

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
August 6, 2015**

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

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

I	9:00 A.M.	SDAB-D-15-177	Add the Use of a Child Care Services (10 children) to an existing Single Detached House. 2711 - 33 Street NW Project No.: 151016175-001
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II	11:00 A.M.	SDAB-D-15-178	Change the Use from General Retail Stores to Child Care Services (up to 24 children) and to construct interior alterations (Kid-Tech Preschool) 4333 - 50 Street NW Project No.: 174404940-001
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TO BE RAISED

III	2:00 P.M.	SDAB-D-15-138	Develop a Secondary Suite in an existing Single Detached House 11234 - 86 Street NW Project No.: 148765660-003
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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-15-177

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 151016175-001

APPLICATION TO: Add the Use of a Child Care Services (10 children) to an existing Single Detached House.

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 7, 2015

DATE OF APPEAL: July 14, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2711 - 33 Street NW

LEGAL DESCRIPTION: Plan 0023214 Blk 2 Lot 24

ZONE: RSL Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN(S): Silver Berry Neighbourhood Structure Plan
The Meadows Area Structure Plan

DEVELOPMENT OFFICER'S DECISION

REFUSED - The proposed development is refused for the following reasons:

1. Section 80(1) - In all low density Residential Zones the Development Officer shall, when making a decision on the suitability of the Child Care Services for the location proposed, give preference to those facilities that are located: abutting a collector or arterial road, on a corner Site, adjacent to or in community facilities such as a school, park, church or community centre; or adjacent to commercial areas or multi-family development.

- The proposed development abuts a local roadway and is on an interior lot between two Single Detached Houses. The location cannot be considered as a preferred location for a Child Care Services Use in the (RSL) Residential Small Lot Zone a low density residential zone.

2. Section 80(8)(d) - In a Residential Zone, outdoor play space may be allowed in any Yard, providing it is designed to limit any interference with other Uses, or the peaceful enjoyment of the properties of nearby residents, through fencing, landscaping, buffering and the placement of fixed play equipment.

- It is the opinion of the Development Officer that the proposed on-site outdoor play space may interfere with the peaceful enjoyment of adjacent Single Detached properties.
3. Sections 54.2, Schedule 1 & Section 80(6) - The proposed development requires six spaces (2 on-site drop-off and 4 vehicular).

Proposed: 4
Deficient: 2
4. Section 54.4, Schedule 3(1) - The proposed Child Care Services Use development requires one loading spaces.

Proposed: 0
Deficient: 1
5. Section 54.3, Schedule 2(1) - The proposed Child Care Services Use development requires five bicycle parking spaces.

Proposed: 0
Deficient: 5
6. Section 80(7) - Exterior lighting of the facility shall provide for a well lit environment;

- Information concerning the proposed exterior lighting needs to be provided.

APPELLANT'S SUBMISSION

We are operating day home with 6 children at premises. We want to increase children from 6 to 10.

- > We currently have Government of Alberta approved day home with 6 children at premises.
 - > We have outer playing area secured by 6 feet fences.
 - > We have playing equipment for outer playing area.
 - > We have fixed and portable lights in outer playing area for proper lighting.
 - > We have 1 loading space outside the garage at our premises.
 - > We have 2 drop-off and 4 parking spaces available outside the premises.
 - > We have obtained no objection letter from our adjacent neighbours.
 - > Our premises have 5 bicycles parking space in outer side of premises.
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SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

A **Child Care Service** is a Discretionary Use in the RSL Residential Small Lot Zone, Section 115.3(1).

Under Section 7.8(2), **Child Care Services** means a development intended to provide care, educational activities and supervision for groups of seven or more children under 13 years of age during the day or evening, but does not generally include overnight accommodation. This Use Class typically includes daycare centres; out-of-school care centres; preschools; and dayhomes (providing child care within the care provider's residence).

Section 80(1) states in all low density Residential Zones the Development Officer shall, when making a decision on the suitability of the Child Care Service for the location proposed, give preference to those facilities that are located:

- a. abutting a collector or arterial road,
- b. on a corner Site,
- c. adjacent to or in community facilities such as a school, park, church or community centre; or
- d. adjacent to commercial areas or multi-family development.

