Grade, the Floor Area (excluding the area covered by stairways) shall not exceed 40 percent of the total Floor Area above Grade of the building containing the associated principal Dwelling, nor 70 square metres, whichever is the lesser.

Development Officer's Determination

Floor Area - The Floor Area of the Secondary Suite is 110.2 square metres instead of 70 square metres (Reference Section 86.2(b)).

Non-conforming Building

Section 643 of the *Municipal Government Act*, RSA 2000, c M-26, states the following:

- (1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.
- (2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.
- (3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.
- (4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.
- (5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except
 - (a) to make it a conforming building,
 - (b) for routine maintenance of the building, if the development authority considers it necessary, or
 - (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

Section 11.3(3) states that the Development Officer may approve, with or without conditions as a Class B Development, an enlargement, alteration or addition to a legal non-conforming building if the non-conforming building complies with the uses prescribed for the land in this Bylaw and the proposed development would not, in his opinion:

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

Development Officer's Determination

Non-conforming building - This older house no longer conforms to current zoning rules, which may have changed since it was originally constructed.

Community Consultation

Section 814.3(24) states when a Development Permit application is made and the Development Officer determines that the proposed development does not comply with the regulations contained in this Overlay:

- a. the applicant shall contact the affected parties, being each assessed owner of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development and the President of each affected Community League;
- b. the applicant shall outline, to the affected parties, any requested variances to the Overlay and solicit their comments on the application;
- c. the applicant shall document any opinions or concerns, expressed by the affected parties, and what modifications were made to address their concerns; and
- d. the applicant shall submit this documentation to the Development Officer no sooner than twenty-one calendar days after giving the information to all affected parties.

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: **221896019-001**
 Application Date: MAY 16, 2016
 Printed: August 18, 2016 at 11:18 AM
 Page: 1 of 2

Application for Minor Development Permit

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

Applicant MITTAL, PIYUSH (PETER) <div style="border: 1px solid black; width: 200px; height: 20px; margin-top: 5px;"></div>	Property Address(es) and Legal Description(s) 3624 - 113B STREET NW Plan 590NY Blk 65 Lot 35 Specific Address(es) Suite: 3624 - 113B STREET NW Entryway: 3624 - 113B STREET NW Building: 3624 - 113B STREET NW
---------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Scope of Application

To construct a 2-story addition to a Single Detached House (rec room, bonus room and bedroom).

Permit Details

of Dwelling Units Add/Remove: 1
 Client File Reference Number:
 Minor Dev. Application Fee: House Addition
 Secondary Suite Included?: Y

Class of Permit: (none)
 Lot Grading Needed?: N
 New Sewer Service Required: N
 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay

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

Applicant signature: _____

Development Application Decision

Refused

Reason for Refusal

- 1) Reduced Rear Setback - The distance from the Single Detached House to the rear property line is 14.18m (39% of site depth) instead of 14.63m (40% of site depth). (Section 814.3.5)
- 2) Basement Elevation - The Basement elevation of a two Storey structure is 1.3m instead of 1.2m (Section 814.3.16)
- 3) Site Coverage - The Single Detached House covers 29% of the site, instead of 28% (Section 110.4.7(a))
- 4) The Development Officer deems the addition to be a Secondary Suite (Reference Section 7.1(3), 7.2(7), and Section 11.2)
- 5) Floor Area - The Floor Area of the Secondary Suite is 110.2m² instead of 70 m² (Reference Section 86.2(b))
- 6) Non-conforming building - This older house no longer conforms to current zoning rules, which may have changed since it was originally constructed.

Rights of Appeal

The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

THIS IS NOT A PERMIT



Project Number: **221896019-001**
Application Date: MAY 16, 2016
Printed: August 18, 2016 at 11:18 AM
Page: 2 of 2

