

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
February 14, 2019**

**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-19-017

To change the use of 27 units of Apartment Housing (9-1 bedroom, and 18-2 bedroom Dwellings) to 48 units of Apartment Hotel, increase the height, and amend the floor layout (parking garage, 1-4 storeys), and to construct exterior and interior alterations (change the Building design, increase height, increase parking garage size) to an approved Building

17104 - 90 Avenue NW
Project No.: 266010257-006

II 1:30 P.M. SDAB-D-19-018

To convert a Single Detached House to a Childcare Service (maximum 30 Children) and to construct interior and exterior alterations

3404 - 106 Street NW
Project No.: 296619983-001

NOTE: *Unless otherwise stated, all references to “section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-017

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 266010257-006

APPLICATION TO: Change the use of 27 units of Apartment Housing (9-1 bedroom, and 18-2 bedroom Dwellings) to 48 units of Apartment Hotel, increase the height, and amend the floor layout (parking garage, 1-4 storeys), and to construct exterior and interior alterations (change the Building design, increase height, increase parking garage size) to an approved Building

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: December 20, 2018

DATE OF APPEAL: January 16, 2019

NOTIFICATION PERIOD: December 27, 2018 through January 17, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 17104 - 90 Avenue NW

LEGAL DESCRIPTION: Plan 8220508 Blk 30 Lot 9

ZONE: (CSC) Shopping Centre Zone

OVERLAY: N/A

STATUTORY PLAN: Summerlea Neighbourhood Area Structure Plan

Grounds for Appeal

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

The Major development Permit issued on December 20, 2018 provides that the owner must register an easement thru the adjacent west property for the provision of waste services. An alternate method of accessing the property for waste removal vehicles is entry from 90th Ave with a hammerhead turn to remove the garbage. If this method of access is used an easement through the adjacent west property is not required.

Alternatively, an additional access could be provided off of 90th Ave at the south west boundary of this property.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (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 *Edmonton Zoning Bylaw*:

Under section 320.3(2), **Apartment Hotels** is a **Discretionary Use** in the (CSC) Shopping Centre Zone.

Under section 7.3(1), **Apartment Hotels** means:

development consisting of Dwellings contained within a building or a part of a building having a principal common entrance, in which the Dwellings are not available for daily lease and there are cooking facilities within each Dwelling, the Dwellings are furnished including dishes and linen, and either maid service, telephone service, or desk service is provided. Apartment Hotels shall not contain Commercial Uses, unless such Uses are a Permitted or Discretionary Use in the Zone where the Apartment Hotel is located.

Under section 320.2(9), **General Retail Stores** is a **Permitted Use** in the (CSC) Shopping Centre Zone.

Under section 7.4(24), **General Retail Stores** means:

development used for the retail or consignment sale of new goods or merchandise within an enclosed building, not including the sale of gasoline, heavy agricultural and industrial equipment, alcoholic beverages, or goods sold wholesale. Accessory Uses may include the assembly or repair of products sold on Site, or minor public services such as postal services or pharmacies. This Use does not include Aircraft Sales/Rentals, Automotive and Minor Recreation Vehicle Sales/Rentals, Cannabis Retail Sales, Flea Market, Gas Bars, Greenhouses, Plant Nurseries and Garden Centres, Pawn Stores, Major Alcohol Sales, Minor Alcohol Sales, Major Service Stations, Minor Service Stations, Secondhand Stores, and Warehouse Sales.

Under section 6.1, **Parking Garage** means “an Accessory building or structure, or any portion of a principal building or structure, containing communal parking spaces used for vehicular parking or storage.”

Section 320.1 states that the **General Purpose** of the (CSC) **Shopping Centre Zone** is “to provide for larger shopping centre developments intended to serve a community or regional trade area. Residential, office, entertainment and cultural uses may also be included within such shopping complexes.”

