

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
September 7, 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-16-213 Construct a Semi-Detached House with front verandas and to demolish the existing Single Detached House.

11921 - 78 Street NW
Project No.: 223352113-001

II 10:30 A.M. SDAB-D-16-214 Immediately cease the use of the basement as Secondary Suites and Decommission the Secondary Suite.

11918 - 124 Street NW
Project No.: 223356733-001

III 1:30 P.M. SDAB-D-16-215 Construct 88 Dwellings of Apartment Housing (4-storey building with underground parkade).

2510 - 104 Street NW
Project No.: 183991152-001

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-16-213

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 223352113-001

ADDRESS OF APPELLANT: 11921 - 78 Street NW

APPLICATION TO: Construct a Semi-Detached House with front verandas and to demolish the existing Single Detached House

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 9, 2016

DATE OF APPEAL: August 16, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11921 - 78 STREET NW

LEGAL DESCRIPTION: Plan 2436AB Blk 9 Lot 22

ZONE: RA7 Low Rise Apartment Zone

OVERLAY: Medium Scale Residential Infill Overlay

STATUTORY PLAN: Coliseum Station Area Redevelopment Plan

Grounds for Appeal

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

- * In the same area already exist similar houses with the same lot area.
- * The construction will leave plenty space for backyard or green areas and garage.

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,

Determining an Appeal

The *Municipal Government Act* states the following:

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.

The Board is advised that the decision of the Development Officer is dated August 9, 2016. The Notice of Appeal was filed on August 16, 2016.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 210.1 states that the **General Purpose** of the **RA7 Low Rise Apartment Zone** is:

... to provide a Zone for Low Rise Apartments.

Under Section 210.3(14), **Semi-detached Housing** is a **Discretionary Use** in the RA7 Low Rise Apartment Zone.

Section 7.2(8) states:

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 Class does not include Secondary Suites or Duplexes.

Section 823.1 states that the **General Purpose** of the **Medium Scale Residential Infill Overlay** is:

... to accommodate the development of medium-scale infill housing in Edmonton's mature residential neighbourhoods in a manner that ensures compatibility with adjacent properties while maintaining or enhancing a pedestrian-friendly streetscape.

Site Area

Section 150.4(2)(a) states:

2. Site Regulations for Semi-detached Housing and Duplex Housing:
 - a. the minimum Site area shall be [442.2 m²](#);

Development Officer's Determination

Site Area - The area of the site is 367.69m² instead of 442.2m² (Section 150.4(2)(a))
[unedited]

Site Width

Section 150.4(2)(b) states:

2. Site Regulations for Semi-detached Housing and Duplex Housing:
 - a. ...
 - b. the minimum Site Width shall be [13.4 m](#), where a Lane exists;

Development Officer's Determination

Site Width- The width of the site is 10.06m instead of 13.4m (Section 150.4(2)(b))
[unedited]

Privacy Screening

Section 47(3) states:

Private Outdoor Amenity Area shall be screened in a manner which prevents viewing into a part of it from any adjacent areas at a normal standing eye level. When such screening would impair a beneficial outward and open orientation of view, and there is no adverse effect on the privacy of the Private Outdoor Amenity Area, the extent of screening may be reduced.

Development Officer's Determination

Private Outdoor Amenity Space - Amenity space shall be screened to prevent viewing into a part of it from any adjacent areas (Section 47.3).
[unedited]

Private Outdoor Amenity Area

Section 47(5) states:

Neither the width nor the length of any Private Outdoor Amenity Area shall be less than 4.0 m, except that if it is provided above the first Storey the minimum dimensions shall be 3.0 m.
[unedited]

Development Officer's Determination

Private Outdoor Amenity Space - Neither the width nor length of any Private Outdoor Amenity Area shall be less than 4.0m (Section 47.5)
[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: **223352113-001**
 Application Date: JUN 07, 2016
 Printed: August 16, 2016 at 10:48 AM
 Page: 1 of 2

Application for Minor Development Permit

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

<p>Applicant</p> <div style="border: 1px solid black; height: 60px; width: 100%;"></div>	<p>Property Address(es) and Legal Description(s) 11921 - 78 STREET NW Plan 2436AB Blk 9 Lot 22</p> <hr/> <p>Specific Address(es) Entryway: 11921 - 78 STREET NW Entryway: 11923 - 78 STREET NW Building: 11921 - 78 STREET NW</p>
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Scope of Application
 To construct a Semi-Detached House with front verandas and to demolish the existing Single Detached House. RAD

<p>Permit Details</p> <p># of Dwelling Units Add/Remove: 1 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N</p>	<p>Class of Permit: (none) Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay</p>
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision
 Refused

Reason for Refusal

Site Area - The area of the site is 367.69m² instead of 442.2m² (Section 150.4(2)(a))

Site Width - The width of the site is 10.06m instead of 13.4m (Section 150.4(2)(b))

Discretionary Use - Semi-detached House is a Discretionary Use (Section 210.3(14)).