The Development Officer determined the proposed development abuts a local roadway and is on an interior lot between two Single Detached Houses. The Development Officer determined the location cannot be considered as a preferred location for a Child Care Services Use in the (RSL) Residential Small Lot Zone, a low density residential zone.

Section 80(8) states where on-site outdoor play space is provided, pursuant to the Provincial *Child Care Licensing Regulation*, it shall comply with the following regulations:

- d. in a Residential Zone, outdoor play space may be allowed in any Yard, providing it is designed to limit any interference with other Uses, or the peaceful enjoyment of the properties of nearby residents, through fencing, landscaping, buffering and the placement of fixed play equipment.

It is the opinion of the Development Officer that the proposed on-site outdoor play space may interfere with the peaceful enjoyment of adjacent Single Detached properties.

Section 80(6) states parking shall be provided according to the regulations outlined in Schedule 1 to Section 54 of this Bylaw. In addition, drop-off parking shall be provided as follows:

- a. a separate on-site drop-off area shall be provided at the rate of 2 drop-off spaces for up to 10 children, plus 1 additional space for every 10 additional children;
- b. each drop-off space shall be a minimum of 2.6 m in width and a minimum of 5.5 m in length; and
- c. the drop-off area shall be located within 60.0 m from the main entrance of the Child Care Service facility.

Section 54.2 Schedule 1(A)(31) provides the following with regard to the minimum number of parking spaces required for a Child Care Service:

1 parking space for the first 2 employees, plus 0.5 spaces per additional employee

Except:

- a. Dayhomes (providing care to 7 or more children within the residence of the child care provider):

1 parking space per non-resident employee, in addition to parking required for Primary Dwelling.

Where a Front Yard driveway provides access to a parking space that is not within the Front Yard, the Development Officer may consider this driveway as the provision of a second car parking space that is in tandem.

The Development Officer determined 6 spaces are required (2 on-site drop-off spaces and 4 vehicular parking spaces). The Development Officer determined 4 on-site spaces are proposed, which is deficient by 2 on-site spaces.

Section 54.4 Schedule 3(1) states any development within the Commercial or Industrial Use Classes, excluding Professional, Financial and Office Support Services with a Floor Area of less than 465 square metres requires 1 loading space.

Section 54.4 Schedule 3(2) states any development within the Residential-Related, Basic Services or Community, Educational, Recreational and Cultural Service Use Classes and Professional, Financial and Office Support Services with a total Floor Area of 2 800 square metres requires 1 loading space.

Section 7.8 provides the following with regard to Community, Educational, Recreational and Culture Service Use Classes:

7.8(2) Child Care Services.

The Development Officer determined 1 loading space is required and determined a loading space is not provided.

Section 54.3 Schedule 2(1) states all Residential and Residential-Related Use Classes of 20 Dwellings or more, and all Non-residential Use Classes outside the boundaries of the Downtown Area Redevelopment Plan requires the following minimum number of Bicycle Parking Spaces:

5% of the number of vehicular parking spaces required under Schedule 1 to a maximum of 50 Bicycle Parking spaces with 5 Bicycle Parking spaces being the minimum to be provided.

The Development Officer determined 5 Bicycle Parking Spaces are required and determined Bicycle Parking Spaces are not provided.

Section 80(7) states exterior lighting of the facility shall provide for a well lit environment.

The Development Officer determined information concerning the proposed exterior lighting needs to be provided.

Section 80 states a Child Care Service shall comply with the following regulations:

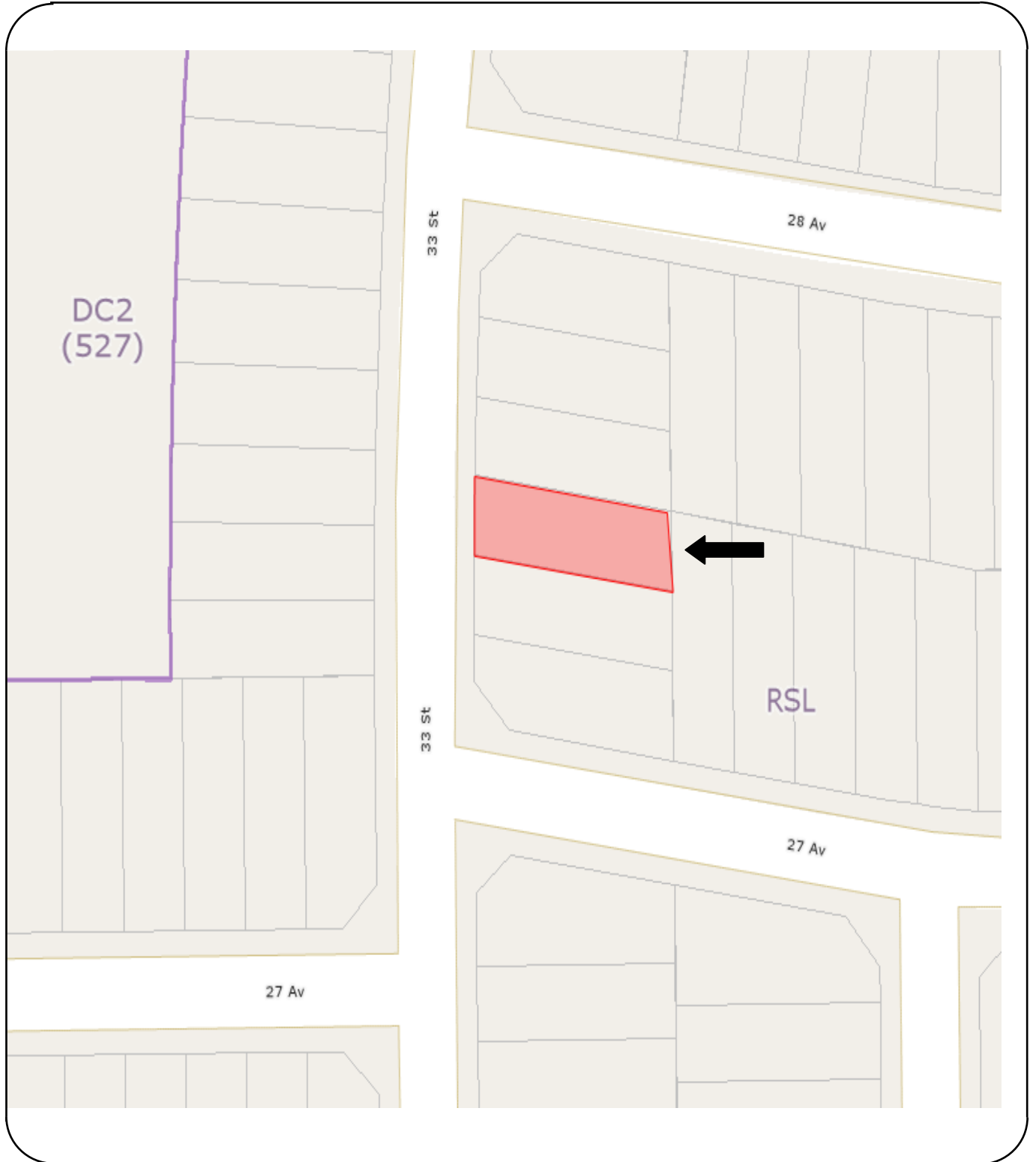
1. ...
2. Child Care Services in the HDR, RA7, RA8, RA9, RF5, RF6, RMU, TMU or UCRH Zones shall be in a separate facility, either within the principal building on the Site or in an Accessory or secondary building, with a separate access to ground level;
3. a Child Care Service in any Residential Zone shall not change the principal character or external appearance of the Dwelling in which it is located. If a new building is constructed, it must retain the character of a residential Dwelling. Any associated signage on the Dwelling must not detract from the residential character of the neighbourhood;
4. the Development Officer shall, when deciding whether to approve or refuse a Child Care Service in a Commercial Zone, take into account, among other matters, traffic, noise and proximity to hazardous uses to ensure the proposed Child Care Service is in a safe location;
5. no portion of a Child Care Service Use, including the building or bay of building and, where provided, on-site outdoor play space, shall be located within 50.0 m of a Major or Minor Service Station or a Gas Bar. This distance shall be measured from the pump island, fill pipes, vent pipes, or service station or gas bar building, depending on whichever is closest to the child care facility;
6. ...
7. ...
8. where on-site outdoor play space is provided, pursuant to the Provincial *Child Care Licensing Regulation*, it shall comply with the following regulations:
 - a. noisy, noxious or hazardous adjacent Uses such as, but not limited to, loading/unloading areas, garbage bins, large parking lots, arterial roads, passenger drop-off areas, rail lines, Light Rail Transit lines or stormwater lakes should either be avoided or their effects mitigated through landscaping, buffering, fencing, or other means;
 - b. outdoor play space shall be located at ground level. If no reasonable opportunity exists for at Grade outdoor play space, the Development Officer may approve an above Grade outdoor play space provided that the following conditions are met:
 - i. secure perimeter fencing is provided that is at least 1.83 m in height and is located a reasonable distance from the edge of the building;
 - ii. roof top mechanical equipment is located a reasonable distance away from the play space to avoid sources of noise and fumes unless the mechanical equipment is designed so that it does not create adverse effects related to noise and fumes and can be integrated into the play area;
 - c. outdoor play space shall be securely enclosed on all sides with the exception of developments proposed on zoned Sites US and AP where existing play fields are proposed as outdoor play space;