Vehicular Parking Requirement

Section 54.2, Schedule 1(A)(13) states:

| Use of Building or Site | Minimum Number of Parking Spaces Required |
|-------------------------|--|
| Apartment Hotels | 1 parking space per Dwelling, room, or suite |

Section 54.2, Schedule 1(A)(12) states:

| Any development within a Commercial Use not listed separately in this table, with a Floor Area of: | Minimum Number of Parking Spaces Required |
|--|---|
| a. less than <u>4 500 m²</u> | 1 parking space per <u>40.0 m²</u> of Floor Area |

Under section 6.1, **Dwelling** means:

self contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household.

Under section 6.1, **Floor Area** means:

the total Floor Area of the building or structure, contained within the outside surface of the exterior and Basement walls, provided that in the case of a wall containing windows, the glazing line of windows may be used.

Development Officer’s Determination

1. Parking - The site has 75 parking spaces, instead of 81, a deficiency of 6 parking spaces. (Section 54.2 and Schedule 1(A))
[unedited]

| |
|--|
| <i>Loading Spaces Requirement</i> |
|--|

Section 54.4, Schedule 3 provides the following with respect to Loading Spaces:

| Use of Building or Site | Total Floor Area of Building | Minimum Number of loading Spaces Required |
|---|--|---|
| 1. Any development within the Commercial or Industrial Use Classes, excluding Professional, Financial and Office Support Services | Less than <u>465 m²</u> | 1 |
| | <u>465 m²</u> to <u>2 300 m²</u> Each additional <u>2 300 m²</u> , or fraction thereof | 2 1 additional |
| 2. Any development within the Residential-Related, Basic Services or | Up to <u>2 800 m²</u> Each additional <u>2 800 m²</u> or | 1 1 additional |

| | | |
|--|------------------|--|
| Community, Educational, Recreational and Cultural Service Use Classes and Professional, Financial and Office Support Services, excluding Limited Group Homes | fraction thereof | |
|--|------------------|--|

Development Officer’s Determination

2. Loading Space - There are 2 instead of 3 Loading Spaces. (Section 54.4.3). [unedited]

Discretionary Use


3. Discretionary Use - Apartment Hotels is approved as a Discretionary Use (Section 320.3.2). [unedited]

Previous Subdivision and Development Appeal Board Decision

| Application Number | Description | Decision |
|---------------------------|--|--|
| SDAB-D-17-046 | To install a Freestanding Minor Digital Off-premises Sign (6.1 m x 3 m -facing E/W). | March 17, 2017; The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The development is GRANTED as applied for to the Development Authority, subject to CONDITIONS. |

Notice to Applicant/Appellant

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

| | | | |
|---|--|---|---|
|  | <p>Project Number: 266010257-006 Application Date: OCT 11, 2018 Printed: January 17, 2019 at 11:03 AM Page: 1 of 4</p> | | |
| <h2 style="margin: 0;">Major Development Permit</h2> | | | |
| <p>This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.</p> | | | |
| <p>Applicant</p> | <p>Property Address(es) and Legal Description(s) 17104 - 90 AVENUE NW Plan 8220508 Blk 30 Lot 9</p> <p>Specific Address(es) Suite: 17128 - 90 AVENUE NW Entryway: 17104 - 90 AVENUE NW Entryway: 17108 - 90 AVENUE NW Entryway: 17112 - 90 AVENUE NW Entryway: 17116 - 90 AVENUE NW Entryway: 17120 - 90 AVENUE NW Entryway: 17128 - 90 AVENUE NW Building: 17104 - 90 AVENUE NW</p> | | |
| <p>Scope of Permit To change the use of 27 units of Apartment Housing (9-1 bedroom, and 18-2 bedroom Dwellings) to 48 units of Apartment Hotel, increase the height, and amend the floor layout (parking garage, 1-4 storeys), and to construct exterior and interior alterations (change the Building design, increase height, increase parking garage size) to an approved Building.</p> | | | |
| <p>Permit Details</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Class B Gross Floor Area (sq.m.): 220.5 New Sewer Service Required: Y Site Area (sq. m.): 4043.45 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table> | | Class of Permit: Class B Gross Floor Area (sq.m.): 220.5 New Sewer Service Required: Y Site Area (sq. m.): 4043.45 | Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none) |
| Class of Permit: Class B Gross Floor Area (sq.m.): 220.5 New Sewer Service Required: Y Site Area (sq. m.): 4043.45 | Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none) | | |
| <p>I/We certify that the above noted details are correct.</p> <p>Applicant signature: _____</p> | | | |
| <p>Development Permit Decision Approved Issue Date: Dec 20, 2018 Development Authority: ADAMS, PAUL</p> | | | |
| | | | |



