

SUBDIVISION

AND

DEVELOPMENT APPEAL BOARD

AGENDA

Thursday, 9:00 A.M.
March 13, 2025

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

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

TO BE RAISED

I 9:00 A.M. SDAB-D-25-031

Josh Spurrell Professional Corporation

Pursuant to Section 645 of the Municipal Government Act, RSA 2000, c M-26, you are hereby ordered to:

1. ACQUIRE a Development Permit for the Minor Industrial Use (commercial vehicles, commercial equipment, vehicle storage, pipe, siding, fencing, vehicle parts, wood, cardboard, additions, and other commercial materials by February 20, 2025.

OR

2. CEASE the Minor Industrial Use by removing all the commercial vehicles, commercial equipment, vehicle storage, pipe, siding, fencing, vehicle parts, wood, cardboard, additions, and other commercial materials from the site by February 20, 2025.

9814 - 210 Street NW
Project No.: 508785236-001

TO BE RAISED

II 9:00 A.M. SDAB-D-25-032

Josh Spurrell Professional Corporation

Pursuant to Section 645 of the Municipal Government Act, RSA 2000, c M-26, you are hereby ordered to:

1. ACQUIRE a Development Permit for the eight accessory buildings (quonsets and sea cans over 10 m2 in area) by February 20, 2025.

OR

2. REMOVE the eight accessory buildings (quonsets and sea cans over 10 m2 in area) and all related materials from the site by February 20, 2025.

9814 - 210 Street NW
Project No.: 508785236-002

TO BE RAISED

III 1:30 P.M. SDAB-D-25-007

To construct exterior alterations (Driveway extensions, right side: 2.66m x 12.50 m; left side: 1.16 m x 5.55m, and hardsurfacing in the rear yard)

17432 - 90 Street NW
Project No.: 526992090-002

NOTE: *Unless otherwise stated, all references to "Section numbers" in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

TO BE RAISED

ITEM I: 9:00 A.M.

FILE: SDAB-D-25-031

**AN APPEAL FROM THE DECISION OF THE DEVELOPMENT COMPLIANCE
OFFICER**

APPELLANT: Josh Spurrell Professional Corporation

APPLICATION NO.: 508785236-001

ORDER TO: Pursuant to Section 645 of the Municipal Government
Act, RSA 2000, c M-26, you are hereby ordered to:

1. ACQUIRE a Development Permit for the Minor
Industrial Use (commercial vehicles, commercial
equipment, vehicle storage, pipe, siding, fencing, vehicle
parts, wood, cardboard, additions, and
other commercial materials by February 20, 2025.

OR

2. CEASE the Minor Industrial Use by removing all the
commercial vehicles, commercial equipment, vehicle
storage, pipe, siding, fencing, vehicle parts, wood,
cardboard, additions, and other commercial materials
from the site by February 20, 2025.

DECISION OF THE
DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: January 14, 2025

DATE OF APPEAL: February 4, 2025

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 9814 - 210 Street NW

LEGAL DESCRIPTION: Plan 5496HW Lot 28

ZONE: RR - Rural Residential Zone

OVERLAY: N/A

STATUTORY PLAN(S): Lewis Farms Area Structure Plan
 Lewis Farms Business Employment Neighbourhood
 Structure Plan

DISTRICT PLAN: West Henday District Plan

<i>Grounds for Appeal</i>

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

Grounds of Appeal:

1. The impugned use is legal non-conforming;
2. Further and alternatively, the implementation of more restrictive uses on the Lands is conditional on services having been provided to the Lands. Those services have not been provided.

Background Facts:

1. Josh Spurrell Professional Corporation is a professional corporation duly incorporated in the Province of Alberta. ("JSPC"). JSPC is the Appellant in this matter.
2. JSPC owns the lands municipally described as 9814-210 Street NW, Edmonton, Alberta, Canada. The land is also legally described as Plan 5496HW Lot 28 (the "Lands").
3. The Lands were purchased by JSPC on June 15, 2021.
4. Prior to the transfer of the Lands to JSPC, the lands were used for outdoor storage and transshipping materials, goods and equipment as a permitted use of the Lands. The Lands have continued to be used for this purpose since the Lands were transferred to JSPC.
5. At the time of purchase the Lands were subject to Neighbourhood Structure Plan 19040 (the "NSP").
6. On or about October 2023 a new general City of Edmonton zoning bylaw, Zoning Bylaw 20001 was passed (the "Zoning Bylaw"). The bylaw became effective on January 1, 2024.

7. The Zoning Bylaw changed the zoning which governs the Lands to Rural Residential.

8. At the time of the new bylaw, the Lands' use was unchanged. The Lands continued to be used as permitted by the NSP.

9. On or about January 9, 2025 a bylaw officer inspected the Lands. On January 14, 2025, stop order number 508785236-001 was issued regarding the use of the Lands. The stop order specifically called for the cease of use of the Lands which had currently and historically been used.

The outdoor storage use is legal non-conforming use:

10. The NSP outlines the history of the Lands including:

a. In 2001, the City of Edmonton adopted the general Edmonton Zoning Bylaw 12800. The lands were designated as Industrial Business Zoning and Agricultural Industrial Zoning. The permitted uses include temporary outdoor storage and general industrial uses which includes the outdoor storage and transshipping of materials, goods and equipment.

b. The lands were only recently changed to Rural Residential use pursuant to the Zoning Bylaw 20001, which became effective on January 1, 2024.

11. Section 643(1) of the Municipal Government Act, RSA 2000, c M-26 allows a nonconforming use to continue if a development permit was issued before a bylaw change that would make the use non-conforming. The use of the Lands as outdoor storage and for minor industrial use which were properly permitted prior to the Zoning Bylaw.

12. Section 643(2) qualifies the continuation of non-conforming use, stating that if the nonconforming use is ceased for more than six consecutive months, the non-conforming use ceases to be allowed under subsection 1. The current minor industrial use is continuous and has not been interrupted for more than six consecutive months therefore not triggering section 643(2).

13. The Lands are continued to be a legal non-conforming use. The stop order was improperly decided on the new Rural Residential Zoning without considering the legal non-conforming persisting use.

The NSP prevails over general zoning laws:

14. Pursuant to the NSP, the Lands are compliant with the applicable bylaws because they have not yet been serviced. The more restrictive uses under which the City of Edmonton issued the stop order do not take effect until the Lands are serviced.

15. NSP Section 3.5.6 states that the City of Edmonton will support development through servicing solutions that are cohesive and efficient. The services include sanitary and stormwater servicing, water servicing and shallow utilities servicing. These services have not yet been completed to and on the Lands.