- d. ...
 - e. in any Non-residential Zone, the outdoor play space shall not be located in any Yard that abuts a public roadway unless the design, size and other characteristics of the proposed play space mitigate the potential impact from the roadway traffic upon children using the play space; and
9. all Development Permit applications for Child Care Services shall include: plans that show all elevations; floor plans that show indoor play and rest areas, including the location of windows; a Site plan that shows the required on-site parking, drop-off facilities, and, where provided, on-site outdoor play areas, including the location and type of fixed play equipment, as well as fencing, landscaping and any buffering to be provided.

Section 115.1 states the purpose of the RSL Residential Small Lot Zone is to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites.

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.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-177



ITEM II: 11:00 A.M.

FILE: SDAB-D-15-178

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 174404940-001

APPLICATION TO: Change the Use from General Retail Stores to Child Care Services (up to 24 children) and to construct interior alterations (Kid-Tech Preschool)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 9, 2015

DATE OF APPEAL: July 10, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4333 - 50 Street NW

LEGAL DESCRIPTION: Plan 9123322 Blk 1 Lot 56

ZONE: DC2.504 Site Specific Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Burnewood Neighbourhood Area Structure Plan

DEVELOPMENT OFFICER'S DECISION

REFUSED - The proposed development is refused for the following reasons:

1. Section 80(5) - No portion of a Child Care Service Use, including the building or bay of building and, where provided, on-site outdoor play space, shall be located within 50.0 m of a Major or Minor Service Station or a Gas Bar. This distance shall be measured from the pump island, fill pipes, vent pipes, or service station or gas bar building, depending on whichever is closest to the child care facility.

Proposed: 20.1 m

Deficient: 29.9 m

2. Sections DC2.504.4(m) & 80(6) - The proposed development, calculated on the basis of 3.5 parking space per 100.0 m² of gross floor area, does not result in an increased number of parking spaces but there is a separate requirement for on-site drop-off spaces for the Child Care Services. Twenty-four children require 3.0 on-site drop-off spaces.

Required: 3

Provided: 0

APPELLANT'S SUBMISSION

I am appealing this refusal decision as after completing a parking justification I feel as though the operation if my proposed business will not have any negative effects on parking availability. I feel as though the deficiency in distance from the gas bar to the proposed preschool is not a safety concern as the gas bar is quite small also as a preschool I would not have an outside play pace. This helps to limit the safety concerns. I will upload additional details and support documents in the coming weeks.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

Section 641(4) of the *Municipal Government Act*, Chapter M-26, states 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 following the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

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

- 2.4 Subject only to the provisions in the Municipal Government Act respecting legal non-conforming Uses and notwithstanding the effect it may have on rights, vested or otherwise, the provisions of this Bylaw govern from the Effective Date onward. In particular, no application for a Development Permit shall be evaluated under the procedural or substantive provisions of the previous Land Use Bylaw after the Effective Date, even if the application was received before the Effective Date.
- 2.6 Any Direct Control Districts that were in effect immediately prior to the Effective date are hereby deemed to continue in full force and effect and are hereby incorporated into Part IV of this Bylaw.