Project Number: **266010257-006**
 Application Date: OCT 11, 2018
 Printed: January 17, 2019 at 11:03 AM
 Page: 2 of 4

Major Development Permit

Subject to the Following Conditions

1. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Sanitary Sewer Trunk Charge fee of \$24423.00. All assessments are based upon information currently available to the City. The SSTC charges are quoted for the calendar year in which the development permit is granted. The final applicable rate is subject to change based on the year in which the payment is collected by the City of Edmonton.

2. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW the owner must register an easement through the adjacent west property, as shown on Enclosure I, for the provision of waste services. The easement is required to accommodate waste services vehicles entering the site from the neighbouring west access. An unobstructed drive aisle connection must be maintained. The City of Edmonton will be a party to this easement, and the easement must stipulate that the owner may not discharge the easement without the express written consent of the City of Edmonton. The City's Law Branch will prepare the easement documents. The owner must contact Matthew Bennett of the City of Edmonton Law Branch (matthew.bennett2@edmonton.ca) to obtain a fillable form of the draft easement document, a sample of which is attached as Enclosure II. The owner must complete the easement document details and return the signed easement to the Law Branch. The City will review and execute the agreement, and the fully executed easement will then be returned to the owner who is required to register the easement on all affected Certificates of Title and provide proof of the easement registration to the Development Planner PRIOR to the release of the drawings for the Building Permit.

A) Access to the subject site from 90 Avenue exists, as shown on Enclosure I. Any modification to the existing access requires the review and approval of Subdivision Planning. No additional access will be permitted to 90 Avenue.

B) Pedestrian connections including applicable curb ramps must be provided on site from the building entrances to the public sidewalk, as shown on Enclosure I. The proposed sidewalk connection to the public sidewalk is acceptable to Subdivision Planning.

C) No objects are permitted to encroach onto, over or under road right-of-way, as shown on Enclosure I.

D) There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.

E) Garbage bins must be located so that all turning maneuvers for the waste management vehicles are accommodated on site. It will be the responsibility of property owner/management to keep the collection area clear at all times. We also recommend paint/signage to prevent or minimize the possibility of vehicle parking in this area.

F) Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. OSCAM permit applications require Transportation Management Plan (TMP) information. The TMP must include:

- the start/finish date of project;
- accommodation of pedestrians and vehicles during construction;
- confirmation of lay down area within legal road right of way if required;
- and to confirm if crossing the sidewalk and/or boulevard is required to temporarily access the site.

It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at:

https://www.edmonton.ca/business_economy/licences_permits/oscaml-permit-request.aspx

and,

<https://www.edmonton.ca/documents/ConstructionSafety.pdf>

G) Any sidewalk or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Development Inspections, as per Section 15.5(f) of the Zoning Bylaw. All expenses incurred for repair are to be borne by the owner.

3. The Site shall comply with the approved Landscaping Plan and Landscaping Conditions in Development Permit #266010257-



Project Number: **266010257-006**
 Application Date: OCT 11, 2018
 Printed: January 17, 2019 at 11:03 AM
 Page: 3 of 4

Major Development Permit

002.

4. All required parking and loading facilities shall only be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the building or Use for which the parking and loading facilities are provided, and the parking and loading facilities shall not be used for driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind. (Reference Section 54.1.1.c)

5. The off-street parking, loading and unloading (including aisles or driveways) shall be hardsurfaced, curbed, drained and maintained in accordance to Section 54.6.

