

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
September 28, 2016**

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

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 2**

I 9:00 A.M. SDAB-D-16-238

To install a Freestanding Minor Digital Off-premises Sign (SW face Minor Digital - 6.1 metres by 3 metres & NW face static - 6.1 metres by 3 metres)

14421 - Mark Messier Trail NW
Project No.: 224832554-001

II 10:30 A.M. SDAB-D-16-239

To construct a 3 Dwelling Row House, an Accessory building (rear detached Garage, 10.98 metres by 6.71 metres) and to demolish an existing Single Detached House and Accessory building (rear detached Garage).

7505 - 114 Street NW
Project No.: 186116148-001

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-16-238

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 224832554-001

APPLICATION TO: Install a Freestanding Minor Digital Off-premises Sign (SW face Minor Digital - 6.1 metres by 3 metres & NW face static - 6.1 metres by 3 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 16, 2016

DATE OF APPEAL: August 29, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 14421 - Mark Messier Trail NW

LEGAL DESCRIPTION: Plan 529KS Lot C

ZONE: IB Industrial Business Zone

OVERLAY: Major Commercial Corridors Overlay

STATUTORY PLAN: Rampart Industrial Area Structure Plan

Grounds for Appeal

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

I am a representative of Pattison Outdoor Advertising, the Applicant in the above noted matter. Our Development Permit Application has been refused. On behalf of Pattison Outdoor Advertising, I hereby appeal the refusal on the following grounds:

1. The Proposed Development is an impact-reducing modification to an existing minor digital sign, purchased by Pattison Outdoor Advertising from Belonett Media as part of a multifaceted buyout agreement which took place in August of 2011. The original double-sided minor digital sign was installed by Belonett Media prior to its purchase by Pattison Outdoor Advertising. We, the purchasers, were unaware that Belonett Media installed their structure in violation of their original development permit (86578305-001.) We believe Belonett's error was accidental, since Belonett Media did not commission a professional survey prior to installing their sign. The approved site plan, indicating a proposed 6 metres setback for the digital sign, also seems to indicate that the adjacent building on-site being set back twice as far from the property than it is in reality (which about 6m.) There is no copy of the 2009-approved permit in our files. I had not seen this old site plan until August of 2016.
2. The 2.73 metres setback variance that we require is quite reasonable. The service road which separates this site from the Major Arterial Road within the Major Commercial Corridor is significant in this case. Our proposed development is separated from the affected Major Arterial Road - Mark Messier Trail's nearest lane by more than 20 metres.
3. Our Proposed Development is an impact-reducing measure. We intend to remove the north-facing minor digital screen from the existing structure, and replace it with a paper 10 feet by 20 feet paper off-premises face — a development which The City of Edmonton's Traffic Safety Engineers do not oppose.
4. A forced relocation of the Proposed Development to 6 metres behind the property line will be incredibly costly and, indeed, unfathomable. The essence of the Outdoor Advertising Industry is to ensure that our advertising structures are visible to the travelling public. A 6 metres setback puts us behind the building on-site, and renders it invisible to vehicular traffic. A forced relocation will, in reality, result in a forced removal. This benefits no one.
5. Minor digital off-premises signs are a discretionary use in the Industrial Business (IB) zone, and are subject to the regulations of Sign Schedule 59F. Our Proposed Development is a minor digital off-premises sign that is compliant with the regulations spelled out within the applicable sign schedule.
6. Such further and other reasons as may be presented at the hearing of this 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, or

...

Hearing and Decision

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

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

...

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

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.
-

General Provisions from the *Edmonton Zoning Bylaw*

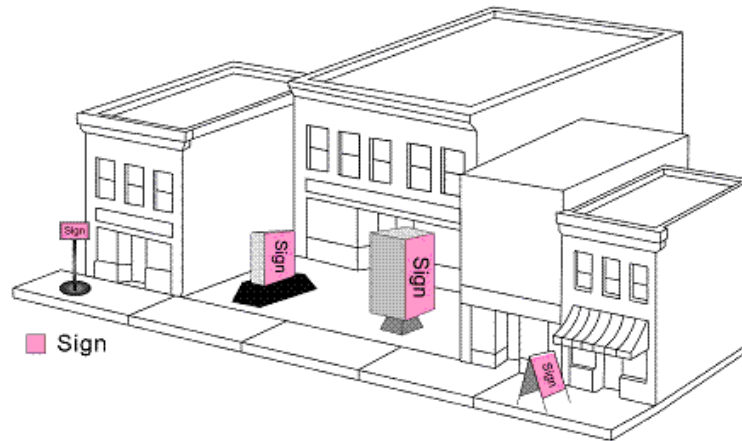
Under section 400.3(41) **Minor Digital Off-premises Signs** are a **Discretionary Use** in the IB Industrial Business Zone.

Under section 7.9(6), **Minor Digital Off-premises Signs** means:

any Sign that is remotely changed on or off Site and has a Message Duration greater than or equal to 6 seconds. Minor Digital Off-premises Signs incorporate a technology or method allowing the Sign to change Copy without having to physically or mechanically replace the Sign face or its components. The Copy on such Sign directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, entertainment or service provided on the premises or Site where the Sign is displayed.

Under section 6.2(8), **Freestanding Signs** means:

any On-premises or Off-premises Sign supported independently of a building. The Sign may take the form of single or multiple icons, product or corporate symbol, may involve a three dimensional or volumetric representation, may have single or multiple faces and may or may not be permanently fixed to the ground;



Under section 6.1(91), **Setback** means “the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space.”

Section 400.1 states the **General Purpose** of the **IB Industrial Business Zone** is:

...to provide for industrial businesses that carry out their operations such that no nuisance is created or apparent outside an enclosed building and such that the Zone is compatible with any adjacent non-industrial Zone, and to accommodate limited, compatible non-industrial businesses. This Zone should normally be located on the periphery of industrial areas and adjacent to arterial or major collector roadways

Section 813.1 states the **General Purpose** of the **Major Commercial Corridors Overlay** is:

...to ensure that development along Major Commercial Corridors is visually attractive and that due consideration is given to pedestrian and traffic safety.