16. NSP Section 3.5.8 categorizes the NSP as a transitional planning document. Policy 19.1 suggests that the Plan is to support individual landowners in their rezoning of their parcels when they wish to do so. The owner of the Lands currently wishes to continue to use the Lands until servicing is completed by the City to the Parcel.

17. The general zoning bylaw is in conflict with the current NSP. Although the current Zoning Bylaw states that the parcel is governed by Rural Residential zoning, the more specific NSP must be interpreted to prevail.

18. Specificity is favoured over general planning when determining conflict of bylaw wordings. Thus, the NSP's wording of allowing for the current uses of the properties must prevail. The general zoning bylaw cannot force the rezoning of the Lands without providing the servicing promised under the NSP.

19. The Stop Order was improperly issued as the Zoning Bylaw cannot extinguish prior legal non-conforming uses.

Remedy Sought:

20. The Appellant asks the Sub-division Appeals Board to dismiss the Stop Order in its entirety and allow for the continued use of the Lands as outdoor storage as a persisting nonconforming use.

21. In the alternative, the Appellant asks the Sub-Division Appeals Board to dismiss the Stop Order in its entirety due to the City of Edmonton's lack of authority to make the Order due to servicing not being in place pursuant to the NSP.

22. The Appellant asks for costs of this action on a client and own solicitor basis.

23. The Appellant asks for such further and other relief as this Sub-Division Appeals Board finds just and/or equitable in the circumstances.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board (“SDAB”) made and passed the following motion on February 6, 2024:

“That both appeal hearings be scheduled on March 13, 2025 at the request of Legal Counsel for the property owner.”

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

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.

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

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

Permit

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 the decision in accordance with subsection (2.1).

...

(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 the decision in accordance with subsection (2.1).

(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 or the application for the development permit was deemed to be refused under section 683.1(8).

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
 - or
 - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

687(3) In determining an appeal, the board hearing the appeal referred to in subsection (1)

...

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

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

Non-conforming use and non-conforming buildings

643(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.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

General Provisions from the Zoning Bylaw 20001:

A **Minor Industrial Use** is **NOT** a Permitted Use in the **RR- Rural Residential Zone (Section 2.60.2)**.

Under section 8.10, a **Minor Industrial** means:

a development used primarily for 1 or more of the following activities:

- processing raw materials;
- manufacturing, cleaning, servicing, repairing or testing materials, goods and equipment;
- handling, storing, or shipping equipment, goods, and materials;
- training, research and development laboratories; or
- distributing and selling materials, goods and equipment to institutions and industrial and commercial businesses.

Any resulting Nuisance is less impactful than those permitted under the Major Industrial Use.

Typical examples include: auto body repair and paint shops, Cannabis Production and Distribution, commercial recycling depots, contractor and construction services, equipment or vehicle repair and storage facilities, laboratories, landscaping centres, limo service, materials storage, research facilities, taxi service, truck yard, vehicle (truck, aircraft, mobile homes, etc.) and equipment sales and rentals, and warehouses.

Section 2.60.1 states that the **Purpose** of the **RR- Rural Residential Zone** is “To allow for rural residential development while prohibiting further subdivision of rural residential lands.”

<i>7.110 Approvals Required and Development Categories</i>

Section 7.110.1 states:

1. Approval Required for Development

1.1. No person may:

1.1.1. undertake, or cause or allow to be undertaken, a development; or

1.1.2. carry on, or cause or allow to be carried on, a development,

without a Development Permit issued under this Section.

<i>7.200 Inspections, Enforcement and Penalties</i>
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Section 7.200.2.2 states:

2. General Offences

2.2. If a Development Permit is required but has not been issued or is not valid under this Bylaw, it is an offence for any person to:

2.2.1. construct a building or structure;

2.2.2. make an addition or alteration to a building or structure;

2.2.3. commence or undertake a Use or change of intensity of Use; or

2.2.4. place a Sign on land, or on a building or structure.

Notice to Applicant/Appellant

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



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January 14, 2025

Our Files: 508785236-001 (Minor Industrial Use)

MUNICIPAL GOVERNMENT ACT ORDER

Dear Sir/Madam:

An Alberta Land Titles search identifies you as the registered owner(s) of the property located at 9814-210 Street, NW in Edmonton, Alberta, legally described as Plan 5496HW, Lot 28.

This Property was inspected by Development Compliance Officer Nicole Swain, on January 9, 2025. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 of the Municipal Government Act.

ZONING BYLAW INFRACTION:

This property is zoned RR (Rural Residential Zone) in accordance with Section 2.60 of Edmonton Zoning Bylaw 20001. Our investigation revealed a Minor Industrial Use (commercial vehicles, commercial equipment, vehicle storage, pipe, siding, fencing, vehicle parts, wood, cardboard, additions, and other commercial materials) that have been developed on the site without a Development Permit.

The City of Edmonton has not issued a Development Permit to develop a Minor Industrial Use which is contrary to Subsection 7.110.1 of the Edmonton Zoning Bylaw 20001, and Section 683 of the Municipal Government Act.

Subsection 7.110.1 of Edmonton Zoning Bylaw 20001 states:
Approval Required for Development

1.1. No person may: 1.1.1. undertake, or cause or allow to be undertaken, a development; or



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1.1.2. carry on, or cause or allow to be carried on, a development, without a Development Permit issued under this Section.

Subsection 7.200.2.2 of Edmonton Zoning Bylaw 20001 states:

2.2. If a Development Permit is required but has not been issued or is not valid under this Bylaw, it is an **offence** for any person to:

2.2.1. construct a building or structure;

2.2.2. make an addition or alteration to a building or structure;

2.2.3. commence or undertake a Use or change of intensity of Use; or

2.2.4. place a Sign on land, or on a building or structure.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, RSA 2000, c M-26, you are hereby ordered to:

1. ACQUIRE a Development Permit for the Minor Industrial Use (commercial vehicles, commercial equipment, vehicle storage, pipe, siding, fencing, vehicle parts, wood, cardboard, additions, and other commercial materials by **February 20, 2025**.

OR

2. CEASE the Minor Industrial Use by removing all the commercial vehicles, commercial equipment, vehicle storage, pipe, siding, fencing, vehicle parts, wood, cardboard, additions, and other commercial materials from the site by **February 20, 2025**.

CONSEQUENCES FOR NON-COMPLIANCE:

The property will be inspected after February 20, 2025 to determine compliance with this Order.

In the event that a person fails to comply with this Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter the land and take any action necessary to carry out the Order. Section 646 authorizes the City to register a caveat under the Land Titles Act.

Section 553(1)(h.1) of the Municipal Government 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 566(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.

Affected persons may appeal this Order by filing within **21 calendar days** to the Subdivision and Development Appeal Board. Visit the website at <https://sdab.edmonton.ca>



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or call 780-496-6079 for more information on how to file an appeal.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, RSA 2000, c M-26, 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.