Private Outdoor Amenity Space - Amenity space shall be screened to prevent viewing into a part of it from any adjacent areas (Section 47.3).

Private Outdoor Amenity Space - Neither the width nor length of any Private Outdoor Amenity Area shall be less than 4.0m (Section 47.5)

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 09, 2016 **Development Authority:** McARTHUR, JORDAN **Signature:** _____

Fees	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$456.00	\$456.00	03340502	Jun 07, 2016
Lot Grading Fee	\$135.00	\$135.00	03340502	Jun 07, 2016

THIS IS NOT A PERMIT



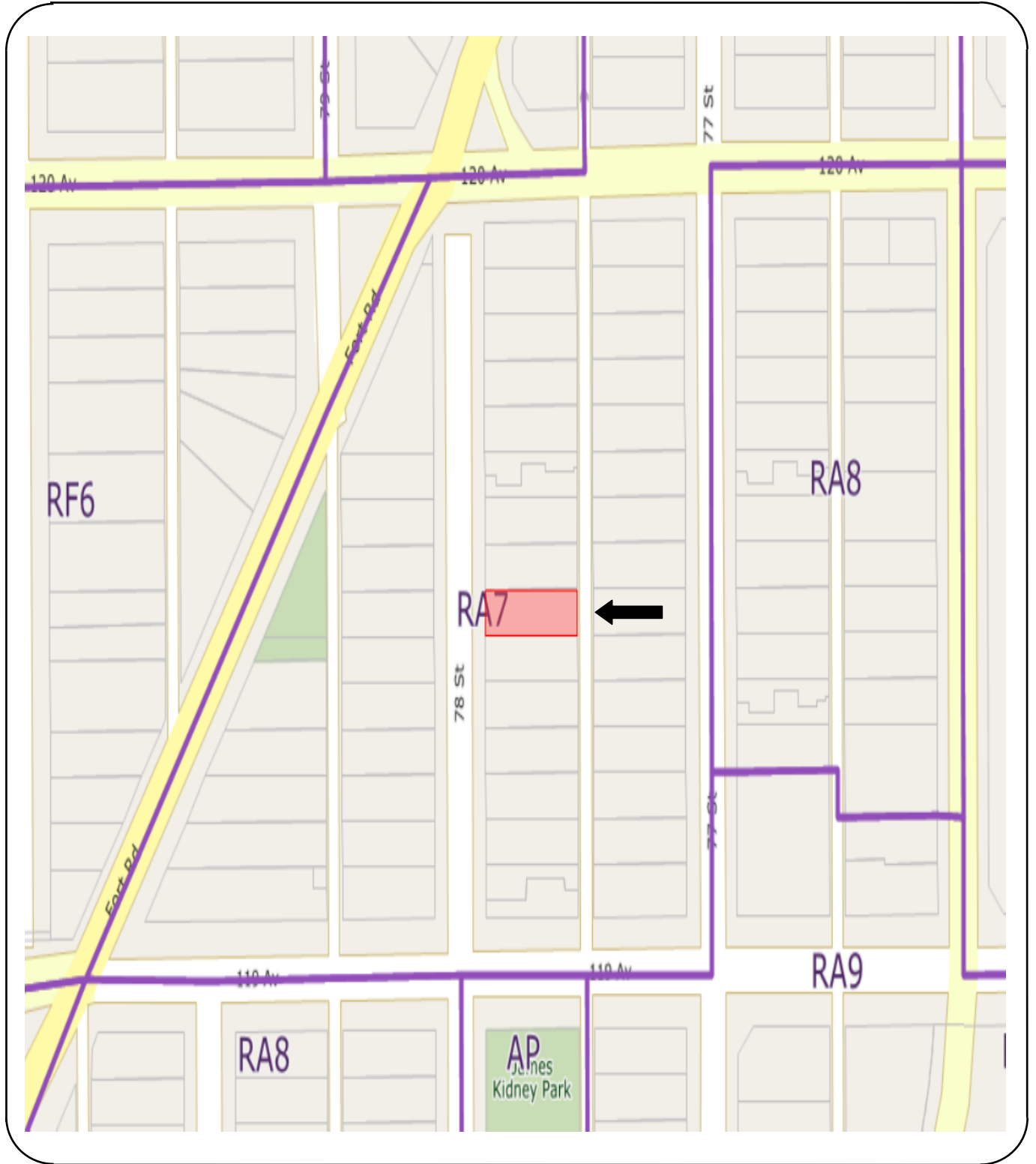
Application for Minor Development Permit

Project Number: **223352113-001**
Application Date: JUN 07, 2016
Printed: August 16, 2016 at 10:48 AM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sanitary Sewer Trunk Fund	\$1,566.00	\$1,566.00	03340502	Jun 07, 2016
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$2,157.00	<u>\$2,157.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-213



ITEM II: 10:30 A.M.