6. No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within an approved Setback. (Reference 320.4.5)

7. Bicycle parking shall be provided in accordance to Section 54.3 and to the satisfaction of the Development Officer.

8. Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51)

9. Trash collection and loading areas shall be screened from view from any adjacent Sites and public roadways, to the satisfaction of the Development Officer. (Reference Section 320.4.5)

10. The attic space above the fourth storey shall only be used for mechanical or electrical equipment servicing the development, shall not be connected to the fourth storey by a stair case, and shall not be used in any way as operational space including but not limited to storage, dwellings, amenity space, or business floor area.

ADVISEMENTS:

a. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

b. This Development Permit is NOT a Business Licence. A separate application must be made for a Business Licence. Please contact the 311 Call Centre (780-442-5311) for further information.

c. Signs require separate Development Applications.

d. A building permit is required for any construction or change in Use of a building. For a building permit, and prior to the plans examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre (780-442-5311) for further information.

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

f. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2)

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

h. Upon the first Development Permit Inspection and determination that landscape construction has been completed in compliance with the approved Landscape Plan, 20% of the approved Guaranteed Landscape Security shall be collected and retained for a period



Project Number: **266010257-006**
 Application Date: OCT 11, 2018
 Printed: January 17, 2019 at 11:03 AM
 Page: 4 of 4

Major Development Permit

of 24 months from the date of first Development Permit Inspection.

i. Sites that are not completed or are not compliant with approved Landscape Plans at the first Development Permit Inspection, shall be required to submit a Security for incomplete work, up to and including the full value of the approved Guaranteed Landscape Security value.

j. The applicant is advised that more than a 12% difference in the ramp slope may result in vehicles “bottoming out” at the break-over point.

Variations

1. Parking - The site has 75 parking spaces, instead of 81, a deficiency of 6 parking spaces. (Section 54.2 and Schedule 1(A))
2. Loading Space - There are 2 instead of 3 Loading Spaces. (Section 54.4.3).
3. Discretionary Use - Apartment Hotels is approved as a Discretionary Use (Section 320.3.2).