IB Industrial Business Zone Regulations

Section 400.4(6) states: “Signs shall comply with the regulations found in Schedule 59F.”

Setback

Section 400.4(3) states: “A minimum Setback of 6.0 metres shall be required where any lot line of a Site abuts a public roadway, other than a Lane, or abuts the property line of a Site zoned residential.”

Development Officer's Determination

1) A minimum Setback of 6.0 metres shall be required where a Site abuts a public roadway, other than a Lane (Reference Section 400.4(3)).

**Proposed Setback: 3.16 metres
Deficient by: 2.84 metres**

The initial application for the Sign (86578305-001) was approved at a setback of 6 metres and expired July 6, 2014. The sign was not installed in accordance with the previous Development Permit approved.

<i>Major Commercial Corridors Overlay Regulations</i>

Setback

Section 813.4(6)(a) states:

Setbacks with a minimum Width of 7.5 metres shall be provided adjacent to Major Arterial Roads within the Major Commercial Corridors and adjacent Arterial Roads that directly intersect such Major Arterial Roads. However, the Development Officer may use variance power to reduce this Setback requirement to a minimum Width of 4.5 metres, provided that:

- i. the average Width of the Setback is not less than 6.0 metres; and
- ii. this Setback width relaxation is required to allow for a more efficient utilization of the Site and the relaxation shall result in an articulation of the Setback width that shall enhance the overall appearance of the Site.

Development Officer's Determination

2) Setbacks with a minimum Width of 7.5 metres shall be provided adjacent to Major Arterial Roads within the Major Commercial Corridors and adjacent Arterial Roads that directly intersect such Major Arterial Roads. However, the Development Officer may use variance power to reduce this Setback requirement to a minimum Width of 4.5 metres, provided that the average Width of the Setback is not less than 6.0 metres. (Reference Section 813.4(6(i)))

The average width of the setback of site is less than 6 metres.

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.



Project Number: **224832554-001**
 Application Date: JUN 28, 2016
 Printed: August 16, 2016 at 12:02 PM
 Page: 1 of 2

Application for Sign Combo Permit

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

Applicant

Property Address(es) and Legal Description(s)

14421 - MARK MESSIER TRAIL NW
 Plan 529KS Lot C

Scope of Application

To install a Freestanding Minor Digital Off-premises sign (SW face Minor Digital - 6.1 m x 3m & NW face static - 6.1m x 3m)

Permit Details

ASA Sticker No./Name of Engineer:
 Construction Value: 100000

Class of Permit:
 Expiry Date:

Fascia Off-premises Sign: 0
 Fascia On-premises Sign: 0
 Roof Off-premises Sign: 0
 Roof On-premises Sign: 0
 Minor Digital On-premises Sign: 0
 Minor Digital Off-premises Sign: 1
 Minor Digital On/Off-premises Sign: 0

Freestanding Off-premises Sign: 0
 Freestanding On-premises Sign: 0
 Projecting Off-premises Sign: 0
 Projecting On-premises Sign: 0
 Replacement Panel on Existing Sign: 0
 Comprehensive Sign Design: 0
 Major Digital Sign: 0

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

Applicant signature: _____

Development Application Decision

Refused

Reason for Refusal

1) A minimum Setback of 6.0 m shall be required where a Site abuts a public roadway, other than a Lane (Reference Section 400.4(3)).

Proposed Setback: 3.16 m
 Deficient by: 2.84 m

The initial application for the Sign (86578305-001) was approved at a setback of 6 m and expired July 6, 2014. The sign was not installed in accordance with the previous Development Permit approved.

2) Setbacks with a minimum Width of 7.5 m shall be provided adjacent to Major Arterial Roads within the Major Commercial Corridors and adjacent Arterial Roads that directly intersect such Major Arterial Roads. However, the Development Officer may use variance power to reduce this Setback requirement to a minimum Width of 4.5 m, provided that the average Width of the Setback is not less than 6.0 m.(Reference Section 813.4(6(i))

The average width of the setback of site is less than 6 m.

THIS IS NOT A PERMIT



Project Number: 224832554-001
Application Date: JUN 28, 2016
Printed: August 16, 2016 at 12:02 PM
Page: 2 of 2