FILE: SDAB-D-16-214

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 223356733-001

ADDRESS OF APPELLANT: 11918 - 124 Street NW

APPLICATION TO: Immediately cease the use of the basement as Secondary Suites and Decommission the Secondary Suite

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: July 22, 2016

DATE OF APPEAL: August 10, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11918 - 124 Street NW

LEGAL DESCRIPTION: Plan RN64 Blk 9 Lot 4

ZONE: RF3 Small Scale Infill Development 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:

- RF3 zone.
- Basement was already developed and tenents in place
- MLS listing.

[unedited]

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,

Determining an Appeal

The *Municipal Government Act* states the following:

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
 - (C) unduly interfere with the amenities of the neighbourhood, or
 - (D) 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.

Stop order

645(1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

The Board is advised that the decision of the Development Officer is dated July 22, 2016. The Notice of Appeal was filed on August 10, 2016.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 5 provides the following with respect to **Approval Required for Development**:

5.1 No Person:

1. shall commence, or cause or allow to be commenced, a Development without a development Permit therefor issued under the provisions of Section 12 of this Bylaw; or
2. shall carry on, or cause or allow to be carried on a development without a Development Permit therefor issued under Section 12 of this Bylaw.

Section 140.1 states that the **General Purpose** of the **RF3 Small Scale Infill Development Zone** is:

...to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four Dwellings, and including Secondary Suites under certain conditions.

Under Section 140.2, **Secondary Suites** is a **Permitted Use** in the RF3 Small Scale Infill Development Zone.

Section 7.2(7) states:

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 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

...to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four Dwellings, and including Secondary Suites under certain conditions.

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*.



MAILING ADDRESS:
5th Floor, 10250 - 101 Street NW
Edmonton, AB T5J 3P4

REGISTERED

July 22, 2016

Our File: 223356733-001



Dear Sir/Madam:

A check with Land Titles Office discloses that you are the registered owner(s) of the property located at 11918 - 124 STREET NW, legally described as Plan RN64 Blk 9 Lot 4.

LAND USE INFRACTION:

This property is zoned RF3 (Small Scale Infill Development Zone) in accordance with Section 140 of the Edmonton Zoning Bylaw.

On July 21, 2016 Development Compliance Officer Brendan Bolstad from the City of Edmonton having Authority to exercise development powers under Section 542 of the Municipal Government Act R.S.A. 2000, conducted an interior land-use inspection of the dwelling noted above.

Our investigation revealed that illegal Secondary Suites have been built at basement level on both sides of the semi-detached dwelling. The City of Edmonton has not issued a development permit to construct Secondary Suites at this property, which is contrary to Section 683 of the Municipal Government Act, R.S.A. 2000, c.M-26.1.

According to section 7.2(7) of the Edmonton Zoning Bylaw 12800:

"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."

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, YOU ARE HEREBY ORDERED TO:

1. Immediately cease the use of the basement as Secondary Suites.

AND

2. Decommission the Secondary Suites. This will include:
 - Removing the keyed lock separation between the upstairs and downstairs floors;
 - Remove the stove, the 220 Volt Outlet that attaches to the stove, and the 220 breaker from the electrical panel associated to the stove;
 - Remove the door, hinges, and jamb that separates the common landing between the floors, and at the entrance of the basement within the dwelling.
 - Obtain a development permit for the existing basement development, or revert the basement back to an undeveloped state.

According to section 150(1)(2) Secondary Suites within a Semi-detached dwelling is neither a permitted nor discretionary Use.

This order is to be complied with on or before August 15, 2016.

The property will be inspected to determine compliance with this Order. Furthermore, an inspection must be scheduled to confirm that the Secondary Suites have been decommissioned. Please contact Arrienne Pineda at 780-944-1420 to schedule a decommissioning inspection to confirm compliance with this notice.

If you require additional assistance due to extenuating circumstances, please contact the writer at (780) 442-7190.

CONSEQUENCES FOR NON-COMPLIANCE:

In the event that a person fails to comply with an Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter on the land and take any action necessary to carry out the Order. Section 553(1)(h.1) of the Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to subsection (2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment. Failure to comply will result in action as described in Section 646.

YOU ARE HEREBY NOTIFIED that if this Order is not complied with by the August 15, 2016 deadline, the City of Edmonton may carry out the Order pursuant to Section 646 by taking any action necessary to ensure that the order has been complied with and all the costs and expenses in doing so will be added to the tax roll pursuant to Section 553(1)(h.1) of the Municipal Government Act R.S.A. 2000.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, R.S.A. 2000, c.M-26.1, which provides you with the right to appeal this Order and enables the City to add all costs associated with this action to the tax roll of the property.