Application for Minor Development Permit

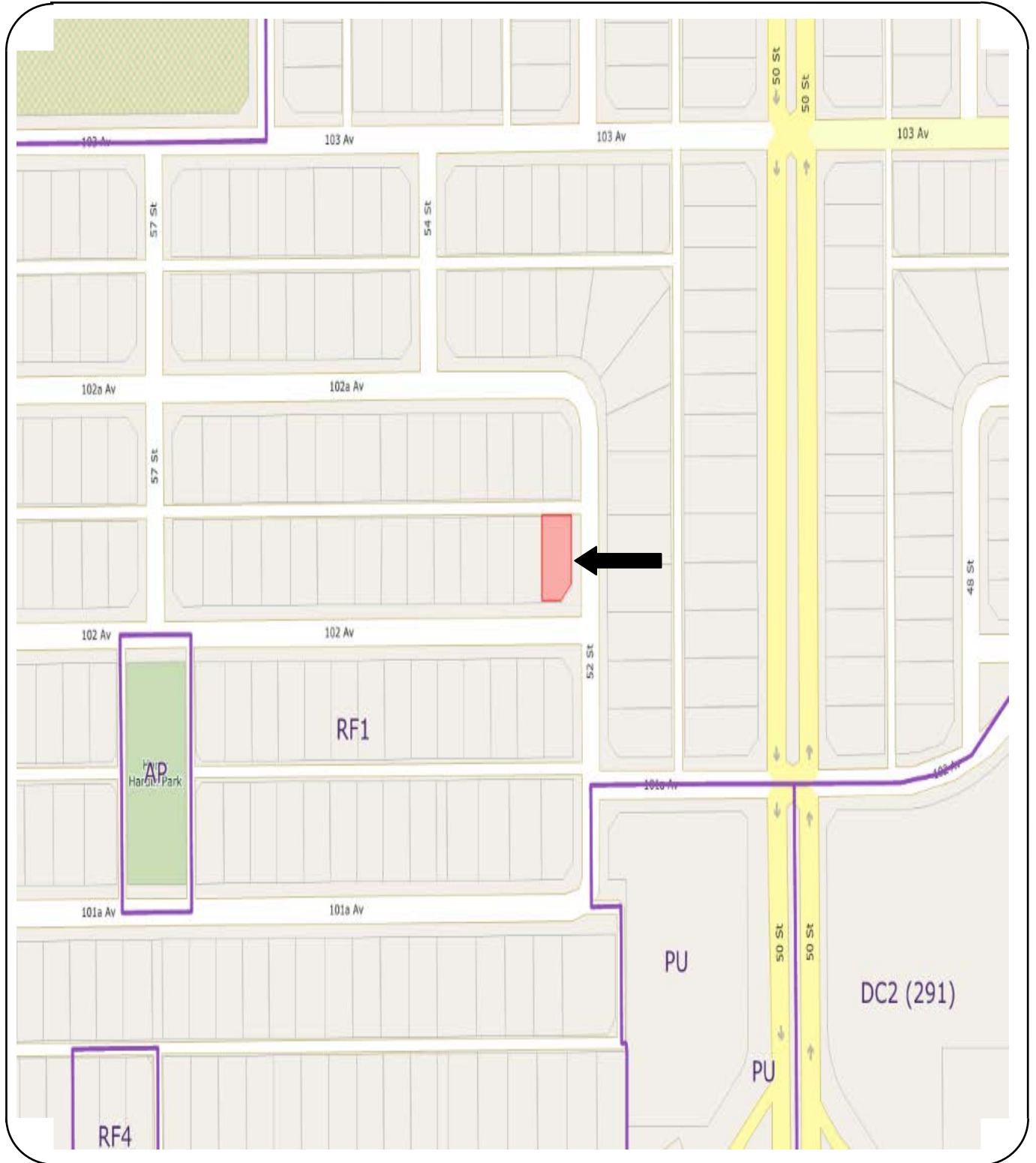
Issue Date: Aug 17, 2016 Development Authority: McARTHUR, JORDAN Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$0.00	\$41.00	03284507	May 16, 2016
Dev. Application Fee	\$393.00	\$393.00	03284507	May 16, 2016
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$393.00	\$434.00		

(overpaid by \$41.00)

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-222



ITEM III: 2:00 P.M.

FILE: SDAB-D-16-223

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 224546084-001

ADDRESS OF APPELLANT: 9925 - Jasper Avenue NW

APPLICATION TO: Install (1) Fascia Off-premises Sign (8 metres by 8 metres -Imagine Outdoor Advertising Ltd.)