Application for Sign Combo Permit

Rights of Appeal

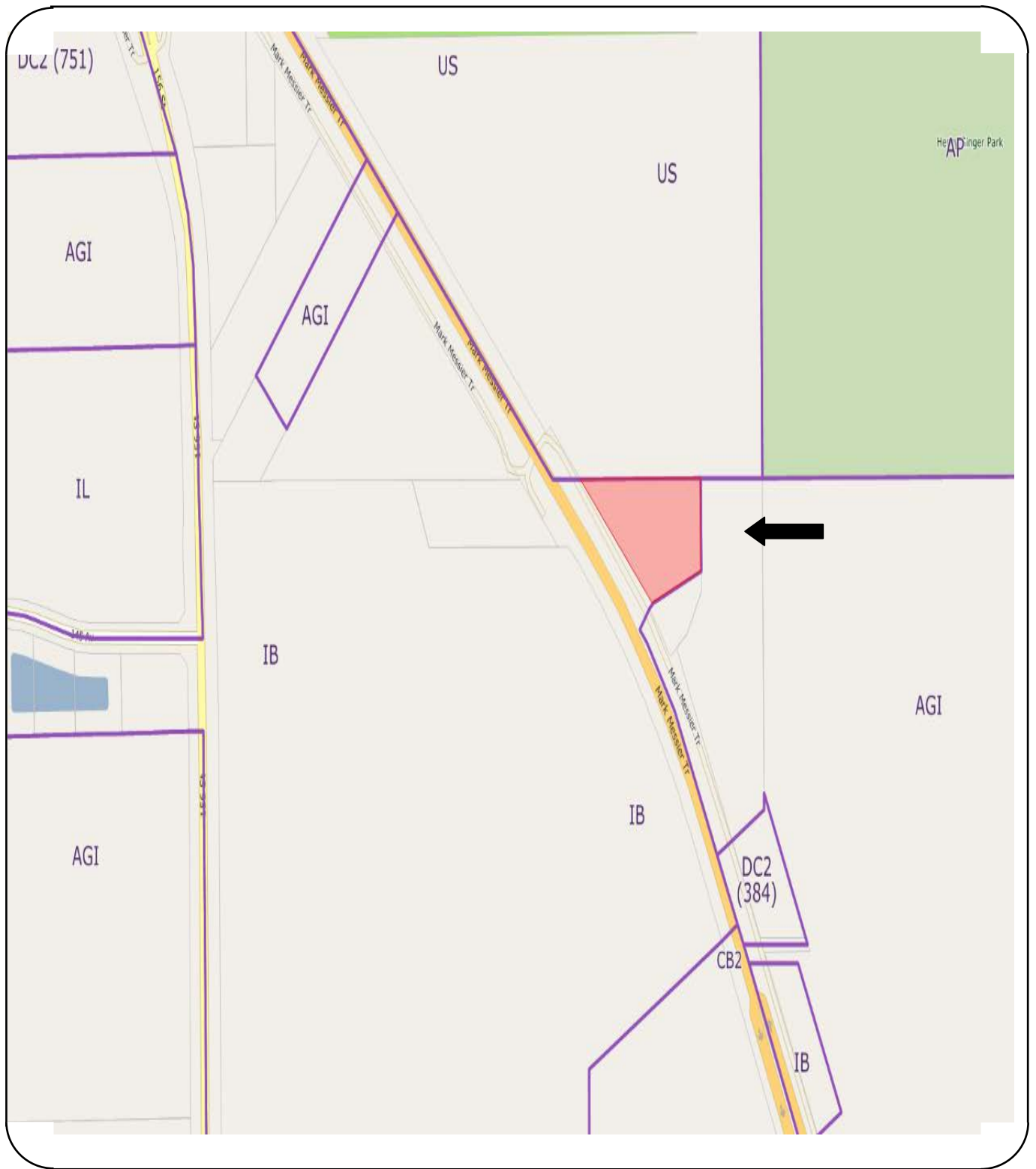
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Aug 16, 2016 Development Authority: AHUJA, SACHIN Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$40.00	\$40.00	03397561	Jun 28, 2016
Sign Building Permit Fee	\$1,000.00	\$1,000.00	03397561	Jun 28, 2016
Sign Dev Appl Fee - Digital Signs	\$425.00	\$425.00	03397561	Jun 28, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,465.00	\$1,465.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-238



ITEM II: 10:30 A.M.

FILE: SDAB-D-16-239

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 186116148-001

APPLICATION TO: Construct a 3 Dwelling Row House, an Accessory building (rear detached Garage, 10.98 metres by 6.71 metres) and to demolish an existing Single Detached House and Accessory building (rear detached Garage).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 18, 2016

DATE OF APPEAL: August 25, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7505 - 114 Street NW

LEGAL DESCRIPTION: Plan N727HW Blk 3 Lot 12

ZONE: RF3 Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: McKernan / Belgravia Station Area Redevelopment Plan

Grounds for Appeal

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

I would like to start my presentation with a passage of the city of Edmonton which says:

"Importance of affordable housing: Housing provides stability, both economically and socially and is integral to human well-being. Affordable, safe and suitable housing for individuals and for families is integral to supporting the lives of all Edmontonians.

SUMMARY OF REASONS FOR APPEAL

First of all, I would like to thank the Honourable Chairman and members of the appeal board for their time and the opportunity for me to present the characteristics and advantages of my submitted proposed plan of the property at 11346- 75 Avenue in the McKernan Community.

The existing house at the above address is a 67-year old home which was built in 1949 and has been poorly maintained. The costs required for renovation could not be recouped and I believe the home must be demolished.

If I were to build a single detached house, it would have the same deficiencies as the plan that I have submitted to you. However, the plan that I have submitted has many advantages compared to a single detached house, including:

1. It has the same benefits as the city of Edmonton affordable housing program that are likely quite obvious to most of you. It is affordable because the cost of building a single house with a garage is about \$700,000 for only one family while the cost for building the plan for three families would be about \$750000.00. This means that the cost of a home for each family would be \$250,000.
2. The location is ideal for the proposed project as it fits with the city of Edmonton's vision for increased density in the city core. It is next to the University of Alberta (approximately a five minute walk) and the McKernan/Belgravia LRT station. Residents of this property may not at all need vehicles for commuting to work or school or even for basic activities such as shopping. Allowing more families to live in such a location has the following benefits:
 - a. less traffic and shorter commute times for everyone
 - b. less land use and fewer sewer and water pipe lines (supporting the goal of sustainable land use in Edmonton and less rezoning of farm land)
 - c. increase the city income in the short term and long term; in the short term, the city will obtain \$44,000.00 from building permits for three - dwelling row housing (substantially more than would be obtained from a single family home) and in the long term, the city's annual tax revenue (>\$10,000) would be more than of three times that of a single family home.
3. Much more landscaping (8 deciduous trees, 3 evergreen trees, 20 shrubs) would take place which would add to the aesthetic appeal of the neighbourhood. In fact, our neighbours would be happy to look at a new building instead of seeing an old and poorly maintained building. In that regard, please see the supplemental photo as an example of landscaping and amenities that we would use.

Regarding item

Although we recognize the lot is smaller than what normally be used for a three-dwelling row housing project, we believe our proposed project is in keeping with the McKernan-Belgravia Station Area Redevelopment Plan (ARP) (2013), prepared by the City. The McKernan neighbourhood is indeed experiencing demand for a range of non-single-family residential dwelling types and we would like to meet this demand and participate in the City's vision for sustainable and affordable housing by building our proposed project.