If you have any questions in regards to this matter, please contact the writer at /80-442-/190.

Regards,

Brendan Bolstad
Development and Zoning
Development Services
Phone Number: 780-442-7190
Email Address: Brendan.Bolstad@edmonton.ca

**Adding
Amounts
Owing to tax
roll**

- 553(1)** A council may add the following amounts to the tax roll of a parcel of land:
- (a) unpaid costs referred to in section 35(4) or 39(2) relating to service connections of a municipal public utility that are owing by the owner of the parcel;
 - (b) unpaid charges referred to in section 42 for a municipal utility service provided to the parcel by a municipal public utility that are owing by the owner of the parcel;
 - (c) unpaid expenses and costs referred to in section 549(3), if the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or a part of the parcel;
 - (d), (e) repealed 1999 c11 s35;
 - (f) costs associated with tax recovery proceedings related to the parcel;
 - (g) if the municipality has passed a bylaw making the owner of a parcel liable for expenses and costs related to the municipality extinguishing fires on the parcel, unpaid costs and expenses for extinguishing fires on the parcel;
 - (g.1) if the municipality has passed a bylaw requiring the owner or occupant of a parcel to keep the sidewalks adjacent to the parcel clear of snow and ice, unpaid expenses and costs incurred by the municipality for removing the snow and ice in respect of the parcel;
 - (h) unpaid costs awarded by a composite assessment review board under section 468.1 or the Municipal Government Board under section 501, if the composite assessment review board or the Municipal Government Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the composite assessment review board or the Municipal Government Board was related to the parcel;
 - (h.1) the expenses and costs of carrying out an order under section 646;
 - (i) any other amount that may be added to the tax roll under an enactment.