WITHDRAWN

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 10, 2016

DATE OF APPEAL: August 22, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9925 - Jasper Avenue NW

LEGAL DESCRIPTION: Plan 4132RS Blk F

ZONE: CCA-Core Commercial Arts Zone

OVERLAY: Special Area Downtown

STATUTORY PLAN: Capital City Downtown Plan

Grounds for Appeal

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

August 22, 2016

To whom it may concern;

Please accept this as notification that we, IMAGINE Outdoor Advertising Ltd. wish to appeal the decision for refusal for the Sign Combo Permit application on the subject site. Although we appreciate the time and consideration which the Development Authority has put into our application, it's our feeling they neglected to consider this proposed advertising within this particular area. Although this proposed sign falls within the boundary as specified by the civic area, the sign will be oriented so that it projects to the area outside of the civic boundary mentioned within the refusal. We also feel that contrary to what's mentioned in the reasons for refusal, the proposed

sign will only enhance the visual aesthetics of a currently bare, vacant building wall. Also the authority neglected to consider allowing us, the applicants, to reduce the overall format of the proposed sign as intended which will help mitigate the separation issues causing visual clutter.

It's our hope by doing so, the board will reconsider all evidence and will overturn the decision for refusal granting the Development Permit for the proposed sign.

Thank you for your consideration and we look forward to the ability to present our case to the board at your earliest convenience.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

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

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

Appeals

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

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

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

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

...

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

...

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

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

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Section 910.5(3)(aa) states a Fascia Off-premises Sign is a **Discretionary Use** in the CCA Core Commercial Arts Zone

Under Section 7.9(1), **Fascia Off-premises Signs** means any Sign painted on or attached to an exterior building wall, or any other permitted structure, on which a two dimensional representation may be placed. The Copy on such a 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 6.2(7), **Fascia Signs** means any Sign painted on or attached to an exterior building wall, or any other permitted structure, on which a two dimensional representation may be placed, so that the Sign does not extend more than 40 cm out from the wall or structure nor beyond the horizontal limits of the wall. Fascia Signs may or may not be permanent. This definition includes banners or any other two dimensional medium.

Section 910.5(4)(g) states Signs shall comply with the regulations found in Schedule 59F.

Section 910.5(1) states the **General Purpose** of the CCA Core Commercial Arts Zone is to provide a Zone for a variety of high density and quality development that accommodates office, retail, service, institutional, residential, arts and entertainment Uses and meet the land use objectives for the Commercial Cultural Core. The intent is to further strengthen the Downtown’s central area by providing continuous retail at Grade, enhancing arts and entertainment activities, accommodating Residential Uses and making the Core more pedestrian friendly.

Sign Prohibition

Section 59F.3(3)(a) states Off-premises Signs are prohibited in the civic centre area bounded by 105 Avenue to the north, the North Saskatchewan River Valley to the south, 97 Street to the east, and 100 Street to the west.

Development Officer’s Determination

The Sign is located within the civic centre area, contrary to Section 59F.3(3)(a).

Sign Extension

Section 59F.3(3)(e) states any Fascia Off-premises Sign shall not extend higher than 75 centimeters above the floor of the third Storey. The top of a Fascia Sign on a one Storey building or two Storey building shall not extend more than 30 centimeters above the building roof or parapet wall.

Development Officer’s Determination

The Sign is located above the fifth Storey of the Building, extending up to 18.5 metres above grade contrary to Section 59F.3(3)(e).

Minimum Separation Distance

Section 59F.3(3)(g) states proposed Sign locations shall be separated from Digital Signs greater than 8.0 square metres or Off-premises Signs as follows:

Proposed Sign Area	Minimum separation distance from Digital Signs greater than 8 square metres or other Off-premises Sign
less than 20 square metres	100 metres
20 square metres to 40 square metres	200 metres
Greater than 40 square metres	300 metres

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

Development Officer's Determination

The Sign is approximately 84 metres from a Freestanding Off-premises Sign at 9873 Jasper Avenue.

Deficient by: 216 metres.

The proposed sign is also approximately 123 metres from a Freestanding Off-premises Sign at 9835 Jasper Avenue, and 176 metres from a Digital Sign at 9797 Jasper Avenue.

This is a deficiency of approximately 177 metres and 124metres respectively.

Additional signs would add to the proliferation of Signage in the area.

Sign Location

Section 59F.3(3)(c) states all proposed Fascia Off-premises Sign locations shall be reviewed in context with the surrounding development, such as (but not limited to): the architectural theme of the area; any historic designations; the requirements of any Statutory Plan; the civic square plan; and any streetscape improvements.