4. Regarding item number 5, average avenue frontage on this block is 8.84 m. In statistics when the mean is calculated, the data that is out of range can be ignored. So with seven remaining data in the distance of my house, the average frontage distance is 7.53 m. The difference between these two figures is 1.31m. then this distance can add to the back yard. It mains $1.31 \div 15,64 = 16.95$ m (34.46% site depth).
5. For item number 6, I have already submitted the approval letter from neighbours to the Office of planning and development: department on August 9, 2016 (11:40).
6. According to two volume books (A Pattern Language, Towns. Buildings. Construction) which published after a ten-year studies by Professor Christopher Alexander and his colleagues at the Center for Environmental Structure New York Oxford University Press, " it is shown there, that towns and building will not be able to become alive, unless they are made by all the people in society, and the people share a common pattern language, within which to make these buildings, and unless this common pattern language is alive itself.

With this small project, I will create employment for myself and jobs in the construction trade. Again, thank you for your time and I hope you consider my variances and issue the development permit.

For detailed explanation of our appeal, please see followings:

Detailed Reason for Appeal

Unfortunately, the Application for the Major Development Permit (AMDP), which had reason for refusal and sent by the Developer Officer was extraordinary to me because it was very different from the one that she first sent as Neighborhood Consultation for canvassing each of the neighbours (Sent July 15, 2016). Thus, I have divided my appealing responses into two sections:

- 1) Neighbourhood Consultation for Proposed Development (NCPD) with three deficiencies.
- 2) Responses that are not covered by the Neighbourhood Consultation documents.

I have working with the City since early 2016 and submitted a Development Permit Application for a 4-plex in January of 2016. It was proposed to have an underground parking with entry from 75 Ave and exit from the back-lane of the property. It took 2-months for the application to be reviewed and rejected. The City did not allow for an entrance from 75 Ave. I therefore, decided to apply for a 3-plex (row-house), which was also recommended by the City Planner (Fiona Hamilton).

During the planning of this raw-house I received some recommendations from the City planner. I have worked with this officer to address all of her concerns. Eventually, the city sent me a letter which indicated the Neighborhood Consultation for Propose Development (NCPD) with three deficiencies. However, I believed that these deficiencies were minor or misapplicable. This NCPD letter was also send to the neighborhood for consultation. Deficiencies were as follow:

- 1) Reference Section 814.3.4
- 2) Reference Section 814.3.5
- 3) Reference Section 814.3.13

I am providing the following reasons for appealing the decision of the Development Officer to these three deficiencies first:

1) Reference Section 814.3.4

- a. I discussed this issue in a meeting with the development officer and she asked me about the types of measurement in place to ensure that there would be no privacy concerns on the abutting lot. She also recommended "planting a few trees' (oral recommendations).
- b. I accepted her recommendation; as per the site plan, the architect has added 8 Swedish Columnar Trees to reduce this concern.
- c. I can also install frosted glass on the windows on this side to alleviate any concerns, if this is a really serious issue.
- d. The windows on this side elevation has been sized and located so the occupants of the rooms will not: give a direct view of the neighborhood site. On the ground floor the cill height is set at 5 feet off the floor and on the 2nd floor 4 feet.

This will allow adequate light and ventilation to these rooms but will not make viewing out particularly easy.

The total area of unprotected openings on this wall is about 5.6%; the Alberta Building Code allows for 7%.

2) Reference Section 814.3.5

- a. If the proposed development required 15.9 m (40%) rear setback, the building would be too small. The small size of this; lot makes it difficult to provide 40% rear seatback; otherwise, the number of dwellings must be reduced.
- b. The rear setback reduction proposed for this development is suitable for larger lots, but not for an area in close proximity to transit corridors such as 114 St, the McKernan Belgravia I_RT Station and the University of Alberta (all of which are smaller lots).
- c. I would also like to mention that allowing the build of more units in close proximity to the University, LRT Stations, University Hospital and Whyte Avenue, would further the goals established in **Section 4.4.1.1 of the Municipal Development Plan** and in the **McKernan-Belgravia Station Area Redevelopment Plan** (which are to provide affordable housing to a broad and various demographic and income groups in all neighbourhoods).
- d. The increased density suggested by this proposed development is affordable and sustainable, which is in high demand for affordable housing in an area where there is significant lack of such housing.
- e. This deficiency does not affect any other amenities required by the occupants of these houses.

3) Reference Section 814.3.13

- a. This deficiency has been added due to the Development Officer's misapplication of section 52(1)(b) of the zoning bylaw. Please see explanation by the architect,
- b. The architect is an experienced professional and he has written an e-mail to me, which I have forwarded to the Development Officer (please see attached architect's email) for clarification of the height calculation.
 1. The midpoint of the "main' sloped roof is 8.1 meters. This is the dominant roof that will read as such from the street.
 2. The height of the flat roofed dormers is 9.6 meters, this NOT the "midpoint" of the roof.
 3. If the dormers are considered by the planning officer in the roof height calculation then a more consistent midpoint height would be the average between the two (8.85 meters).
- c. The Bylaw does not state that the Development Officer should choose a calculation based on the appearance of the development.

- d. There are other three- or 2.5-stories within 500 m from our proposed building, which have a similar design and height to our proposed project.

Based on the City's request, I have done the following and also reported to the City's Development Officer (Fiona Hamilton):

- 1) selected the property from the canvassing map she sent to me;
- 2) Prepared a package consisting of: a) Community Consultation for Proposed Development (sent by Fiona), b) Site plan, c) West Elevation, d) South Elevation, and e) Building sections;
- 3) Visited all of the addresses selected from the ,canvassing map and handed the prepared packages or left them in mailboxes if nobody opened the door; see the attached chart. I also left a message on the envelope stating, "Sorry I missed you, but please give me a call or email if you need to discuss the project with me. I am willing to come back and clarify any questions, if required."

Dino Macri (11334-75 Ave) received the package while leaving his house. He told me that he will send me (or the City) his recommendations or any questions that he may have. I also suggested that he contact me by email or phone, should he have any questions, and that I am willing to go back and visit with him and respond to his questions. No response to me thus far.