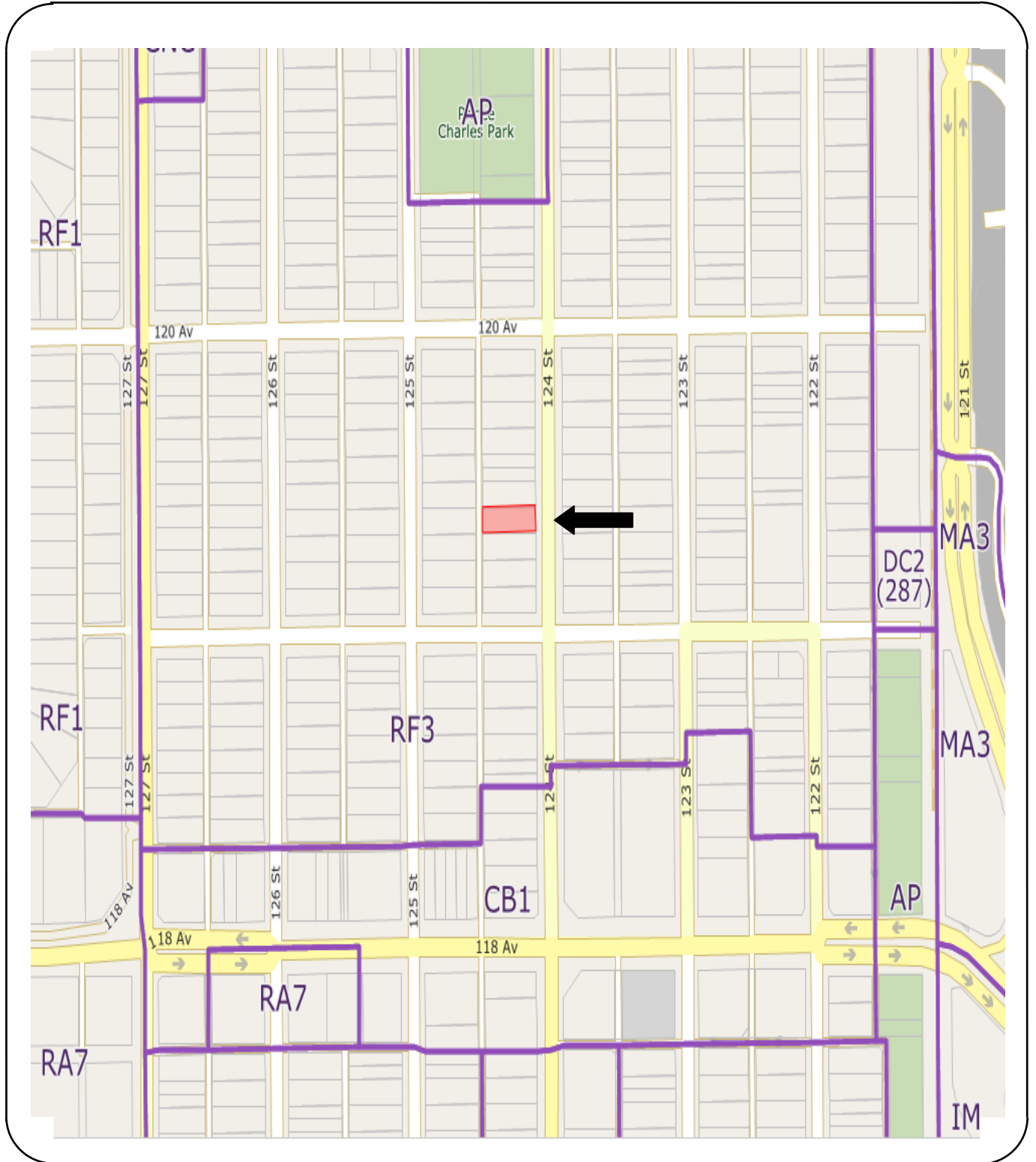
Stop order

- 645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
- (a) this Part or a land use bylaw or regulations under this Part, or
 - (b) a development permit or subdivision approval,
- the development authority may act under subsection (2).
- (2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
 - (b) demolish, remove or replace the development, or
 - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval, within the time set out in the notice.
- (3)** A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

**Enforcement of
stop order**

- 646(1)** If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.
- (2)** A municipality may register a caveat under the Land Titles Act in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.

- Permit**
- (3)** If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.
- 683** Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.
- 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
 - (ii) if no decision is made with respect to the application within the 40-day period or within any extension under section 684, the date the period or extension expires,
- 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.
- (2)** The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
- (3)** The subdivision and development appeal board must give at least 5 days' notice in writing of the hearing
- (a) to the appellant,
 - (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
 - (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.
- (4)** The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
- (a) the application for the development permit, the decision and the notice of appeal, or
 - (b) the order under section 645.
- (5)** In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-214



ITEM III: 1:30 P.M.

FILE: SDAB-D-16-215

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

APPELLANT:

APPLICATION NO.: 183991152-001

ADDRESS OF APPELLANT: 2446 - 104 Street NW

APPLICATION TO: Construct 88 Dwellings of Apartment Housing (4-storey building with underground parkade)

DECISION OF THE DEVELOPMENT AUTHORITY: Appr. with Notices

DECISION DATE: July 19, 2016

DATE OF APPEAL: August 5, 2016

NOTIFICATION PERIOD: Jul 26, 2016 through Aug 10, 2016

RESPONDENT:

ADDRESS OF RESPONDENT: 2510 - 104 Street NW

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2510 - 104 Street NW

LEGAL DESCRIPTION: Plan 1621366 Blk 25 Lot 11

ZONE: (DC1) Direct Development Control Provision – Ermineskin (17414)

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

Summary of why I am Appealing the approved Development:

- This neighborhood is extremely populated already- a huge number of townhouses (estimated 50-70) in the span of the 2 blocks around the proposed development. There is already a noise issue because of the dense population.
- The roads are in extremely poor shape because of the high volume of traffic – another 88-160 (if each condo had 2 occupants) people in the area would make this worse
- Other concerns include a reduction in property worth
- The potential of structural (foundation) damage to all townhouses in this area when this building and the underground parkade is excavated and built.
- Adding to an already densely populated area WILL force home owners in this area (myself included) to sell their homes. Why push established people away from an area by adding more people to an area?

I am a resident of the Ermineskin neighborhood. I purchased my first home (a townhouse) here in December 2014. My property backs directly onto the space where this new development is scheduled to be built.

I am highly against the development of an 88 dwelling apartment building with underground parking. This area is already way too densely populated. The only reprieve we have in the area of dense population is this area in question that is currently empty. I realize this area is not a “Green space”, that it’s owned by a large company. But there must be another way they can make money on it.

This neighborhood is extremely populated already- there is no parking on the streets, people and children everywhere on a VERY busy road. The sheer number of townhouses in the area is huge- there are approximately 50-70 townhouses surrounding the area in question (span of 1-2 blocks.) There is also a huge Boardwalk rental building. This makes for a loud and busy area.

The roads are in extremely poor shape because of the volume of traffic. I can't imagine another 88 units in the area. If more homes are added, this area will be too crowded and I will definitely sell my house. Others in this area feel the same way.

I attended an Ermineskin community league information meeting on Tuesday, June 23, 2015. During this meeting, the developers kept referencing “Edmonton-growing in, instead of out”- ie. building extra dwellings in “empty” lots. They spoke of this as if it would improve the area. They may be adding 88 dwellings, but the important part is that this development will lead to many home sales in the area. Is that growth? I think not. Every person who lives in this area who attended this information session voiced VERY LOUDLY their opposition to this development. Everyone was angry and upset that an area we have called our home was going to be reduced in terms of property worth and living enjoyment.