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

At the time of the creation of the subject DC site, the City of Edmonton Land Use Bylaw 5996 was in effect. A recent Court of Appeal decision in *Parkdale-Cromdale Community League Association v. Edmonton (City)*, 2007 ABCA 309 concluded that Section 2.7 of the Edmonton Zoning Bylaw only applies if there is an express cross-reference in a Direct Control bylaw passed before 2001 to a provision of the old Land Use Bylaw. In the absence of an express reference in the Direct Control Bylaw to the Land Use Bylaw 5996, it does not prevail over Section 2.4 of the Edmonton Zoning Bylaw.

A **Daytime Child Care Service** is a listed Use in the DC2.504 Site Specific Development Control Provision, DC2.504.3.d.

Section 3.2 of the *Edmonton Zoning Bylaw* provides the following with regard to **other Provisions for Direct Control Provision with Daytime Child Care Services Use Class**:

For all Direct Control Provisions created prior to the passage of Bylaw 11095, which contain Daytime Child Care Services as a listed Use, this Use Class shall be replaced by the Use Class Child Care Services and the development of such Uses shall be in accordance with the regulations of Section 80 Child Care Services.

Under Section 7.8(2), **Child Care Services** means a development intended to provide care, educational activities and supervision for groups of seven or more children under 13 years of age during the day or evening, but does not generally include overnight accommodation. This Use Class typically includes daycare centres; out-of-school care centres; preschools; and dayhomes (providing child care within the care provider's residence).

Section 80(5) states no portion of a Child Care Service Use, including the building or bay of building and, where provided, on-site outdoor play space, shall be located within 50.0 m of a Major or Minor Service Station or a Gas Bar. This distance shall be measured from the pump island, fill pipes, vent pipes, or service station or gas bar building, depending on whichever is closest to the child care facility.

The Development Officer determined the proposed Child Care Service is located 20.1 metres from an existing Gas Bar, which is deficient by 29.9 metres.

DC2.504.4.m states development in the District shall be evaluated with respect to compliance with the General Development Regulations of Sections 50 to 79 inclusive of the Land Use Bylaw, with the exception that parking shall be provided on the basis of 3.5 spaces per 100 m² of gross floor space in buildings, with the exception of one parking space per four seats in Minor Eating and Drinking Establishments.

Section 80(6) states parking shall be provided according to the regulations outlined in Schedule 1 to Section 54 of this Bylaw. In addition, drop-off parking shall be provided as follows:

- a. a separate on-site drop-off area shall be provided at the rate of 2 drop-off spaces for up to 10 children, plus 1 additional space for every 10 additional children;
- b. each drop-off space shall be a minimum of 2.6 m in width and a minimum of 5.5 m in length; and
- c. the drop-off area shall be located within 60.0 m from the main entrance of the Child Care Service facility.

Section 54.2 Schedule 1(A)(31) provides the following with regard to the minimum number of parking spaces required for a Child Care Service:

1 parking space for the first 2 employees, plus 0.5 spaces per additional employee

Except:

- a. Dayhomes (providing care to 7 or more children within the residence of the child care provider):

1 parking space per non-resident employee, in addition to parking required for Primary Dwelling.

Where a Front Yard driveway provides access to a parking space that is not within the Front Yard, the Development Officer may consider this driveway as the provision of a second car parking space that is in tandem.

The Development Officer determined the proposed development, calculated on the basis of 3.5 parking spaces per 100.0 m² of gross floor area, does not result in an increased number of parking spaces but there is a separate requirement for on-site drop-off spaces for the Child Care Services. The Development Officer determined twenty-four children require 3.0 on-site drop-off spaces and none are provided.

Section 80 states a Child Care Service shall comply with the following regulations:

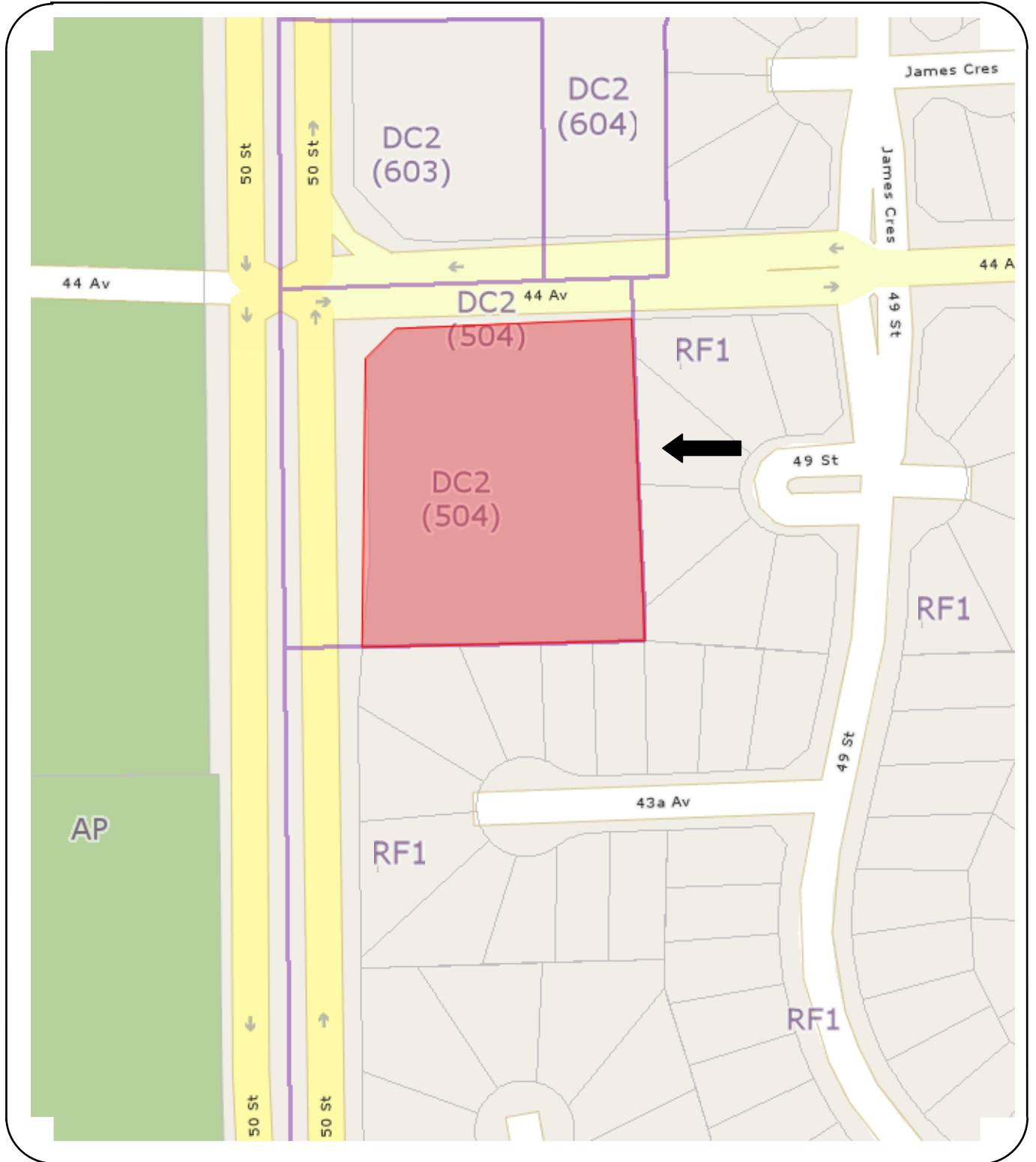
1. ...
2. Child Care Services in the HDR, RA7, RA8, RA9, RF5, RF6, RMU, TMU or UCRH Zones shall be in a separate facility, either within the principal building on the Site or in an Accessory or secondary building, with a separate access to ground level;
3. a Child Care Service in any Residential Zone shall not change the principal character or external appearance of the Dwelling in which it is located. If a new building is constructed, it must retain the character of a residential Dwelling. Any associated signage on the Dwelling must not detract from the residential character of the neighbourhood;
4. the Development Officer shall, when deciding whether to approve or refuse a Child Care Service in a Commercial Zone, take into account, among other matters, traffic, noise and proximity to hazardous uses to ensure the proposed Child Care Service is in a safe location;
5. ...
6. ...
7. exterior lighting of the facility shall provide for a well lit environment;
8. where on-site outdoor play space is provided, pursuant to the Provincial *Child Care Licensing Regulation*, it shall comply with the following regulations:

- a. noisy, noxious or hazardous adjacent Uses such as, but not limited to, loading/unloading areas, garbage bins, large parking lots, arterial roads, passenger drop-off areas, rail lines, Light Rail Transit lines or stormwater lakes should either be avoided or their effects mitigated through landscaping, buffering, fencing, or other means;
 - b. outdoor play space shall be located at ground level. If no reasonable opportunity exists for at Grade outdoor play space, the Development Officer may approve an above Grade outdoor play space provided that the following conditions are met:
 - i. secure perimeter fencing is provided that is at least 1.83 m in height and is located a reasonable distance from the edge of the building;
 - ii. roof top mechanical equipment is located a reasonable distance away from the play space to avoid sources of noise and fumes unless the mechanical equipment is designed so that it does not create adverse effects related to noise and fumes and can be integrated into the play area;
 - c. outdoor play space shall be securely enclosed on all sides with the exception of developments proposed on zoned Sites US and AP where existing play fields are proposed as outdoor play space;
 - d. in a Residential Zone, outdoor play space may be allowed in any Yard, providing it is designed to limit any interference with other Uses, or the peaceful enjoyment of the properties of nearby residents, through fencing, landscaping, buffering and the placement of fixed play equipment;
 - e. in any Non-residential Zone, the outdoor play space shall not be located in any Yard that abuts a public roadway unless the design, size and other characteristics of the proposed play space mitigate the potential impact from the roadway traffic upon children using the play space; and
9. all Development Permit applications for Child Care Services shall include: plans that show all elevations; floor plans that show indoor play and rest areas, including the location of windows; a Site plan that shows the required on-site parking, drop-off facilities, and, where provided, on-site outdoor play areas, including the location and type of fixed play equipment, as well as fencing, landscaping and any buffering to be provided.

DC2.504.1 states the General Purpose of this District is to establish a Site Specific Development Control District to accommodate a limited range of local convenience commercial and personal service uses which are intended to serve the day-to-day needs of the neighbourhood residents, with site development criteria to ensure that the commercial development will be compatible with the adjacent residential land uses.

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.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-178



TO BE RAISED
ITEM III: 2:00 P.M.

FILE: SDAB-D-15-138

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY A
COMMUNITY LEAGUE

APPELLANT:

APPLICATION NO.: 148765660-003

APPLICATION TO: Develop a Secondary Suite in an existing
Single Detached House

DECISION OF THE
DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: May 19, 2015

DATE OF APPEAL: June 8, 2015

NOTIFICATION PERIOD: May 26, 2015 through June 8, 2015

RESPONDENT:

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 11234 - 86 Street NW

LEGAL DESCRIPTION: Plan 512V Blk 84 Lot 20

ZONE: RA7 Low Rise Apartment Zone

OVERLAY: Medium Scale Residential Infill Overlay

STATUTORY PLAN: Parkdale Area Redevelopment Plan

DEVELOPMENT OFFICER'S DECISION

APPROVED - The proposed development is approved subject to the following conditions:

A Secondary Suite shall not be developed within the same principal Dwelling containing a Group Home or Limited Group Home, or a Major Home Based Business, unless the Secondary Suite is an integral part of a Bed and Breakfast Operation in the case of a Major Home Based Business.

Notwithstanding subsection 86.7 of this Bylaw, the number of unrelated persons occupying a Secondary Suite shall not exceed three.

The Secondary Suite shall not be subject to separation from the principal Dwelling through a condominium conversion.

Only one of a Secondary Suite, a Garage Suite or Garden Suite may be developed in conjunction with a principal Dwelling.

A Secondary Suite shall be developed in such a manner that the exterior of the principal building containing the Secondary Suite shall appear as a Single Dwelling.

1 parking space per 2 Sleeping Units in addition to the parking requirements for primary Dwelling. Tandem Parking is allowed for Secondary Suites and Garage Suites.

For an on-site driveway in any Residential Zone, the area required to be hard surfaced may be constructed on the basis of separated tire tracks, with natural soil, or gravel between the tracks, but shall be constructed so that the tires of a parked or oncoming vehicle will normally remain upon the hard surface. (Reference Section 54.6.2 (b) of Edmonton Zoning Bylaw)

The Driveway shall lead directly from the roadway to the required Garage or Parking Area. The existing driveway shall not be widened for additional parking stall. The Secondary Suite parking is to be in tandem on the existing driveway.