My partner called McKernan Community League's Board of Directors (see chart). No answers after a few phone calls. Eventually, Jessica Bennett called and suggested that we should just contact the President. My partner told her that she does not respond to our calls, so Jessica suggested that the President may possibly be on holidays.

Eventually Roberta Franchuk (League's President) called and my partner and I made an appointment for August 3rd at 10:00 am. We met her at her house, presented a copy of the documents and reviewed the documents with her. She was very happy with the project, but was not sure about the building's height. We presented her the drawings from our architect (that had also been forwarded to Development Officer by me). She then suggested that we advise her of officer's review (i.e. the City's). Therefore, if Fiona could advise me of her opinion regarding the latest drawings sent by me to her from the architect on July 21st at 14:12pm, then I could inform Mrs. Roberta Franchuk about officers decision in regards to the height of the house and obtain her feedback.

Lastly, I had an email from John Crabb (11135-76 Ave, see his email attached) in regards to the project (the information was sent from the City to him). He wanted to see more information before his recommendation. Thus, I took the package to him and after discussing the project with him; he was happy and mentioned that if he had any further questions he would let me know. He also suggested that he would write to the City if he had any questions or concerns. I suggested that if he

required more information or clarifications to contact me. However, I did not hear from him, so I assumed that he was satisfied or had written to the City.

On August 6th between 4-5pm, I once more visited the above mentioned properties, leaving the package and my message but unfortunately, I did not receive any replies. Most of the houses were occupied by tenants and they mentioned that they have forwarded the packages on to their landlords.

Please note that most houses were either empty or occupied by tenants; thus, my hope was that the owners would possibly contact the City if they had any opinions, as I did not meet them formally.

Lastly, I have attached documents which I handed out. As mentioned, I did not receive any feedback other than the earlier email from John Crabb.

Those responses that are not covered by the Neighborhood Consultation documents

Section 140.4(4)(c), Section 140.4(10), and Section 140.4(131)(d)

The McKernan-Belgravia Station Area Redevelopment Plan (MBSARP) provides a clear vision and planning framework for future development within these two neighbourhoods over the next 25 years. Its goal is to enhance and strengthen the local character of the McKernan and Belgravia neighbourhoods, while capitalizing on the presence of the L.RT station through Transit Oriented Development (TOD). Lots in the McKernan area are generally single family, small and too expensive while they are designated as RF3. With today's bylaws, it would be impossible to achieve the vision of MBSARP or the City of Edmonton. Thus, the bylaws should be relaxed, if we are going to achieve this goal as well as to have affordable housing and sustainable development in this area. Recently, builders are realizing that infill developments will often require variances; otherwise, the small size of these lots makes it difficult to provide affordable housing, especially if it is a TOD. However, these deficiencies in our development are relatively small and cannot be changed.

Please also refer to Neighbourhood Consultation for Proposed Development in earlier section.

Section 140.4(18) and Section 140.4(19)

The following was the response from the architect:

"This is a very subjective bylaw requirement. For this project the form of the elevations has been carefully considered. The traditional 2 storey with flat roof dormers has been designed to give a historical residential form. There are cantilevers of various projections to all sides except the east, as well there are 3 flat verandah projections over each entry with the end ones wrapping around the south and north sides. It is this architects opinion that the elevations as presented do indeed have varying architectural features."

"The attached 3 row houses each ARE individually defined through the use of projections, cantilevers recessed entries with extended porch roofs as well as colours. The roof lines are articulated with the use of dormers and roof terraces. The roof terraces giving the main sloped roof an interest and a residential character."

"The smooth finished acrylic stucco with the chosen colour white, grey and red is consistent to all sides."

"The architectural treatment of the west flanking elevation and the 75th avenue elevations, as well the north elevations to the lane ARE consistent, The same materials, cantilevers and colours are used in a judicious and consistent manner."

Section 814.3(4), Section 814.3(5) and Section 814.3(13)

Please refer to Neighbourhood Consultation for Proposed Development in earlier section.

Section 55.8(3)

Please refer to the architect's note and Site Plan:

The architect: "The required are 11 trees and 24 shrubs, see site plan:" 14 cotoneaster shrub (2" high), 1.0 red Dogwood shrubs (2"high), 8 Swedish columnar Aspen (100 mm caliper), 3 Spruce (2m high). We would add more trees or shrubs, if required.

Section 54.2(schedule 1)

This development is very close to the McKernan and Belgravia LRT station, thus the resident may not have a car or may have just one car. We have arranged a one-car garage for each dwelling. Residents can walk 2 minutes to the LRT and max 15 minutes to the University of Alberta or the University Hospital.

Lastly, the objectives and Policies of the recommended amendments to the zoning bylaws by the City for McKernan and Belgravia are as follows:

- a) Sustainability;
- b) Accessibility;
- c) Affordable Housing;
- d) Crime Prevention through Environmental Design - the intent of this plan is to support increased density, population and physical characteristics of new development in the plan area to support transit ridership at the LRT station;

- e) Integrate higher density development with transit. Goal is a minimum 25% housing unit growth as infill;
- f) Ensure financial stability; Integrate land use planning and transportation to create an accessible, efficient and compact urban form;
- g) Encourage renewal and densification of mature neighbourhoods;
- h) **Limit surface parking on this site;** underground and 'tuck under' parking will be encouraged for all new developments on this site;
- i) Focus residential density, retail and employment growth around 1..RT to support City investment in transportation infrastructure;
- j) Increase transit ridership and reduce automobile use;
- k) Respond to housing needs through integrating higher density infill redevelopment;
- l) Pockets of underutilized sites along key streets in the area are ripe for redevelopment and are an opportunity to revitalize these key corridors. This strategy will also re-image the community along primary arterial roadways, permitting 114 Street to be reoriented to face the street, creating eyes on the street and a safer environment for people, cyclists and transit users;
- m) Design new development along the East side of 114 Street to face onto 114 Street;
- n) Support higher density development along 114 Street, University Avenue, 76 Avenue and 71 Avenue
- o) Where the density or floor area ratio of a proposed development cannot be achieved through conventional zoning and/or where the policies or developer obligations contained in this plan cannot be assured through conventional zoning a (DC2) Site Specific Development Control Provision should be used;
- p) Orient development to face onto the street to help create a pedestrian friendly environment

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.