Other concerns include a reduction in property worth, and structural foundation damage to all townhouses in this area when the underground parkade is excavated and built.

If this development goes forward, it will push many home owners out of this neighborhood –myself included.

[unedited]

<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.

685(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

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

Direct Control Districts

The *Municipal Government Act* states:

Designation of direct control districts

641(1) The council of a municipality that has adopted a municipal development plan, if it wishes to exercise particular control over the use and development of land or buildings within an area of the municipality, may in its land use bylaw designate that area as a direct control district.

(2) If a direct control district is designated in a land use bylaw, the council may, subject to any applicable statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary.

(3) In respect of a direct control district, the council may decide on a development permit application or may delegate the decision to a development authority with directions that it considers appropriate.

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

(a) is made by a council, there is no appeal to the subdivision and development appeal board, or

(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.

Determining an Appeal

The *Municipal Government Act* states the following:

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.

The Board is advised that the decision of approval by the Development Officer is dated July 19, 2016. The Notice of Appeal was filed on August 5, 2016.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 1 of (DC1) Direct Development Control Provision – Ermineskin (17414) states that the **General Purpose** of the (DC1) Ermineskin provision is:

...to accommodate a medium density residential development that provides for an active and inviting pedestrian oriented streetscape facing onto 26 Avenue and 104 Street.

Under Section 3(a) of DC1 Direct Development Control Provision - Ermineskin (17414), **Apartment Housing** is a listed Use.

Section 7.2(1) states:

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

Discretionary Development

Section 710.3 states:

A Development Permit may be issued for those Uses prescribed for the land, in an approved Area Redevelopment Plan, or those Uses consistent with its designation under the Historical Resources Act.

Development Officer's Determination

Discretionary Development - The Site is designated Direct Control (Direct Control (DC1) - (DC1 Ermineskin).

[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: 183991152-001
Application Date: DEC 07, 2015
Printed: August 5, 2016 at 10:11 AM
Page: 1 of 4

Major Development Permit

This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.

Applicant



Property Address(es) and Legal Description(s)

2510 - 104 STREET NW
Plan 1621366 Blk 25 Lot 11

Specific Address(es)

Entryway: 2510 - 104 STREET NW
Building: 2510 - 104 STREET NW

Scope of Permit

To construct 88 Dwellings of Apartment Housing (4-storey building with underground parkade).

Permit Details

Class of Permit: Class B
Gross Floor Area (sq.m.): 8418.13
New Sewer Service Required: Y
Site Area (sq. m.): 5969.3

Contact Person:
Lot Grading Needed?: Y
NumberOfMainFloorDwellings: 22
Stat. Plan Overlay/Annex Area: (none)

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

Applicant signature: _____

Development Permit Decision

Approved.

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



Project Number: **183991152-001**
 Application Date: DEC 07, 2015
 Printed: August 5, 2016 at 10:11 AM
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Major Development Permit

Subject to the Following Conditions

This Development Permit authorizes the proposed development to construct 88 Dwellings of Apartment Housing (4-storey building with underground parkade).

The Site shall be developed in accordance with the stamped, signed, and conditionally approved drawings.

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

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

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

A minimum of one development permit notification sign on Site must be posted by the applicant in accordance with Section 20.2 of this Bylaw. (Reference Section 15.9).

Landscaping shall be in accordance to the approved landscape plan, Section 55 and to the satisfaction of the Development Officer.

Prior to occupancy of the development, the applicant shall request an inspection by the Development Officer to identify deficiencies in meeting development permit conditions. The Development Office shall conduct an inspection and document and advise the applicant of any deficiencies. At the discretion of the Development Officer and if the deficiencies are minor, occupancy may be granted subject to the applicant providing security to cover the estimated cost of deficiencies. Only the following forms of security are acceptable:

- cash to a value equal to 100% of the estimated cost of deficiencies; or
- an irrevocable Letter of Credit in the amount of 100% of the cost.

Upon correction of the deficiencies and upon request by the owner or the owner's representative, a portion of the Letter of Credit shall be released if the required deficiencies are corrected. A maintenance cost of 20% of the overall Landscape Security will be withheld for two full growing seasons to ensure the landscaping has been maintained and is in a healthy condition.

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Sanitary Sewer Trunk Charge fee of \$98,384.00. The SSTC charge is quoted at year 2016 rate. Please contact Private Development, Drainage Services, at 780-496-5665 for further details regarding the fee. However, the final SSTC is based on the prevailing rate at the time the applicant/owner makes payment at the 5th Floor cashiers, Sustainable Development, 10250 - 101 Street NW.

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Notification Fee of \$100.00.