Rights of Appeal

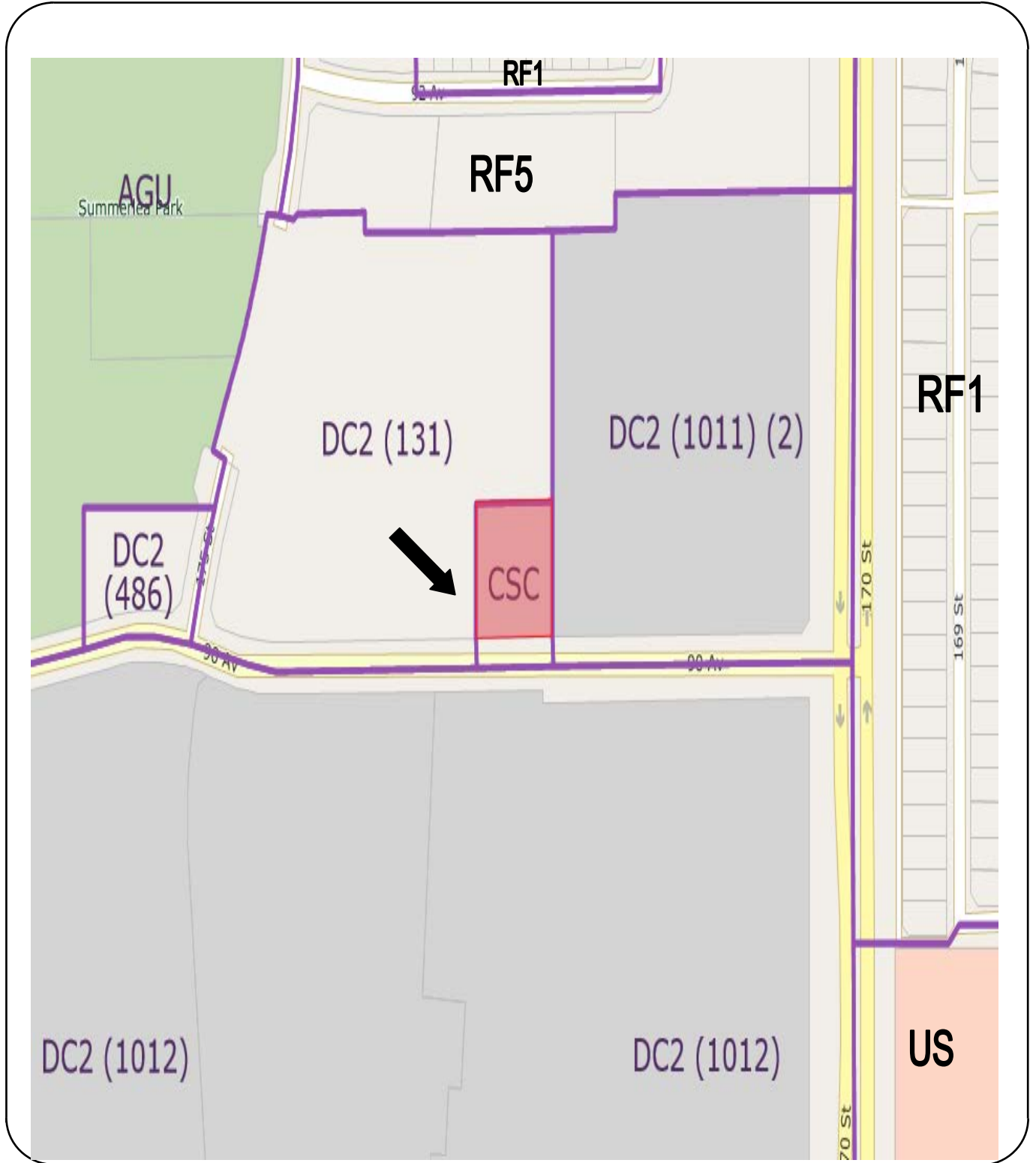
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Notice Period Begins: Dec 27, 2018

Ends: Jan 17, 2019

Fees

| | Fee Amount | Amount Paid | Receipt # | Date Paid |
|--|-------------|-------------|------------------|--------------|
| Major Dev. Application Fee | \$948.00 | \$948.00 | 05416911,0545329 | Nov 01, 2018 |
| Sanitary Sewer Trunk Fund 2012+ | \$24,423.00 | | | |
| Dev. Application Fee # of dwelling units | \$1,275.00 | | | |
| Total GST Amount: | \$0.00 | | | |
| Totals for Permit: | \$26,646.00 | \$948.00 | | |
| (\$25,698.00 outstanding) | | | | |



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-017



ITEM II: 1:30 P.M.

FILE: SDAB-D-19-018

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 296619983-001

APPLICATION TO: Convert a Single Detached House to a Childcare Service (maximum 30 Children) and to construct interior and exterior alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 4, 2019

DATE OF APPEAL: January 17, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3404 - 106 Street NW

LEGAL DESCRIPTION: Plan 7620138 Blk 6 Lot 102

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Duggan Neighbourhood Area Structure Plan

Grounds for Appeal

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

We would like to appeal your refusal decision on our discretionary application for the above referred project on the following grounds:

·The purpose of the project is to provide child care service to the neighborhood. Prior to the inception of the project, a survey was conducted by us within the neighborhood to determine the need of such a service. The result of the study was an overwhelming approval for the need of such a service and an unconditional signed letter of consent from the neighborhood residents was obtained and has been submitted with the application.

·The development officer first concern for approval was the aesthetics change of the area; with the major concern being the principal outlook character of the building. We do not intend to change any outlook character of the existing building and are hence setback with this as one of the reason for refusal.