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

Appeals

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

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

Hearing and Decision

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

...

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

...

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

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Section 140.2(3) states Row Housing is a Permitted Use in the RF3 Small Scale Infill Development Zone.

Under Section 7.2(6), Row Housing means development consisting of a building containing a row of three or more Dwellings joined in whole or in part at the side only with no Dwelling being placed over another in whole or in part. Individual Dwellings are separated from one another by a Party Wall. Each Dwelling has separate, individual, and direct access to Grade. This Use Class does not include Stacked Row Housing or Blatchford Townhousing.

Section 140.1 states the General Purpose of the RF3 Small Scale Infill Development Zone is to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four Dwellings, and including Secondary Suites under certain conditions.

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

<i>Site Width</i>

Section 140.4(4)(c) states the minimum Site Width for a Row Housing on a Corner Site is 14.8 metres.

Development Officer's Determination

Section 140.4(4)(c) - A Row House on a Corner Site the minimum Site Width shall be 14.8 metres.

Proposed: 14.02 metres
Deficient by: 0.78 metres

<i>Site Coverage</i>

Section 140.4(10)(e) states Maximum Site Coverage shall be as follows:

	Principal Dwelling building /	Accessory building	Principal building with attached Garage	Total Site Coverage
Row Housing	32 percent	17 percent	45 percent	45 percent

Under Section 6.1(94), **Site Coverage** means the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 metres above Grade, including Accessory buildings or Structures, calculated by perpendicular projection onto a horizontal plane from one point located at an infinite distance above all buildings and structures on the Site. This definition shall not include:

- a. steps, eaves, cornices, and similar projections;
- b. driveways, aisles and parking lots unless they are part of a Parking Garage which extends 1.0 metres or more above Grade; or
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 metres above Grade.

The Development Officer has provided the following information:

Site Area:	556.20 square metres
17 percent allowable Site Coverage:	94.55 square metres
32 percent allowable Site Coverage:	177.98 square metres
45 percent allowable Site Coverage:	250.29 square metres
Proposed Principal Building:	211.11 square metres
Proposed Accessory Building:	73.68 square metres
Total Site Coverage:	284.79 square metres

The maximum allowable Site Coverage for a Principal Building is 177.98 square metres, proposed is 211.11 square metres, which exceeds the maximum allowable Site Coverage for a Principal Building by 33.13 square metres.

Development Officer’s Determination

Section (140.4(10)) - Maximum Site Coverage shall be as follows:

Row Housing: Principal Dwelling/building – 32 percent
 Proposed: 38 percent
 Over by: 6 percent

Interior Side Setback

Section 814.3(2) states where the Site Width is less than 18.3 metres, the Side Setback requirements of the underlying Residential Zone shall apply.

Section 140.4(13)(d) states on a Corner Site where the building faces the flanking Side Lot Line, Row Housing, Stacked Row Housing and Apartment Housing shall provide a minimum interior Side Setback of 3.0 metres.

Development Officer's Determination

Proposed interior Setback: 1.50 metres

Deficient by: 1.50 metres

Architectural Features

Section 140.4(20) (not Section 140.4(18)) states each Dwelling within Semi-detached Housing and Row Housing shall be individually defined through a combination of architectural features that may include variations in the rooflines, projection or recession of the facade, porches or entrance features, building materials, or other treatments.

Development Officer's Determination

Deficiency: No varying architectural features, treatments or building material. No change in rooflines or projections.

Building Materials

Section 140.4(21) (not Section 140.4(19)) states on Corner Sites the Façades of a principal building Abutting the Front Lot Line and flanking Side Lot Line shall use consistent building materials and architectural features, and shall include features such as windows, doors, or porches.

Development Officer's Determination

- Front Elevation (facing 75 avenue is required to have consistent building materials).

Location of Windows

NOTE: Section 814.3(4) was amended on August 22, 2016 through Bylaw 17727.

Section 814.3(4) states where a structure is two or more Storeys and an interior Side Setback is less than 2.0 metres, the applicant shall provide information regarding the location of windows and Amenity Areas on Abutting properties, and the windows of the proposed development shall be located to minimize overlook into Abutting properties or the development shall incorporate design techniques such as, but not limited to,

incorporating vegetative Privacy Screening, translucent window treatment or raised windows to minimize overlook into Abutting properties, to the satisfaction of the Development Officer.

Development Officer's Determination

Section 814.3(4) - Where a structure is two or more Storeys and an interior Side Setback is less than 2.0 m, the applicant may be required to provide information regarding the location of windows and Amenity Areas on adjacent properties, and the windows of the proposed development shall be located to minimize overlook into adjacent properties.

Deficiency: Windows on interior setback will overlook into adjacent rear property

Rear Setback

Section 814.3(5) states the minimum Rear Setback shall be 40 percent of Site depth. Row Housing not oriented to a public roadway is exempt from this Overlay requirement.

The Site depth is 39.67 metres.

Development Officer's Determination

Required Rear Setback: 15.9 metres (40 percent)

Proposed: 13.56 metres (34 percent)

Deficient by: 2.34 metres (6 percent)

Height

Section 814.3(13) states the maximum Height shall not exceed 8.6 metres, in accordance with Section 52.

Development Officer's Determination

Section 814.3(13) - The maximum Height shall not exceed 8.6 metres

Proposed Height to Midpoint: 9.6 metres

Planting

Section 55.3(1)(c)(i) (not Section 55.8(3)) states new trees and shrubs shall be provided on the following basis: the proportion of deciduous to coniferous trees and shrubs shall be approximately 50:50.

Development Officer’s Determination

Section 55.8(3) - All planting shall conform to the following: a. the proportion of deciduous to coniferous trees and shrubs shall be approximately 50:50.