PERMIT APPLICATIONS:

You can make a permit application online at selfserve.edmonton.ca.

For more information related to obtaining a Development Permit, we suggest you consult a technical advisor at:

Email: developmentpermits@edmonton.ca

Phone: 780-442-5054

Under section 542(1) of the Municipal Government Act, you are notified that a Bylaw Enforcement Officer from the City of Edmonton will be entering the land on **Friday, February 21, 2025 between 9:00-3:00 pm** to determine compliance with this notice. The follow up inspection will be cancelled should you comply with this notice prior to the above mentioned date.

Please call me if you have any questions.

Regards,

A handwritten signature in blue ink, appearing to read "Nicole Swain".

Nicole Swain
Development Compliance Officer
780-222-1288 nicole.swain@edmonton.ca



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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 Land and Property Rights Tribunal under section 501, if the composite assessment review board or the Land and Property Rights Tribunal 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 Land and Property Rights Tribunal 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.

(2) Subject to section 659, when an amount is added to the tax roll of a parcel of land under subsection (1), the amount

- (a) is deemed for all purposes to be a tax imposed under Division 2 of Part 10 from the date it was added to the tax roll, and
- (b) forms a special lien against the parcel of land in favour of the municipality from the date it was added to the tax roll.

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).



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(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.

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

(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.

(3) If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.

Permit

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 the decision in accordance with subsection (2.1).

(1.1) A decision of a development authority must state whether an appeal lies to a subdivision and development appeal board or to the Land and Property Rights Tribunal.

(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 the decision in accordance with subsection (2.1).



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(2.1) An appeal referred to in subsection (1) or (2) may be made

(a) to the Land and Property Rights Tribunal

(i) unless otherwise provided in the regulations under section 694(1)(h.2)(i), where the land that is the subject of the application

(A) is within the Green Area as classified by the Minister responsible for the Public Lands Act,
(B) contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site,

(C) is the subject of a licence, permit, approval or other authorization granted by the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Alberta Energy and Utilities Board or Alberta Utilities Commission, or

(D) is the subject of a licence, permit, approval or other authorization granted by the Minister of Environment and Parks,

or

(ii) in any other circumstances described in the regulations under section 694(1)(h.2)(ii), or

(b) in all other cases, 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 or the application for the development permit was deemed to be refused under section 683.1(8).

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

(a) 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.

Appeals

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

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

(i) with respect to an application for a development permit,

(A) within 21 days after the date on which the written decision is given under section 642, or

(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or



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(ii) with respect to an order under section 645, within 21 days after the date on which the order is made,

or

(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

(1.1) Where a person files a notice of appeal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board, if

(a) in the case of a person referred to in subsection (1), the person files the notice with the wrong board within 21 days after receipt of the written decision or the deemed refusal, or

(b) in the case of a person referred to in subsection (2), the person files the notice with the wrong board within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

(2) The board hearing an appeal referred to in subsection (1) must hold an appeal hearing within 30 days after receipt of a notice of appeal.

(3) The board hearing an appeal referred to in subsection (1) 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 board hearing an appeal referred to in subsection (1) 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.

(4.1) Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).

(5) In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.



City of Edmonton
Development Services Branch
Development Approvals & Inspections Section
Development Compliance & Inquiries Unit

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Subdivision and Development Appeal Board

File your appeal online at:

<https://sdab.edmonton.ca>

The Subdivision and Development Appeal Board (SDAB) hears appeals from people who have been affected by a decision of the Development Authority under the Zoning Bylaw and the Subdivision Authority under the Subdivision Authority Bylaw. The board is appointed by City Council and consists of citizens living in the city of Edmonton.

The SDAB normally meets every Wednesday and Thursday. If required, the Board may set additional dates for hearings.

Once you have met requirements and filed a proper appeal, this Board presides over your hearing.

The SDAB is an independent, quasi-judicial body established by City Council, and its decisions are final and cannot be overturned unless the board makes an error in some aspect of law or jurisdiction.

Agendas listing appeals and hearing times scheduled for that day are posted in the hearing waiting area. Hearings do not start before the time listed on the schedule.

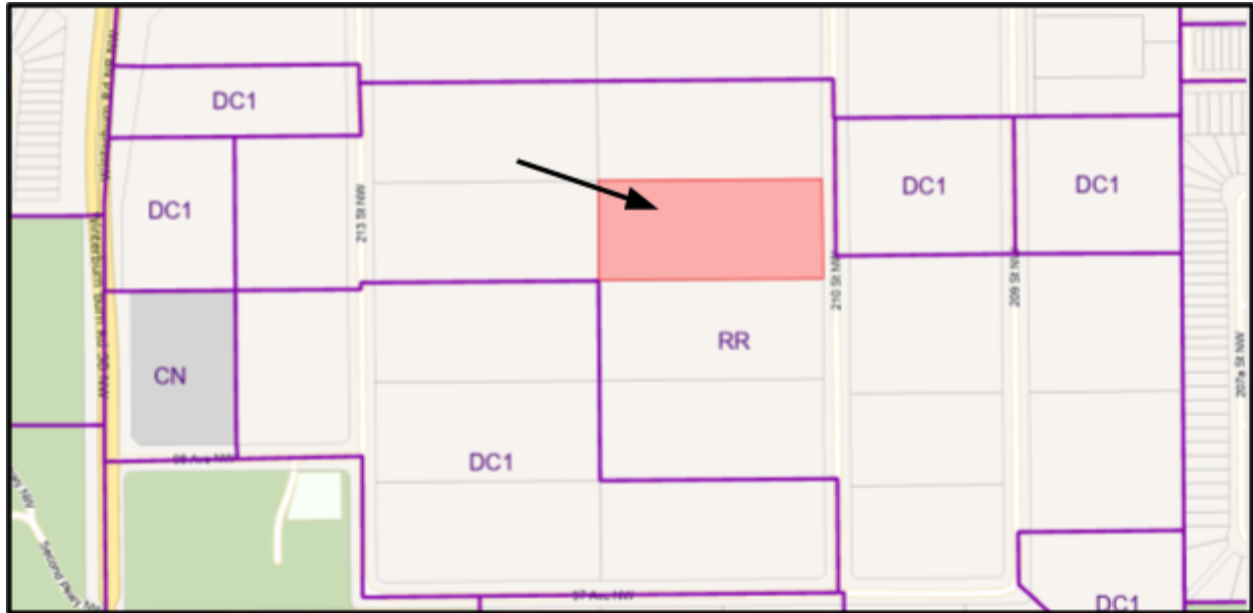
For more information:

Subdivision and Development Appeal Board

Telephone 780-496-6079

Fax 780-577-3537

Email sdab@edmonton.ca



SURROUNDING LAND USE DISTRICTS

Site Location ← File: SDAB-D-25-031 **N**

TO BE RAISED

ITEM II: 9:00 A.M.