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, a Crime Prevention Through Environmental Design (CPTED) assessment prepared by a qualified security consultant must be submitted to the Development Officer.

Signs shall be in accordance with the regulations found in Schedule 59B. (Bylaw 17414 Section 4(m))

PRIOR TO THE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide confirmation in a form to the satisfaction of the Development Officer, that a contribution in the amount of \$50,000 was submitted to the Ermineskin Community League for an offsite amenity in lieu of public art. (Bylaw 17414 Section 4(o))

ADVISEMENTS:

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

An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not constitute a guarantee or warranty of any kind, and it does not constitute a commitment to any specific action or inaction by the City of Edmonton.

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



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Major Development Permit

Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

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

Signs require separate Development Applications.

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

TRANSPORTATION CONDITIONS:

1. The proposed 8 m access to 26 Avenue located approximately 49 m from the west property line, is acceptable to Transportation Development Engineering and must be constructed as a commercial crossing access, as shown on Enclosure I.

2. The proposed 8 m access to 104 Street located approximately 25 m from the north property line, is acceptable to Transportation Development Engineering and must be constructed as a commercial crossing access, as shown on Enclosure I.

3. The owner must enter into a Municipal Improvement Agreement with the City for the following improvements:

a) construction of a 8 m commercial crossing access to 26 Avenue located 49 m from the west property line; and

b) construction of a 8 m commercial crossing access to 104 Street located 25 m from the north property line.

Engineering Drawings are not required for this Agreement. However, construction must meet the City of Edmonton Design and Construction Standards. The Municipal Improvement Agreement must be signed PRIOR to the release of the drawings for Building Permit review. The Agreement must be signed by the property owner and returned to Transportation Development Engineering to the attention of Loli Fernandez (780-944-7683) or Annie Duong (780-496-1799) including an irrevocable Letter of Credit in the amount of \$19,000.00 to cover 100% of construction costs. The Agreement will be forwarded directly to the owner for his signature.

4. There are two (2) existing street light poles in the vicinity of the proposed accesses, as shown on Enclosure I. The access to 104 Street must maintain a minimum clearance of 0.9 m from the street light, (based on approval by Epcor) and the access to 26 Avenue must maintain a clearance of 1.5 m from the street light. Should relocation of any of the street light poles be required, all costs associated with relocation must be borne by the owner/applicant. The applicant must contact Joseph Dublenko at 780-412-3248 of EPCOR Technology & Meter Services prior to construction.

5. A sidewalk connection must be provided from the building to the public sidewalk on 26 Avenue and 104 Street to provide connectivity and increase walkability, as shown on Enclosure I.

6. Any underground parking access card devices must be located on site, a minimum of 3 m inside the property line.

7. A minimum 12 m radius (measured at the centre of the road) is required for the corners of the internal roadway to accommodate the turning requirements for emergency response vehicles, as shown on Enclosure I.

8. Garbage bins must be located so that all turning maneuvers for the waste management vehicles are accommodated on site.

9. There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted

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



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Major Development Permit

at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.

10. Any sidewalk or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Development Engineering, as per Section 15.5(f) of the Zoning Bylaw. The sidewalks and boulevard will be inspected by Transportation Development Engineering prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.

11. Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at:
http://www.edmonton.ca/bylaws_licences/licences_permits/oscam-permit-request.aspx

TRANSPORTATION ADVISEMENTS:

1. Given the proposed walkway connection through the site across the path of the parkade entrance, a warning device should be installed at the parkade entrance to alert pedestrians when a vehicle is exiting the parkade. Pedestrian signage to this effect should be installed at this location, as shown on Enclosure I.
2. Residential Sales Trailers require a separate development permit. Construction trailers must be located on private property or within the hoarded area.
3. Vehicular and bicycle parking should meet the requirements of the Zoning Bylaw.
4. Transportation Development Engineering has no objection to the proposed tandem parking stalls located in the parkade. The proposed tandem parking stalls should be designated for the two bedroom suites.
5. Upon future subdivision of the subject property, cross-lot access agreements will be required to maintain access to the surrounding roadways. The agreement should be registered on all lots to ensure access in perpetuity.

Variances

Discretionary Development - The Site is designated Direct Control (Direct Control (DC1) - (DC1 Ermineskin).