Coniferous: 5 Trees,
Deciduous: 20 shrubs, 8 trees

Parking

Section 54.2, Schedule 1(A)(1) states Row Housing requires

	Minimum	Maximum	TOD minimum	TOD maximum
3 or more Bedroom Dwelling	1.7	N/A	1.25	1.75

Where such Uses contain three or more dwelling units (or where Semi-Detached Housing, Duplex Housing, or Apartment Housing consisting of fewer than three dwelling units, comprise part of a Multi-Unit Project Development) and are located within 400 metres of an existing LRT station or a future LRT station with a Council-approved Concept Plan, within 400 metres of an existing Transit Centre or a future Transit Centre with a Council-approved Concept Plan, or within 100 metres of a Transit Avenue, the following minimum parking requirements and maximum parking requirements shall apply.

Development Officer’s Determination

Minimum 1.25 spaces per dwelling (min 4 spaces required)
Maximum 1.75 spaces per dwelling (max 5 spaces)
Proposed: 3 spaces

Community Consultation


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

- a. the applicant shall contact the affected parties, being each assessed owner of land wholly or partly located within a distance of 60.0 metres of the Site of the proposed development and the President of each affected Community League;
- b. the applicant shall outline, to the affected parties, any requested variances to the Overlay and solicit their comments on the application;

- c. the applicant shall document any opinions or concerns, expressed by the affected parties, and what modifications were made to address their concerns; and
- d. the applicant shall submit this documentation to the Development Officer no sooner than twenty-one calendar days after giving the information to all affected parties.

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

	Project Number: 186116148-001 Application Date: JAN 21, 2016 Printed: August 18, 2016 at 1:21 PM Page: 1 of 3		
<h2 style="margin: 0;">Application for Major Development Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
Applicant MCKENAN MSR DEVELOPMENT CORPORATION <div style="border: 1px solid black; width: 200px; height: 30px; margin-top: 5px;"></div>	Property Address(es) and Legal Description(s) 7505 - 114 STREET NW Plan N727HW Blk 3 Lot 12 Specific Address(es) Entryway: 7505 - 114 STREET NW Entryway: 7507 - 114 STREET NW Entryway: 7509 - 114 STREET NW Building: 7505 - 114 STREET NW		
Scope of Application To construct a 3 Dwelling Row House, an Accessory building (rear detached Garage, 10.98m x 6.71m) and to demolish an existing Single Detached House and Accessory building (rear detached Garage).			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Class of Permit: (none) Gross Floor Area (sq.m.): 491 New Sewer Service Required: Y Site Area (sq. m.): 556.17 </td> <td style="width: 50%; border: none; vertical-align: top;"> Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: 3 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		Class of Permit: (none) Gross Floor Area (sq.m.): 491 New Sewer Service Required: Y Site Area (sq. m.): 556.17	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: 3 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
Class of Permit: (none) Gross Floor Area (sq.m.): 491 New Sewer Service Required: Y Site Area (sq. m.): 556.17	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: 3 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused			
THIS IS NOT A PERMIT			



Project Number: **186116148-001**
Application Date: JAN 21, 2016
Printed: August 18, 2016 at 1:21 PM
Page: 2 of 3

Application for Major Development Permit

Reason for Refusal

1. Section 140.4(4)(c) - A Row House on a Corner Site the minimum Site Width shall be 14.8 m;
Proposed: 14.02m
Deficient by: 0.78m

2.. Section (140.4(10)) - Maximum Site Coverage shall be as follows:

Row Housing:Principal Dwelling/building - 32%
Proposed: 38%
Over by : 6%

3..Section (140.4(13)(d))- on a Corner Site where the building faces the flanking Side Lot Line, Row Housing, Stacked Row Housing and Apartment Housing shall provide a minimum interior Side Setback of 3.0 m.

Proposed interior Setback: 1.50
Deficient by: 1.50m

4. Section 140.4(18) - Each Dwelling within Semi-detached Housing and Row Housing shall be individually defined through a combination of architectural features that may include variations in the rooflines, projection or recession of the facade, porches or entrance features, building materials, or other treatments.

Deficiency: No varying architectural features, treatments or building material. No cahnge in rooflines or projections.

5. Section 140.4(19) - On Corner Sites the facades of a principal building abutting the Front Lot Line and flanking Side Lot Line shall use consistent building materials and architectural features, and shall include features such as windows, doors, or porches.

-Front Elevation (facing 75 ave is required to have consistent building materials).

6. Section 814.3(4) - Where a structure is two or more Storeys and an interior Side Setback is less than 2.0 m, the applicant may be required to provide information regarding the location of windows and Amenity Areas on adjacent properties, and the windows of the proposed development shall be located to minimize overlook into adjacent properties.

Deficiency: Windows on interior setback will overlook into adjecent rear property

7. Section 814.3(5) - The minimum Rear Setback shall be 40% of Site depth. Row Housing not oriented to a public roadway is exempt from this Overlay requirement. (Row Housing Oriented towards 114 Street - Public Roadway)

Required Rear Setback: 15.9m (40%)
Proposed: 13.56m (34%)
Deficient by: 2.34m (6%)

8.Section 814.3(13) - The maximum Height shall not exceed 8.6 m

Proposed Height to Midpoint: 9.6m

9. Section 55.8(3) - All planting shall conform to the following: a. the proportion of deciduous to coniferous trees and shrubs shall be approximately 50:50; and

Coniferous: 5 Trees,
Deciduous: 20 shrubs, 8 trees

10. Section 54.2 (Schedule 1) -Rowhousing Where such Uses contain three or more dwelling units and are located within 400 metres of an existing LRT station or a future LRT station with a Council-approved Concept Plan, within 400 metres of an existing Transit Centre or a future Transit Centre with a Council-approved Concept Plan, or within 100 metres of a Transit Avenue, the following minimum parking requirements and maximum parking requirements shall apply.