FILE: SDAB-D-25-032

**AN APPEAL FROM THE DECISION OF THE DEVELOPMENT COMPLIANCE
OFFICER**

APPELLANT: Josh Spurrell Professional Corporation

APPLICATION NO.: 508785236-002

ORDER TO: Pursuant to Section 645 of the Municipal Government
Act, RSA 2000, c M-26, you are hereby ordered to:

1. ACQUIRE a Development Permit for the eight
accessory buildings (quonsets and sea cans over 10 m2 in
area) by February 20, 2025.

OR

2. REMOVE the eight accessory buildings (quonsets and
sea cans over 10 m2 in area) and all related materials from
the site by February 20, 2025.

DECISION OF THE
DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: January 14, 2025

DATE OF APPEAL: February 4, 2025

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 9814 - 210 Street NW

LEGAL DESCRIPTION: Plan 5496HW Lot 28

ZONE: RR - Rural Residential Zone

OVERLAY: N/A

STATUTORY PLAN(S): Lewis Farms Area Structure Plan
Lewis Farms Business Employment Neighbourhood
Structure Plan

DISTRICT PLAN: West Henday District Plan

<i>Grounds for Appeal</i>

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

Grounds of Appeal:

1. The impugned use is legal non-conforming;
2. Further and alternatively, the implementation of more restrictive uses on the Lands is conditional on services having been provided to the Lands. Those services have not been provided.

Background Facts:

1. Josh Spurrell Professional Corporation is a professional corporation duly incorporated in the Province of Alberta. (“JSPC”). JSPC is the Appellant in this matter.
2. JSPC owns the lands municipally described as 9814-210 Street NW, Edmonton, Alberta, Canada. The land is also legally described as Plan 5496HW Lot 28 (the “Lands”).
3. The Lands were purchased by JSPC on June 15, 2021.
4. Prior to the transfer of the Lands to JSPC, the lands were used for outdoor storage and transshipping materials, goods and equipment as a permitted use of the Lands. The Lands have continued to be used for this purpose since the Lands were transferred to JSPC.
5. At the time of purchase the Lands were subject to Neighbourhood Structure Plan 19040 (the “NSP”).
6. On or about October 2023 a new general City of Edmonton zoning bylaw, Zoning Bylaw 20001 was passed (the “Zoning Bylaw”). The bylaw became effective on January 1, 2024.
7. The Zoning Bylaw changed the zoning which governs the Lands to Rural Residential.
8. At the time of the new bylaw, the Lands’ use was unchanged. The Lands continued to be used as permitted by the NSP.

9. On or about January 9, 2025 a bylaw officer inspected the Lands. On January 14, 2025, stop order number 508785236-001 was issued regarding the use of the Lands. The stop order specifically called for the cease of use of the Lands which had currently and historically been used.

The outdoor storage use is legal non-conforming use:

10. The NSP outlines the history of the Lands including:

a. In 2001, the City of Edmonton adopted the general Edmonton Zoning Bylaw 12800. The lands were designated as Industrial Business Zoning and Agricultural Industrial Zoning. The permitted uses include temporary outdoor storage and general industrial uses which includes the outdoor storage and transshipping of materials, goods and equipment.

b. The lands were only recently changed to Rural Residential use pursuant to the Zoning Bylaw 20001, which became effective on January 1, 2024.

11. Section 643(1) of the Municipal Government Act, RSA 2000, c M-26 allows a nonconforming use to continue if a development permit was issued before a bylaw change that would make the use non-conforming. The use of the Lands as outdoor storage and for minor industrial use which were properly permitted prior to the Zoning Bylaw.

12. Section 643(2) qualifies the continuation of non-conforming use, stating that if the nonconforming use is ceased for more than six consecutive months, the non-conforming use ceases to be allowed under subsection 1. The current minor industrial use is continuous and has not been interrupted for more than six consecutive months therefore not triggering section 643(2).

13. The Lands are continued to be a legal non-conforming use. The stop order was improperly decided on the new Rural Residential Zoning without considering the legal non-conforming persisting use.

The NSP prevails over general zoning laws:

14. Pursuant to the NSP, the Lands are compliant with the applicable bylaws because they have not yet been serviced. The more restrictive uses under which the City of Edmonton issued the stop order do not take effect until the Lands are serviced.

15. NSP Section 3.5.6 states that the City of Edmonton will support development through servicing solutions that are cohesive and efficient. The services include sanitary and stormwater servicing, water servicing and shallow utilities servicing. These services have not yet been completed to and on the Lands.

16. NSP Section 3.5.8 categorizes the NSP as a transitional planning document. Policy 19.1 suggests that the Plan is to support individual landowners in their rezoning of their parcels when they wish to do so. The owner of the Lands currently wishes to continue to use the Lands until servicing is completed by the City to the Parcel.

17. The general zoning bylaw is in conflict with the current NSP. Although the current Zoning Bylaw states that the parcel is governed by Rural Residential zoning, the more specific NSP must be interpreted to prevail.

18. Specificity is favoured over general planning when determining conflict of bylaw wordings. Thus, the NSP's wording of allowing for the current uses of the properties must prevail. The general zoning bylaw cannot force the rezoning of the Lands without providing the servicing promised under the NSP.

19. The Stop Order was improperly issued as the Zoning Bylaw cannot extinguish prior legal non-conforming uses.

Remedy Sought:

20. The Appellant asks the Sub-division Appeals Board to dismiss the Stop Order in its entirety and allow for the continued use of the Lands as outdoor storage as a persisting nonconforming use.

21. In the alternative, the Appellant asks the Sub-Division Appeals Board to dismiss the Stop Order in its entirety due to the City of Edmonton's lack of authority to make the Order due to servicing not being in place pursuant to the NSP.

22. The Appellant asks for costs of this action on a client and own solicitor basis.

23. The Appellant asks for such further and other relief as this Sub-Division Appeals Board finds just and/or equitable in the circumstances.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board ("SDAB") made and passed the following motion on February 6, 2024:

"That both appeal hearings be scheduled on March 13, 2025 at the request of Legal Counsel for the property owner."

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

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.

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

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

Permit

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 the decision in accordance with subsection (2.1).

...

(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 the decision in accordance with subsection (2.1).

(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 or the application for the development permit was deemed to be refused under section 683.1(8).

Appeals

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

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

(i) with respect to an application for a development permit,

(A) within 21 days after the date on which the written decision is given under section 642, or

(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

687(3) In determining an appeal, the board hearing the appeal referred to in subsection (1)

...