·We agree to the decision that the proposed parking design in the application, will result in the disruption of the movement of waste management trucks and will also be flagged by parking services as the turning of the stationary parking was utilizing the end turning lane circle setback area. We hence took our design back to the drawing board thinkolator with the aim of addressing this concern; and our design team have come up with an alternative approach which we feel will alleviate the planners concerns to a positive tone. Taking into consideration the planning officer's flow of thought, we have redesigned the entry of the parking in the lot and have also created an internal turning of the parking. All drop- offs facilities of the children and all stationary parking and turnings will be within our lot there by easing any reason for congestion of traffic in the city lane and also allowing free movement of the garbage trucks. Our car entrance to the lot has also been moved accordingly to meet the revised design ease of flow. A revised drawing and the old application design drawings are attached for your study and quick perusal.

·Further to above; our current business plan concept for the project was to provide collection and delivery pick up services to the children from the homes. We anticipate enrolling at least 20 of our maximum pupil enrolment within this program system. The concept seeks the use of two minivan shuttles and the two parking slots and a wide turning and drop off area in the design is allowed for keeping in mind this operation; thereby allowing for loading and offloading of the children within the yard in a completely safe mode. The other ten pupils we are targeting will be residing within a radius reach of 150 yards of the facility and thus believe that the parents will most likely walk the toddlers to the facility. IN any event even if the automobile mode is used our turning circle facilitates this drop off mode in the school away from the traffic flow.

·Further to that, the adjacent neighbor has given us an unconditional approval to allow the use of his property for two parking stalls, should any need arise for additional staff parking. This consent letter is attached for your ease of reference.

·The other concern of the officer was the capacity of the number of maximum students applied for. The total number of children proposed in the application is less than the maximum the current by law specification allows for. We have opted for a lesser number of 30 in our application, taking into consideration that the maximum permissible amount may result in the negative creation of congestion in parking, a concern that has already been cited by the development officer as his reason for refusal. Furthermore we now believe that, the revised proposed design

and change of the parking location within the building will definitely not create any circulation loads on the current lane circulation movement.

·Lastly, we would like to address that all children drop off are from the lane side as this is the least used circulation traffic area. We believe that the impact of any slight increase in traffic flow in the lane will affect only the neighbours with whom we have already addressed the need of this facility and gotten their consent.

We trust the above discussion addresses the concerns raised by the Development Officer as reasons for refusal of our application and are through this letter seeking for a reconsideration of our application and be honored with an approval. Needless to mention, we are willing to work with the planning office to alleviate any further concerns they may have, and look forward to your decision of our appeal.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
 - (a.2) subject to section 638, must comply with any applicable statutory plans;
 - (a.3) subject to clause (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 *Edmonton Zoning Bylaw*:

Section 110.1 states that the **General Purpose** of the **RF1 Single Detached Residential Zone** is:

The purpose of this Zone is to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.

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

The purpose of this Overlay is to regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Under section 110.3(1), **Child Care Services** is a **Discretionary Use** in the RF1 Single Detached Residential Zone.

Under section 7.8(2), **Child Care Services** is defined as follows:

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

| |
|--|
| <p><i>Principal Character of the Dwelling</i></p> |
|--|

Section 80(4) states:

Development in Residential Zones

- a. Where a Child Care Services Use is proposed in a building with a valid development permit for Apartment Housing or Row Housing, the Child Care Services shall not be part of a Dwelling.
- b. Where a Child Care Services Use is proposed as part of a Dwelling, or is proposed in a converted Single Detached Housing, the Use shall only be located:
 - i. on a Corner Lot; or
 - ii. on a Site Abutting a Site that is actively used for a Community, Educational, Recreational and Cultural Service Use Class; or
 - iii. Abutting a Site with zoning that lists Apartment Housing, General Retail Stores or Convenience Retail Stores as a permitted Use.
- c. **A converted Dwelling shall not change the principal character or external appearance of the Dwelling in which it is located.**

- d. If a new building is constructed for a Child Care Services Use, it shall retain the external appearance of a residential Dwelling, unless it is built as part of a development where the primary use is a Religious Assembly Use.

Development Officer's Determination

1) A converted Dwelling shall not change the principal character or external appearance of the Dwelling in which it is located (Reference Section 80.4(c)).