Development Officer's Determination

The Sign is located within 50 metres of the Hotel MacDonald which listed under Municipal Historic Resources and also faces onto an existing Park area with active pedestrian and recreational amenities. As per section 11.1 Capital City Downtown plan every person living and working downtown has access to a publicly accessible Park or open space within the convenient walking distance, not greater than 3 blocks. In the opinion of the Development Officer, the proposed sign would conflict with and negatively impact the daily activities of hotel patrons and residents living in the vicinity.

The Capital City Downtown Plan also encourages:

Unifying Characteristics within Downtown Neighbourhoods Foster a sense of pride and cohesion amongst residents within the downtown neighbourhoods by emphasizing unifying characteristics, such as heritage features, special streetscapes, signage, landscaping and other recognizable features. (Reference Section 5.2 of the Capital City Downtown Plan)

In the opinion of the Development Officer, this Sign does not unify or foster cohesion within the community. The proposed Sign is oriented primarily to Vehicles and has little amenity to pedestrians and residents, and would negatively impact the nearby heritage character and features of the Hotel MacDonald.

<i>Amenities and Character of the Zone</i>

Section 59.2(6) states for all Sign Applications, the Development Officer shall have regard for the scale and architectural character of the building and the land use characteristics of surrounding development. The Development Officer shall refuse any Sign Application that may adversely impact the amenities or character of the Zone.

Development Officer's Determination

The Sign negatively impacts the nearby Hotel, residential areas, and park space. The sign is also very large and is not in keeping with the scale of the horizontal profile of the building, nor is it within the scale of the Downtown, pedestrian oriented character of the area and nearby developments.

Also, as per section 910.4(5)(a) of the Special Area Downtown, the Development Officer shall have regard for visual harmony and the 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. (Reference Section 910.4(5)(a))

The Sign is very large and not in keeping with the design, location, and appearance of other signs on the development. There are no other Fascia signs in the area which have the same scale as the proposed Sign. The Sign is not in keeping with the architectural character of the building, nor is it in visual harmony with the development as the large, lit surface is at odds with the overall character of the building wall.

Notice to Applicant/Appellant

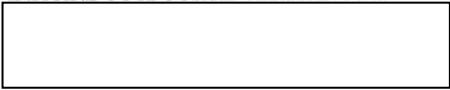
Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of 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: 224546084-001
Application Date: JUN 23, 2016
Printed: August 23, 2016 at 9:21 AM
Page: 1 of 3

Application for Sign Combo Permit

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

Applicant IMAGINE OUTDOOR ADVERTISING LTD 	Property Address(es) and Legal Description(s) 9925 - JASPER AVENUE NW Plan 4132RS Blk F Location(s) of Work Building: 9925 - JASPER AVENUE NW
----------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Scope of Application
To install (1) Fascia Off-premises Sign (8mx8m -Imagine Outdoor Advertising LTD) CCA

Permit Details	
ASA Sticker No./Name of Engineer: Construction Value: 5000	Class of Permit: Expiry Date: 2021-07-07 00:00:00
Fascia Off-premises Sign: 1 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: 0 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: **224546084-001**
 Application Date: JUN 23, 2016
 Printed: August 23, 2016 at 9:21 AM
 Page: 2 of 3

Application for Sign Combo Permit

Reason for Refusal

1. Off-premises Signs are prohibited in the civic centre area bounded by 105 Avenue to the north, the North Saskatchewan River Valley to the south, 97 Street to the east, and 100 Street to the west; (Reference Section 59F.3(3)(a))

The Sign is located within the civic centre area, contrary to Section 59F.3(3)(a).

2. Any Fascia Off-premises Sign shall not extend higher than 75 cm above the floor of the third Storey. The top of a Fascia Sign on a one Storey building or two Storey building shall not extend more than 30 cm above the building roof or parapet wall; (Reference Section 59F.3(3)(e))

The Sign is located above the fifth Storey of the Building, extending up to 18.5m above grade contrary to Section 59F.3(3)(e).

3. Fascia Off-premises Signs greater than 40m² shall be separated from Digital Signs greater than 8.0 m² or Off-premises Signs by a minimum separation distance of 300m. (Reference Section 59F.3(3)(g))

Proposed: The Sign is approximately 84m from a Freestanding Off-premises Sign at 9873 Jasper Avenue
 Deficient by: 216m.