Note: 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.

An approved Development Permit means that the proposed development has been reviewed against the provisions of Edmonton Zoning Bylaw 12800. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site. (Reference Section 5.2 of Edmonton Zoning Bylaw 12800).

APPELLANT'S SUBMISSION

The addition of a secondary suite is a discretionary use on this RA7 property. The current landowner has caused significant disruption to surrounding neighbours due to the actions of his renters in both this property and the adjacent four properties he owns, including loud partying and unruly behaviour, property damage, parking in neighbours driveways, excessive garbage being left on the property. The landlord seems to have little concern for neighbours, and we feel that allowing an additional dwelling unit on the property will only exacerbate the problem.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

The Subdivision and Development Appeal Board at a hearing on June 30, 2015 made and passed the following motion:

“The appeal shall be TABLED to August 5 or 6, 2015, or as the parties dictate.”

Secondary Suites is a Discretionary Use in the RA7 Low Rise Apartment Zone, Section 210.3(13).

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

This application was approved by the Development Officer subject to conditions.

The decision of approval by the Development Officer has been appealed by the Parkdale-Cromdale Community League.

The submitted Site Plan shows that the subject site has a Site Width of 9.46 metres, a (north) Site depth of 37.67 metres, and a (south) Site depth of 38.66 metres. The submitted plans indicate that the proposed Suite is located in the Basement level and consists of two bedrooms, one bathroom, a kitchen, a living room, and a mechanical room. Access to the Secondary Suite is provided from a common landing on the main floor.

Section 210.5(1) states notwithstanding subsection 210.4, Single Detached, Semi-detached Duplex Housing, Secondary Suites, Garage Suites and Garden Suites in this Zone shall be developed in accordance with the provisions of the RF4 Zone.

Section 150.4(18) states Secondary Suites shall comply with Section 86 of this Bylaw.

Section 86 states a Secondary Suite shall comply with the following regulations:

1. the minimum Site area for a Single Detached Dwelling containing a Secondary Suite is 360 square metres, except in the case of the RR Zone, where it shall be the same as the minimum Site area for the Zone.
2. the maximum Floor Area of the Secondary Suite shall be as follows:

- a. in the case of a Secondary Suite located completely below the first storey of a Single Detached Dwelling (other than stairways or a common landing), the Floor Area (excluding the area covered by stairways) shall not exceed the Floor Area of the first storey of the associated principal Dwelling.
- b. in the case of a Secondary Suite developed completely or partially above grade, the Floor Area (excluding the area covered by stairways) shall not exceed 40% of the total Floor Area above grade of the building containing the associated principal Dwelling, nor 70 m², whichever is the lesser.
3. the minimum Floor Area for a Secondary Suite shall be not less than 30 m².
4. a Secondary Suite shall be developed in such a manner that the exterior of the principal building containing the Secondary Suite shall appear as a single Dwelling.
5. only one of a Secondary Suite, a Garage Suite or Garden Suite may be developed in conjunction with a principal Dwelling.
6. a Secondary Suite shall not be developed within the same principal Dwelling containing a Group Home or Limited Group Home, or a Major Home Based Business, unless the Secondary Suite is an integral part of a Bed and Breakfast Operation in the case of a Major Home Based Business;
7. notwithstanding the definition of Household within this Bylaw, the number of unrelated persons occupying a Secondary Suite shall not exceed three.
8. the Secondary Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision.
9. Secondary Suites shall not be included in the calculation of densities in this Bylaw.
10. notwithstanding Secondary Suites being listed as Permitted or Discretionary Uses within any Zone, they shall be subject to the regulations of the Edmonton-Strathcona County Joint Planning Study Area Secondary, Garage and Garden Suites Overlay in Section 822 of this Bylaw.

Section 823.1 states the 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.

Section 210.1 states the purpose of the zone is to provide a Zone for Low Rise Apartments.

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.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-138



BUSINESS LAID OVER

SDAB-D-15-161	An appeal by <u>Ali Abdulhadi</u> to construct four Dwellings of Row Housing with attached Garages and to demolish the existing Single Detached House and rear detached Garage <i>September 23 or 24, 2015</i>
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