In the opinion of the Development Officer, the proposed development does change the principal character of the dwelling contrary to Section 80.4(c), as well as negatively impact the adjacent and surrounding low-density residential neighbourhood, for the following reasons:

a) Transportation Department (Waste Management & Parking Services Departments) has concerns with the proposed Child Care Services for 30 children.


- Waste Management does not support the proposed application due to potential vehicle congestion in the dead-end rear alley during peak times.
- Parking Services has advised that they have operational concerns with the use of the dead-end rear alley for drop-off and pick-up activities. It is additionally noted that there will not be any provision for an on-street loading zone on either 34 Avenue or 106 Street adjacent to the Site.

b) In the opinion of the Development Officer, the number of children proposed (30) for the Child Care Service within the existing single detached house, is excessive and may create a negative parking and noise impact on neighbouring properties. The proposed development may affect the use, enjoyment and value of neighbouring properties.

Note - Prior to submitting the development permit application, the applicant did community consultation within the 60m radius and received the support for the proposed Child Care Service.

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: 296619983-001 Application Date: NOV 01, 2018 Printed: January 17, 2019 at 8:23 AM Page: 1 of 2 | | |
| <h2 style="margin: 0;">Application for Major Development Permit</h2> | | | |
| This document is a Development Permit Decision for the development application described below. | | | |
| Applicant <div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 100%; height: 15px;"></div> | Property Address(es) and Legal Description(s) 3404 - 106 STREET NW Plan 7620138 Blk 6 Lot 102 Specific Address(es) Suite: 3404 - 106 STREET NW Entryway: 3404 - 106 STREET NW Building: 3404 - 106 STREET NW | | |
| Scope of Application To convert a Single Detached House to a Childcare Service (maximum 30 Children) and to construct interior and exterior alterations. | | | |
| Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 542.77 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table> | | Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 542.77 | Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) |
| Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 542.77 | Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) | | |
| I/We certify that the above noted details are correct. Applicant signature: _____ | | | |
| Development Application Decision Refused Issue Date: Jan 04, 2019 Development Authority: SHAH, NIKHIL Reason for Refusal The proposed development, the conversion of a Single Detached House to a Child Care Service is not a Permitted Use but listed as a Discretionary Use (Reference Section 110.3(1)). 1) A converted Dwelling shall not change the principal character or external appearance of the Dwelling in which it is located (Reference Section 80.4(c)). In the opinion of the Development Officer, the proposed development does change the principal character of the dwelling contrary to Section 80.4(c), as well as negatively impact the adjacent and surrounding low-density residential neighbourhood, for the following reasons: a) Transportation Department (Waste Management & Parking Services Departments) has concerns with the proposed Child Care Services for 30 children. - Waste Management does not support the proposed application due to potential vehicle congestion in the dead-end rear alley during peak times. - Parking Services has advised that they have operational concerns with the use of the dead-end rear alley for drop-off and pick-up activities. It is additionally noted that there will not be any provision for an on-street loading zone on either 34 Avenue or 106 Street adjacent to the Site. b) In the opinion of the Development Officer, the number of children proposed (30) for the Child Care Service within the existing single detached house, is excessive and may create a negative parking and noise impact on neighbouring properties. The proposed development may affect the use, enjoyment and value of neighbouring properties. Note - Prior to submitting the development permit application, the applicant did community consultation within the 60m radius and received the support for the proposed Child Care Service. | | | |
| THIS IS NOT A PERMIT | | | |



Application for Major Development Permit

Project Number: **296619983-001**
Application Date: NOV 01, 2018
Printed: January 17, 2019 at 8:23 AM
Page: 2 of 2