The proposed sign is also approximately 123m from a Freestanding Off-premises Sign at 9835 Jasper Avenue, and 176m from a Digital Sign at 9797 Jasper Avenue.

This is a deficiency of approximately 177m, and 124m respectively.

Additional signs would add to the proliferation of Signage in the area.

4. All proposed Fascia Off-premises Sign locations shall be reviewed in context with the surrounding development, such as (but not limited to): the architectural theme of the area; any historic designations; the requirements of any Statutory Plan; the civic square plan; and any streetscape improvements. (Reference Section 59F.3(3)(c))

The Sign is located within 50 m of the Hotel MacDonald which listed under Municipal Historic Resources and also faces onto an existing Park area with active pedestrian and recreational amenities. As per section 11.1 Capital City Downtown plan every person living and working downtown has access to a publicly accessible Park or open space within the convenient walking distance, not greater than 3 blocks. In the opinion of the Development Officer, the proposed sign would conflict with and negatively impact the daily activities of hotel patrons and residents living in the vicinity.

The Capital City Downtown Plan also encourages:

Unifying Characteristics within Downtown Neighbourhoods Foster a sense of pride and cohesion amongst residents within the downtown neighbourhoods by emphasizing unifying characteristics, such as heritage features, special streetscapes, signage, landscaping and other recognizable features. (Reference Section 5.2 of the Capital City Downtown Plan)

In the opinion of the Development Officer, this Sign does not unify or foster cohesion within the community. The proposed Sign is oriented primarily to Vehicles and has little amenity to pedestrians and residents, and would negatively impact the nearby heritage character and features of the Hotel MacDonald.

5. For all Sign Applications, the Development Officer shall have regard for the scale and architectural character of the building and the land use characteristics of surrounding development. The Development Officer shall refuse any Sign Application that may adversely impact the amenities or character of the Zone (Reference Section 59.2(6)).

The Sign negatively impacts the nearby Hotel, residential areas, and park space. The sign is also very large and is not in keeping with the scale of the horizontal profile of the building, nor is it within the scale of the Downtown, pedestrian oriented character of the area and nearby developments.

Also, as per section 910.4(5)(a) of the Special Area Downtown, the Development Officer shall have regard for visual harmony and the 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. (Reference Section 910.4(5)(a))

THIS IS NOT A PERMIT



Project Number: **224546084-001**
 Application Date: JUN 23, 2016
 Printed: August 23, 2016 at 9:21 AM
 Page: 3 of 3

Application for Sign Combo Permit

The Sign is very large and not in keeping with the design, location, and appearance of other signs on the development. There are no other Fascia signs in the area which have the same scale as the proposed Sign. The Sign is not in keeping with the architectural character of the building, nor is it in visual harmony with the development as the large, lit surface is at odds with the overall character of the building wall.

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.