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

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

Non-conforming use and non-conforming buildings

643(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.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

General Provisions from the Zoning Bylaw 20001:

A **Minor Industrial Use** is **NOT** a Permitted Use in the **RR- Rural Residential Zone (Section 2.60.2)**.

Under section 8.10, a **Minor Industrial** means:

a development used primarily for 1 or more of the following activities:

- processing raw materials;
- manufacturing, cleaning, servicing, repairing or testing materials, goods and equipment;
- handling, storing, or shipping equipment, goods, and materials;
- training, research and development laboratories; or
- distributing and selling materials, goods and equipment to institutions and industrial and commercial businesses.

Any resulting Nuisance is less impactful than those permitted under the Major Industrial Use.

Typical examples include: auto body repair and paint shops, Cannabis Production and Distribution, commercial recycling depots, contractor and construction services, equipment or vehicle repair and storage facilities, laboratories, landscaping centres, limo service, materials storage, research facilities, taxi service, truck yard, vehicle (truck, aircraft, mobile homes, etc.) and equipment sales and rentals, and warehouses.

Section 2.60.1 states that the **Purpose** of the **RR- Rural Residential Zone** is “To allow for rural residential development while prohibiting further subdivision of rural residential lands.”

Under section 8.10, **Accessory** means “a Use, building or structure that is naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same Lot or Site.”

<i>7.110 Approvals Required and Development Categories</i>

Section 7.110.1 states:

1. Approval Required for Development

1.1. No person may:

1.1.1. undertake, or cause or allow to be undertaken, a development; or

1.1.2. carry on, or cause or allow to be carried on, a development,

without a Development Permit issued under this Section.

<i>7.200 Inspections, Enforcement and Penalties</i>
--

Section 7.200.2.2 states:

2. General Offences

2.2. If a Development Permit is required but has not been issued or is not valid under this Bylaw, it is an offence for any person to:

2.2.1. construct a building or structure;

2.2.2. make an addition or alteration to a building or structure;

2.2.3. commence or undertake a Use or change of intensity of Use; or

2.2.4. place a Sign on land, or on a building or structure.

Notice to Applicant/Appellant

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



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January 14, 2025

Our Files: 508785236-002 (Accessory Buildings)

MUNICIPAL GOVERNMENT ACT ORDER

Dear Sir/Madam:

An Alberta Land Titles search identifies you as the registered owner(s) of the property located at 9814-210 Street, NW in Edmonton, Alberta, legally described as Plan 5496HW, Lot 28.

This Property was inspected by Development Compliance Officer Nicole Swain, on January 9, 2025. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 of the Municipal Government Act.

ZONING BYLAW INFRACTION:

This property is zoned RR (Rural Residential Zone) in accordance with Section 2.60 of Edmonton Zoning Bylaw 20001. Our investigation revealed eight accessory buildings (quonsets and sea cans over 10 m² in area) that have been developed on the site without a Development Permit.

The City of Edmonton has not issued a Development Permit to develop the eight quonsets which is contrary to Subsection 7.110.1 of the Edmonton Zoning Bylaw 20001, and Section 683 of the Municipal Government Act.

Subsection 7.110.1 of Edmonton Zoning Bylaw 20001 states:

Approval Required for Development

- 1.1. No person may:
 - 1.1.1. undertake, or cause or allow to be undertaken, a development; or
 - 1.1.2. carry on, or cause or allow to be carried on, a development, without a Development Permit issued under this Section.



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Subsection 7.200.2.2 of Edmonton Zoning Bylaw 20001 states:

2.2. If a Development Permit is required but has not been issued or is not valid under this Bylaw, it is an **offence** for any person to:

2.2.1. construct a building or structure;

2.2.2. make an addition or alteration to a building or structure;

2.2.3. commence or undertake a Use or change of intensity of Use; or

2.2.4. place a Sign on land, or on a building or structure.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, RSA 2000, c M-26, you are hereby ordered to:

1. ACQUIRE a Development Permit for the eight accessory buildings (quonsets and sea cans over 10 m² in area) by **February 20, 2025**.

OR

2. REMOVE the eight accessory buildings (quonsets and sea cans over 10 m² in area) and all related materials from the site by **February 20, 2025**.

CONSEQUENCES FOR NON-COMPLIANCE:

The property will be inspected after February 20, 2025 to determine compliance with this Order.

In the event that a person fails to comply with this Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter the land and take any action necessary to carry out the Order. Section 646 authorizes the City to register a caveat under the Land Titles Act.

Section 553(1)(h.1) of the Municipal Government 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 566(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.

Affected persons may appeal this Order by filing within **21 calendar days** to the Subdivision and Development Appeal Board. Visit the website at <https://sdab.edmonton.ca> or call 780-496-6079 for more information on how to file an appeal.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, RSA 2000, c M-26, 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.



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PERMIT APPLICATIONS:

You can make a permit application online at selfserve.edmonton.ca.

For more information related to obtaining a Development Permit, we suggest you consult a technical advisor at:

Email: developmentpermits@edmonton.ca

Phone: 780-442-5054

Under section 542(1) of the Municipal Government Act, you are notified that a Bylaw Enforcement Officer from the City of Edmonton will be entering the land on **Friday, February 21, 2025** **between 9:00-3:00 pm** to determine compliance with this notice. The follow up inspection will be cancelled should you comply with this notice prior to the above mentioned date.

Please call me if you have any questions.

Regards,

A handwritten signature in blue ink, appearing to read "Nicole Swain".

Nicole Swain
Development Compliance Officer
780-222-1288 nicole.swain@edmonton.ca



City of Edmonton
Development Services Branch
Development Approvals & Inspections Section
Development Compliance & Inquiries Unit

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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 Land and Property Rights Tribunal under section 501, if the composite assessment review board or the Land and Property Rights Tribunal 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 Land and Property Rights Tribunal 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.
- (2)** Subject to section 659, when an amount is added to the tax roll of a parcel of land under subsection (1), the amount
- (a) is deemed for all purposes to be a tax imposed under Division 2 of Part 10 from the date it was added to the tax roll, and
 - (b) forms a special lien against the parcel of land in favour of the municipality from the date it was added to the tax roll.

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).



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(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.

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

(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.

(3) If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.

Permit

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 the decision in accordance with subsection (2.1).

(1.1) A decision of a development authority must state whether an appeal lies to a subdivision and development appeal board or to the Land and Property Rights Tribunal.

(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 the decision in accordance with subsection (2.1).