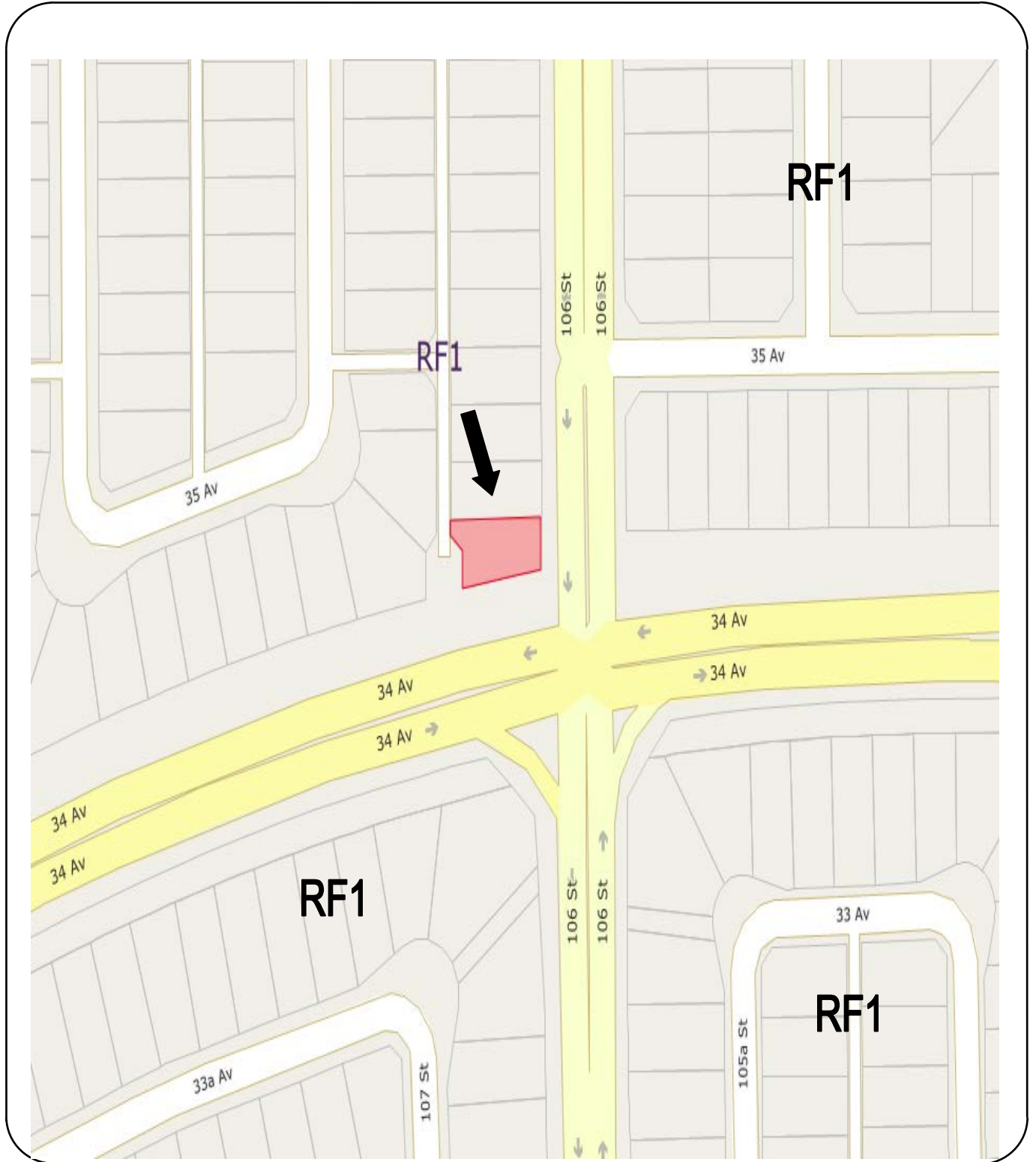
Rights of Appeal

The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.

Fees

| | Fee Amount | Amount Paid | Receipt # | Date Paid |
|----------------------------|-----------------|-----------------|-----------|--------------|
| Major Dev. Application Fee | \$326.00 | \$326.00 | 05450914 | Nov 01, 2018 |
| Total GST Amount: | \$0.00 | | | |
| Totals for Permit: | <u>\$326.00</u> | <u>\$326.00</u> | | |

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-018