Rights of Appeal

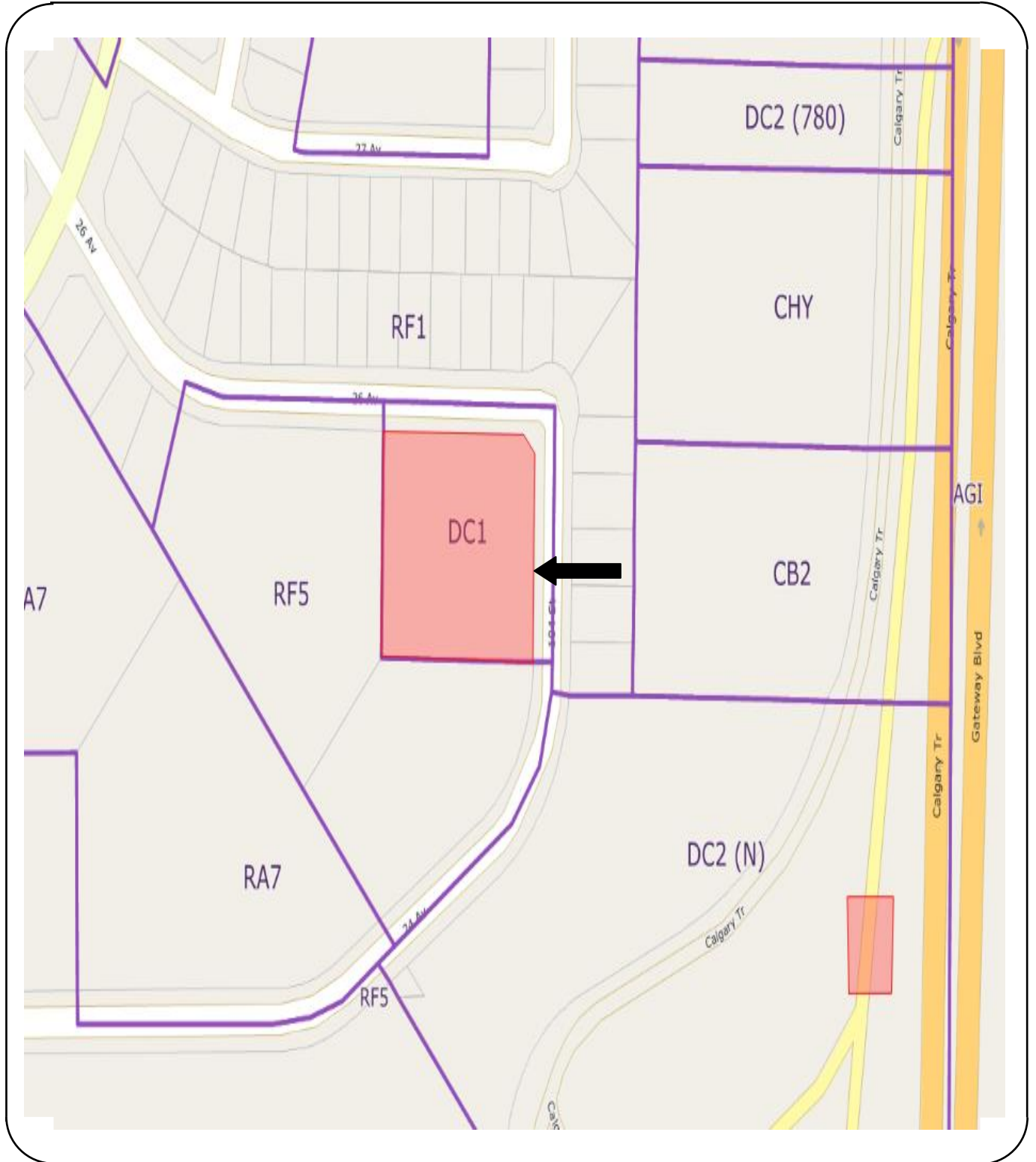
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Jul 19, 2016 **Development Authority:** ANGELES, JOSELITO **Signature:** _____
Notice Period Begins: Jul 26, 2016 **Ends:** Aug 10, 2016

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sanitary Sewer Trunk Fund 2012+	\$98,384.00			
Major Dev. Application Fee	\$770.00	\$770.00	02970083	Dec 23, 2015
Lot Grading Fee	\$1,430.00	\$1,430.00	02970083	Dec 23, 2015
Dev. Application Fee # of dwelling units	\$5,712.00	\$5,712.00	02970083	Dec 23, 2015
DP Notification Fee	\$100.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$106,396.00	\$7,912.00		
(\$98,484.00 outstanding)				

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-215



BUSINESS LAID OVER

SDAB-D-16-204	An appeal by <u>Omer Moyen</u> 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 by <u>Vishal Kapoor</u> to change the Use from General Retail to Minor Alcohol Sales (AKP Liquors) <i>September 21 or 22, 2016</i>
SDAB-D-16-205	An appeal by <u>Rossdale Community League & Gabe Shelley VS Edmonton Fire Rescue Services</u> 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 by <u>Stantec Consulting Ltd.</u> 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 by <u>Kiewit Energy Canada Corp</u> 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 by <u>Michael Skare</u> to construct an Accessory Building (Shed 1.98m x 4.57 m). <i>September 28 or 29, 2016</i>
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