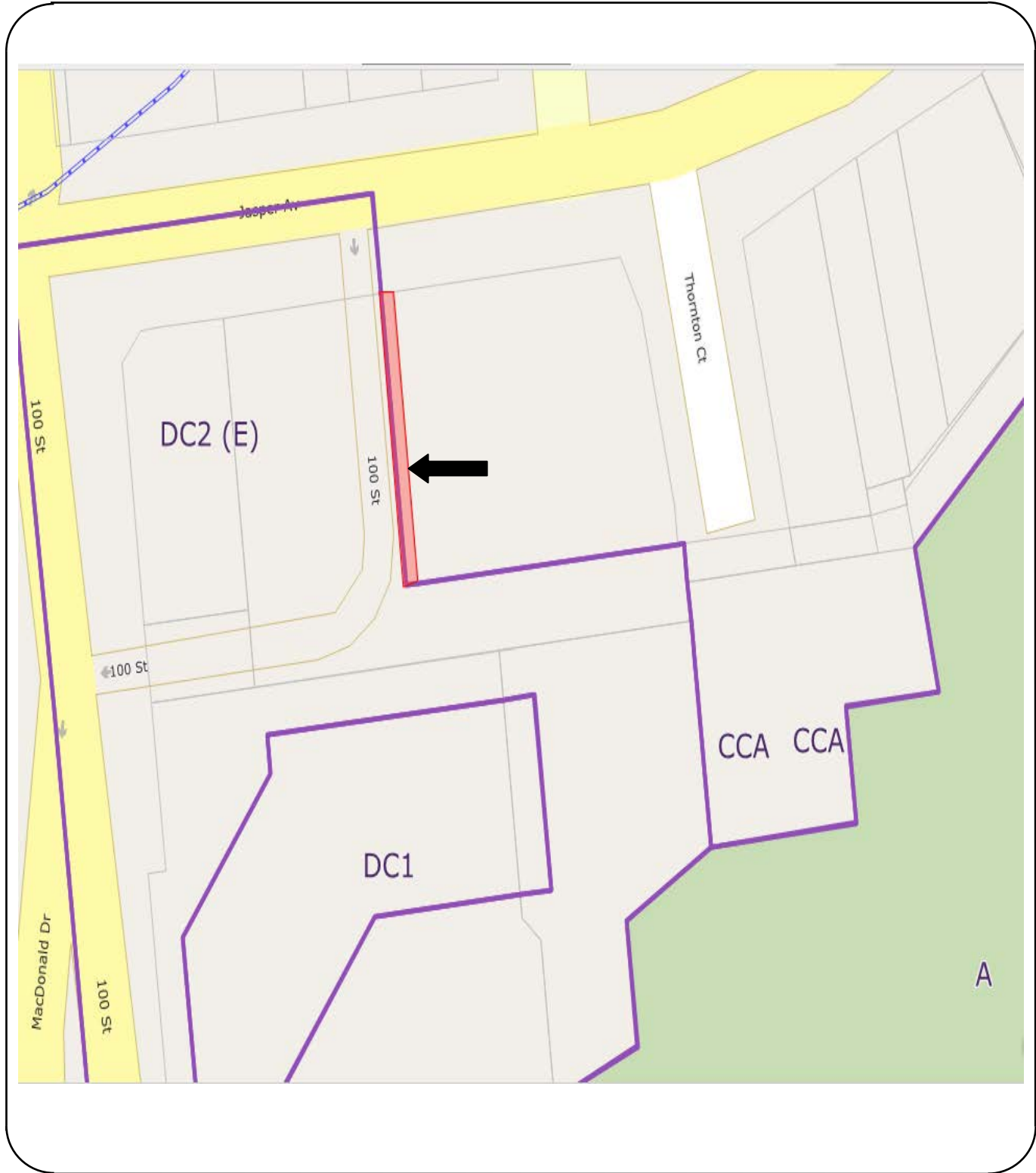
Issue Date: Aug 10, 2016 **Development Authority:** ADAMS, PAUL

Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sign Development Application Fee	\$87.00	\$87.00	03383706	Jun 23, 2016
Safety Codes Fee	\$5.96			
Sign Building Permit Fee	\$149.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$241.96	\$87.00		
(\$154.96 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-223



BUSINESS LAID OVER

SDAB-D-16-204	An appeal to develop a Secondary Suite in the basement of a Single Detached House, existing without permits <i>September 21 or 22, 2016</i>
SDAB-D-16-192	An appeal to change the Use from General Retail to Minor Alcohol Sales (AKP Liquors) <i>September 21 or 22, 2016</i>
SDAB-D-16-213	An appeal to construct a Semi-detached House with front verandas and to demolish the existing Single Detached House <i>September 28 or 29, 2016</i>
SDAB-D-16-214	An appeal to comply with a Stop Order to immediately cease the use of the basement as Secondary Suites and Decommission the Secondary Suite <i>October 5 or 6, 2016</i>
SDAB-D-16-205	An appeal to continue and intensify the use of an existing Protective and Emergency Services Use (Fire Station 21 with a 24/7 crew) and to allow interior and exterior alterations <i>October 6, 2016</i>
SDAB-S-14-001	An appeal to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 <i>October 31, 2016</i>
SDAB-D-16-144	An appeal to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>November 30 or December 1, 2016</i>

APPEAL HEARINGS TO BE SCHEDULED

169544513-002	An appeal to construct an Accessory Building (Shed 1.98m x 4.57 m). <i>September 28 or 29, 2016</i>
188282372-001	An appeal to change the use from general Retail to a Bar and Neighbourhood Pub (maximum of 400 occupants and 691 square metres of Public Space) <i>November 2 or 3, 2016</i>
188283359-001	An appeal to change the use from a Flea Market Use to a Night Club and Major Amusement Establishment (1757 square metres of Public space) <i>November 23 or 24, 2016</i>