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(2.1) An appeal referred to in subsection (1) or (2) may be made

(a) to the Land and Property Rights Tribunal

(i) unless otherwise provided in the regulations under section 694(1)(h.2)(i), where the land that is the subject of the application

(A) is within the Green Area as classified by the Minister responsible for the Public Lands Act,
(B) contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site,

(C) is the subject of a licence, permit, approval or other authorization granted by the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Alberta Energy and Utilities Board or Alberta Utilities Commission, or

(D) is the subject of a licence, permit, approval or other authorization granted by the Minister of Environment and Parks,

or

(ii) in any other circumstances described in the regulations under section 694(1)(h.2)(ii), or

(b) in all other cases, 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 or the application for the development permit was deemed to be refused under section 683.1(8).

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

(a) 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.

Appeals

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

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

(i) with respect to an application for a development permit,

(A) within 21 days after the date on which the written decision is given under section 642, or

(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or



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(ii) with respect to an order under section 645, within 21 days after the date on which the order is made,

or

(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

(1.1) Where a person files a notice of appeal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board, if

(a) in the case of a person referred to in subsection (1), the person files the notice with the wrong board within 21 days after receipt of the written decision or the deemed refusal, or

(b) in the case of a person referred to in subsection (2), the person files the notice with the wrong board within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

(2) The board hearing an appeal referred to in subsection (1) must hold an appeal hearing within 30 days after receipt of a notice of appeal.

(3) The board hearing an appeal referred to in subsection (1) 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 board hearing an appeal referred to in subsection (1) 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.

(4.1) Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).

(5) In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.



City of Edmonton
Development Services Branch
Development Approvals & Inspections Section
Development Compliance & Inquiries Unit

10111 - 104 Ave NW
Edmonton, AB T5J 0J4
Canada
edmonton.ca/developmentcompliance



Subdivision and Development Appeal Board

File your appeal online at:

<https://sdab.edmonton.ca>

The Subdivision and Development Appeal Board (SDAB) hears appeals from people who have been affected by a decision of the Development Authority under the Zoning Bylaw and the Subdivision Authority under the Subdivision Authority Bylaw. The board is appointed by City Council and consists of citizens living in the city of Edmonton.

The SDAB normally meets every Wednesday and Thursday. If required, the Board may set additional dates for hearings.

Once you have met requirements and filed a proper appeal, this Board presides over your hearing.

The SDAB is an independent, quasi-judicial body established by City Council, and its decisions are final and cannot be overturned unless the board makes an error in some aspect of law or jurisdiction.

Agendas listing appeals and hearing times scheduled for that day are posted in the hearing waiting area. Hearings do not start before the time listed on the schedule.

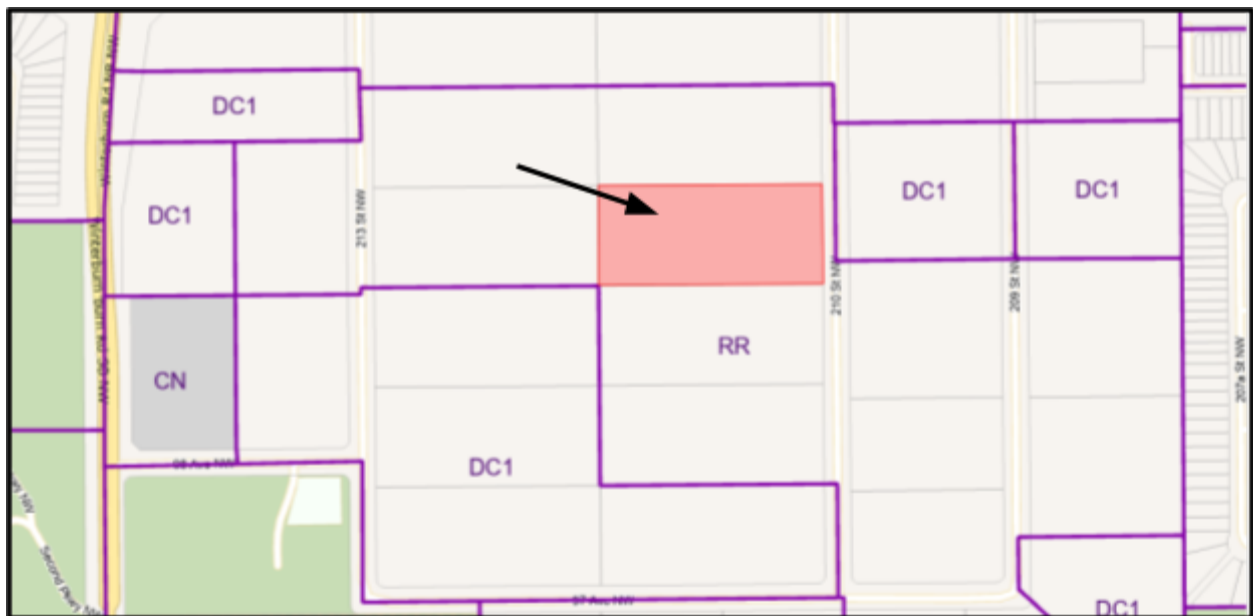
For more information:

Subdivision and Development Appeal Board

Telephone 780-496-6079

Fax 780-577-3537

Email sdab@edmonton.ca



SURROUNDING LAND USE DISTRICTS

Site Location ← **File: SDAB-D-25-032** **▲**
N

TO BE RAISED

ITEM III: 1:30 P.M.

FILE: SDAB-D-25-007

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT PLANNER

APPELLANT:

APPLICATION NO.: 526992090-002

APPLICATION TO: Construct exterior alterations (Driveway extensions, right side: 2.66m x 12.50 m; left side: 1.16 m x 5.55m, and hard surfacing in the rear yard)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 30, 2024

DATE OF APPEAL: November 20, 2024

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 17432 - 90 Street NW

LEGAL DESCRIPTION: Plan 0323346 Blk 1 Lot 48

ZONE: RSF - Small Scale Flex Residential Zone

OVERLAY: N/A

STATUTORY PLAN: Klarvatten Neighbourhood Structure Plan

DISTRICT PLAN: Northwest District Plan

Grounds for Appeal

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

Dear Members of the Subdivision and Development Appeal Board,

I am writing to formally appeal on behalf of the property owner, Scott Banf (Project Number: 526992090-002), regarding the size of the concrete driveway at the above address. While I understand the importance of the city's bylaws regulating driveway dimensions, I kindly request that you take into account our current circumstances, as outlined below.

The extension of our driveway was undertaken to address specific practical needs, including:

1.Improved Accessibility:

The additional driveway space accommodates multiple household vehicles, significantly reducing on-street parking congestion and ensuring safer access to our prosperity. It also allows us to comply with seasonal parking bans and road clearing requirements by keeping all vehicles off the street.

2.Enhanced Safety:

With all vehicles parked on our property, visibility for drivers and pedestrians is improved, reducing the risk of accidents. Additionally, this minimizes the need for family members to walk to vehicles parked on the street, which has previously resulted in injuries.