THIS IS NOT A PERMIT



Project Number: **186116148-001**
Application Date: JAN 21, 2016
Printed: August 18, 2016 at 1:21 PM
Page: 3 of 3

Application for Major Development Permit

Minimum 1.25 spaces per dwelling (min 4 spaces required)
Maximum 1.75 spaces per dwelling (max 5 spaces)
Proposed: 3 spaces

Rights of Appeal

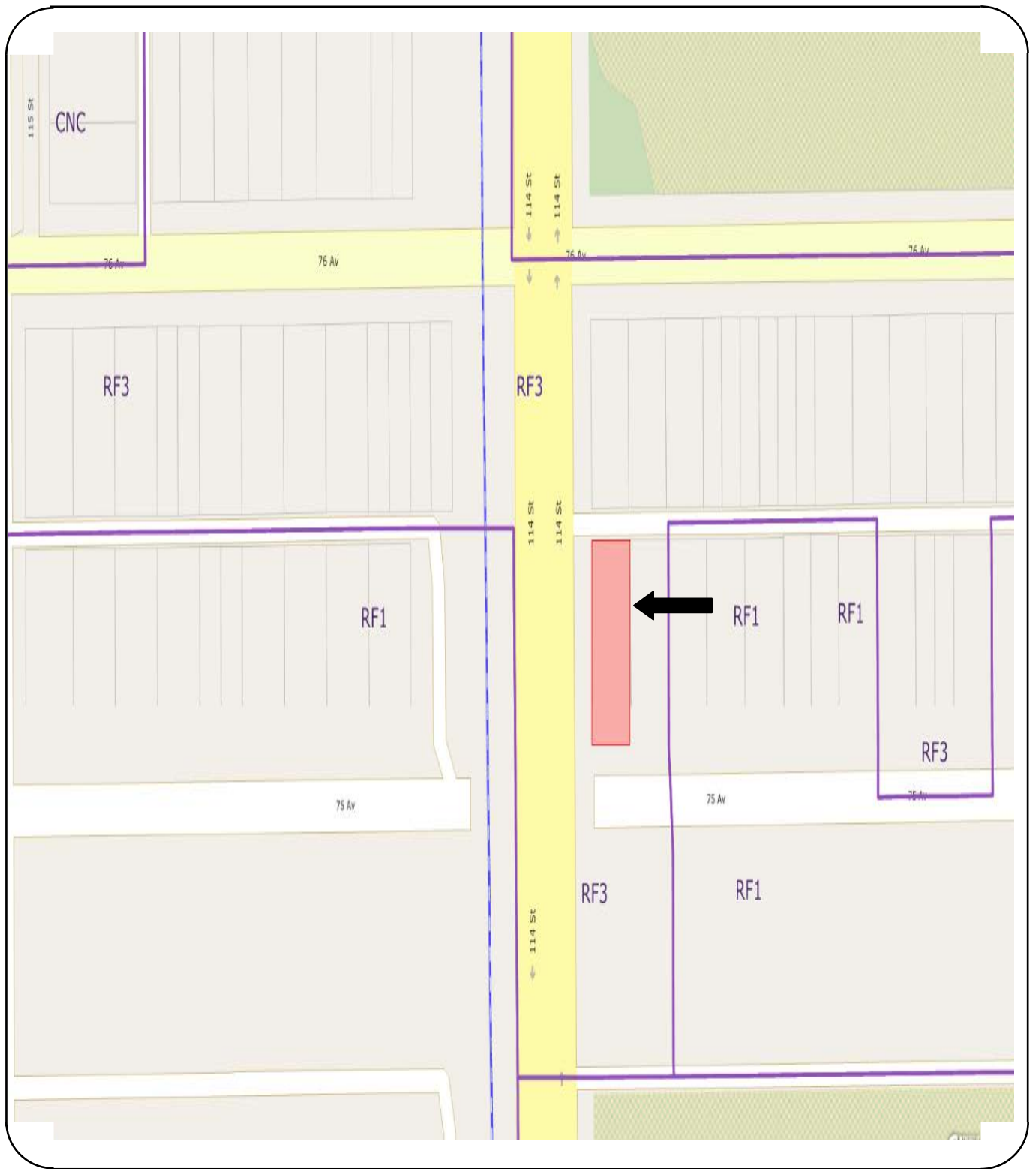
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Aug 18, 2016 Development Authority: HAMILTON, FIONA Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$786.00	\$786.00	03018689	Jan 21, 2016
Lot Grading Fee	\$385.00	\$440.00	03018689	Jan 21, 2016
Sanitary Sewer Trunk Fund 2012+	\$3,354.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$4,525.00	\$1,226.00		
(\$3,299.00 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-239



BUSINESS LAID OVER

SDAB-D-16-205	An appeal to continue and intensify the use of an existing Protective and Emergency Services Use (Fire Station 21 with a 24/7 crew) and to allow interior and exterior alterations <i>October 6, 2016</i>
SDAB-D-16-214	An appeal to comply with a Stop Order to immediately cease the use of the basement as Secondary Suites and Decommission the Secondary Suite. <i>October 6, 2016</i>
SDAB-D-16-225	An appeal to change the use of a portion of a Professional, Financial and Office Support Service to an Indoor Participant Recreation Service <i>October 12 or 13, 2016</i>
SDAB-S-14-001	An appeal to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 <i>October 31, 2016</i>
SDAB-D-16-237	An appeal to install (1) Freestanding Minor Digital Off-premises Sign (6.1 m x 3 m facing E/W) <i>November 3, 2016</i>
SDAB-D-16-144	An appeal to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>November 30 or December 1, 2016</i>

APPEAL HEARINGS TO BE SCHEDULED

188282372-001	An appeal to change the use from general Retail to a Bar and Neighbourhood Pub (maximum of 400 occupants and 691 square metres of Public Space) <i>November 2 or 3, 2016</i>
188283359-001	An appeal to change the use from a Flea Market Use to a Night Club and Major Amusement Establishment (1757 square metres of Public space) <i>November 23 or 24, 2016</i>