I primarily work from home, meaning my car often remains stationary on the driveway for several days, further justifying the need for adequate space.

To support this appeal, I shared our situation with several neighbors, who expressed their understanding and signed a letter to indicate their support. Their signatures demonstrate that the extended driveway has not negatively affected the community. On the contrary, it has helped reduce street parking congestion by allowing us to rely less on public road space for vehicle parking. This, in turn, ensures that street parking remains available for neighboring houses that rely on it.

We are also open to making adjustments to align with city and environmental considerations. For instance, we are willing to reduce the amount of concrete in the backyard to increase permeable surface areas, ensuring that a minimum soft landscaped area equal to 30% of the total lot area is accomplished. However, we kindly request alternative landscaping solutions to grass, as my father's environmental allergies make grass unsuitable.

Thank you for taking the time to consider our appeal. Please find attached several documents containing signatures for our neighbors in support of this request. I would be happy to provide additional information or discuss potential solutions to address the city's concerns.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board ("SDAB") made and passed the following motion on November 20, 2024:

“That the appeal hearing be rescheduled to a date to be determined following the conclusion of the Canada Post strike.”

The SDAB made and passed the following motion on January 9, 2025:

“That the appeal hearing be postponed to a date to be determined in March 2025.”

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 the decision in accordance with subsection (2.1).

...

(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 the decision in accordance with subsection (2.1).

(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 or the application for the development permit was deemed to be refused under section 683.1(8).

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or

- (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

687(3) In determining an appeal, the board hearing the appeal referred to in subsection (1)

- ...
 - (a.1) must comply with any applicable land use policies;
 - (a.2) subject to section 638, must comply with any applicable statutory plans;
 - (a.3) subject to clause (a.4) and (d), must comply with any land use bylaw in effect;
 - (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;
- ...
 - (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
 - (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or

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

and

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

General Provisions from the Zoning Bylaw 20001:

Under section 2.20.2.2, a **Residential Use** is a **Permitted Use** in the **RSF - Small Scale Flex Residential Zone**.

Under section 8.10, a **Residential Use** means:

Means a development where a building or part of a building is designed for people to live in. The building contains 1 or more Dwellings or 1 or more Sleeping Units.

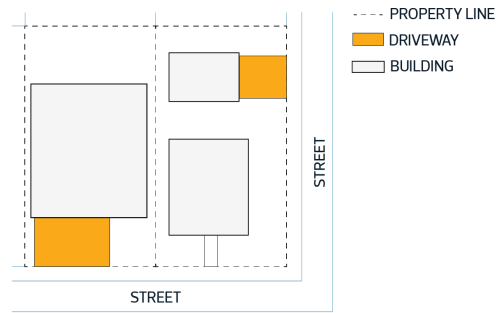
This includes: Backyard Housing, Duplex Housing, Lodging Houses, Multi-unit Housing, Row Housing, Secondary Suites, Semi-detached Housing, Single Detached Housing, and Supportive Housing.

Under section 8.20, **Single Detached Housing** means “a building that contains 1 principal Dwelling and has direct access to ground level.”

Under section 8.20, **Accessory** means “a Use, building or structure that is naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same Lot or Site.”

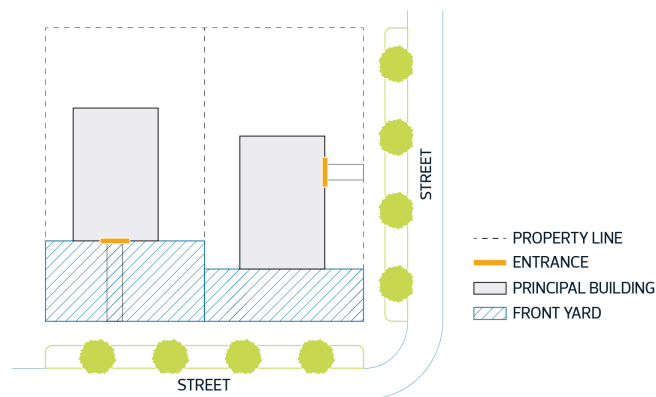
Under section 8.20, **Driveway** means:

means an area that provides vehicle access to the Garage or Parking Area of a small scale Residential development from a Street, Alley, or private roadway. A Driveway does not include a Pathway.



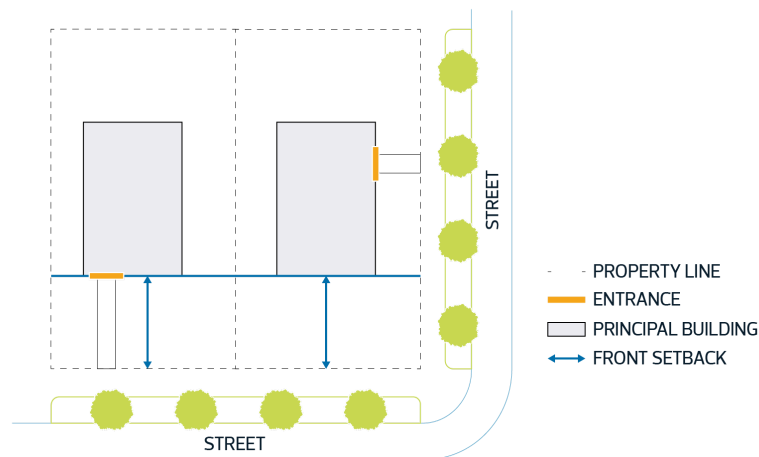
Under section 8.20, **Front Yard** means:

means the portion of a Site Abutting the Front Lot Line extending across the full width of the Site, between the Front Lot Line and the nearest wall of the principal building, not including projections.



Under section 8.20, **Front Setback** means:

means the distance that a development or a specified portion of a development, must be from a Front Lot Line. A Front Setback is not a Front Yard.”



Under section 8.20, **Parking Area** means “means an area that is used for vehicle parking. A Parking Area has 1 or more parking spaces and includes a parking pad, but does not include Street parking, a vehicle access, a Driveway, or a Drive Aisle.”

Under section 8.20, **Pathway** means “a Hard Surfaced path of travel that is located on private property that cannot be used for motor vehicles.”

Section 2.20.1 states that the **Purpose** of the **RSF - Small Scale Flex Residential Zone** is:

To allow for a range of small scale Residential development up to 3 Storeys in Height, including detached, attached, and multi-unit Residential housing. This Zone has site and building regulations that provide additional development flexibility in appropriate contexts, such as new neighbourhoods and large undeveloped areas. Limited opportunities for community and commercial development are permitted to provide services to local residents.

Site Circulation and Parking Regulations for Small Scale Residential Development

Section 5.80.2.1 states:

Single Detached Housing, Duplex Housing, Semi-detached Housing, Backyard Housing, and Row Housing, and Multi-unit Housing with 8 Dwellings or less must comply with the following:

Site Circulation

- 2.1.1 1 or more Pathways with a minimum unobstructed width of 0.9 m must be provided from all main entrances of principal

Dwellings directly to an Abutting sidewalk or to a Driveway, except that:

2.1.1.1 A handrail on 1 side is permitted to project a maximum of 0.1 m into the Pathway.

Driveways

2.1.2. Where vehicle access is permitted from a Street, a maximum of 1 Driveway with Street access is permitted for each ground-oriented principal Dwelling.

2.1.3. A Driveway must lead directly from the Street or Alley to the Garage or Parking Area.

2.1.4 A Driveway provided from a Street must comply with the following:

2.1.4.1 Where a Garage or Parking Area has 1 vehicle parking space, the maximum Driveway width is 4.3 m, or the width of the Garage or Parking Area, whichever is less, except:

2.1.4.1.1 Where 1 or more Pathways Abut and run parallel to a Driveway that leads to a Garage or Parking Area with 1 vehicle parking space, the combined maximum width of the Driveway and Abutting Pathways is 4.3 m.

2.1.4.2. Where a Garage or Parking Area has 2 or more vehicle parking spaces, the maximum Driveway width is equal to the width of the Garage or Parking Area, or the number of side-by-side vehicle parking spaces multiplied by 3.7 m, whichever is less, except:

2.1.4.2.1. Where 1 or more Pathways Abut and run parallel to a Driveway that leads to a Garage or Parking Area with 2 or more vehicle parking spaces, the combined maximum width of the Driveway and Abutting Pathways is the width of the Garage or Parking Area, or the number of side-by-side vehicle parking spaces multiplied by 3.7 m, whichever is less.

2.1.5. Vehicle parking spaces, other than those located on a Driveway or Parking Area, must not be located within:

2.1.5.1. a Front Yard;

2.1.5.2. a Flanking Side Yard; or

2.1.5.3 a Flanking Side Setback.

2.1.6. For Zero Lot Line Development, a Parking Area must not encroach on the easement area.

Development Planner's Determination

1. Driveway - A Driveway must lead directly from the Street or Alley to the Garage or Parking Area (Subsection 5.80.2.1.3).

Proposed: Driveway extensions do not lead directly to the Garage.

2. Driveway Width - Where 1 or more Pathways Abut and run parallel to a Driveway that leads to a Garage or Parking Area with 2 or more vehicle parking spaces, the combined maximum width of the Driveway and Abutting Pathways is the width of the Garage or Parking Area, or the number of side-by-side vehicle parking spaces multiplied by 3.7 m, whichever is less (Subsection 5.80.2.1.4.2.1).

Proposed: Driveway width is 10.0 m instead of 6.6 m.

3. Vehicle parking spaces, other than those located on a Driveway or Parking Area, must not be located within a Front Yard. (Subsection 5.80.2.1.5.1).

Proposed: Driveway extension(s) are within the Front Yard

[unedited]

Site Circulation and Parking Regulations for Small Scale Residential Development

Section 5.60.3.2 states: A minimum Soft Landscaped area equal to 30% of the total Lot area must be provided for:

3.2.1. all development within the RS and RSF Zones;

3.2.2. any Single Detached Housing, Duplex Housing, or Semi-detached Housing development; and

3.2.3. any Row Housing, Multi-unit Housing or Cluster Housing development up to 8 Dwellings in a residential Zone with a maximum Height of 12.0 m or less.

Development Planner's Determination


4. A minimum Soft Landscaped area equal to 30% of the total Lot area must be provided. (Subsection 5.60.3.2).


Proposed Soft Landscaping is 15% (58.5 m2) instead of 30%

[unedited]

Notice to Applicant/Appellant

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

	Project Number: 526992090-002 Application Date: AUG 20, 2024 Printed: October 30, 2024 at 11:12 AM Page: 1 of 2		
Application for Driveway Extension Permit			
This document is a Development Permit Decision for the development application described below.			
Applicant	Property Address(es) and Legal Description(s) 17432 - 90 STREET NW Plan 0323346 Blk 1 Lot 48		
Scope of Application To construct exterior alterations (Driveway extensions, right side: 2.66m x 12.50 m; left side: 1.16 m x 5.55m, and hardsurfacing in the rear yard).			
Details <table border="0" style="width: 100%;"><tr><td style="width: 50%;">Development Category: Site Area (sq. m.): 392.53</td><td style="width: 50%;">Overlay: Statutory Plan:</td></tr></table>		Development Category: Site Area (sq. m.): 392.53	Overlay: Statutory Plan:
Development Category: Site Area (sq. m.): 392.53	Overlay: Statutory Plan:		
Development Application Decision Refused Issue Date: Oct 30, 2024 Development Authority: HETHERINGTON, FIONA Reason for Refusal 1. Driveway - A Driveway must lead directly from the Street or Alley to the Garage or Parking Area (Subsection 5.80.2.1.3). Proposed: Driveway extensions do not lead directly to the Garage. 2. Driveway Width - Where 1 or more Pathways Abut and run parallel to a Driveway that leads to a Garage or Parking Area with 2 or more vehicle parking spaces, the combined maximum width of the Driveway and Abutting Pathways is the width of the Garage or Parking Area, or the number of side-by-side vehicle parking spaces multiplied by 3.7 m, whichever is less (Subsection 5.80.2.1.4.2.1). Proposed: Driveway width is 10.0 m instead of 6.6 m. 3. Vehicle parking spaces, other than those located on a Driveway or Parking Area, must not be located within a Front Yard. (Subsection 5.80.2.1.5.1). Proposed: Driveway extension(s) are within the Front Yard 4. A minimum Soft Landscaped area equal to 30% of the total Lot area must be provided. (Subsection 5.60.3.2). Proposed Soft Landscaping is 15% (58.5 m2) instead of 30% Rights of Appeal The Applicant has the right of appeal to the Subdivision and Development Appeal Board (SDAB) within 21 days after the date on which the decision is made as outlined in Chapter M-26. Section 683 through 689 of the Municipal Government Act.			
Building Permit Decision			
THIS IS NOT A PERMIT			



Project Number: **526992090-002**

Application Date: AUG 20, 2024

Printed: October 30, 2024 at 11:12 AM

Page: 2 of 2

Application for

Driveway Extension Permit

Pending Permit Decision

No decision has yet been made.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Application Fee	\$185.00	\$185.00	07075E001001469	Aug 20, 2024
Total GST Amount:	\$0.00			
Totals for Permit:	\$185.00	\$185.00		

THIS IS NOT A PERMIT

