

WINDSOR PARK COMMUNITY LEAGUE EDMONTON

COMMUNITY DEVELOPMENT MANUAL

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INTRODUCTION

This manual is intended to be a flexible working document, updated periodically with the date of update noted at the bottom of each page of the document. The manual describes the approach the President and/or other members of the Executive of the Windsor Park Community League (the League) can take in response to a notice from the City of Edmonton Development Compliance Branch concerning a development on a property within the League's boundaries. That is, the City of Edmonton will from time to time send notices addressed to the President of the League concerning a development on a designated property, such as a house demolition, new house construction, garage construction, additions, et cetera. The President has the opportunity to respond with any concerns about (or with support for) the development.

Thus, this manual addresses the following scenario:

You are the President of your community league and you receive a notice from the City of Edmonton regarding a Development Permit application to construct a new home/renovate an existing dwelling/build a garage et cetera. Now what do you do?

There is no strict requirement for a response from the President (i.e., no response could be viewed a neutral or supportive response from the community's perspective), but this is a community service that can be offered.

There are a number of other development issues, such as rezoning applications, traffic developments, transit developments, and developments in neighbouring communities that may affect the Windsor Park Community, but those generally involve public meetings and consultation on a wider scale with the community. Usually, the President will be the first to be notified about these developments. The City of Edmonton has a specific process of public consultation in these cases. These latter types of developments are not dealt with in this manual.

In terms of additional resources, there are a number of resources available to assist Windsor Park Community League President and Executive. There is, for example, the following handbook:

http://webdocs.edmonton.ca/InfraPlan/plan_devel_handbook25.pdf

The history of the plans, laws, and bylaws concerning development in Edmonton are reviewed in brief in this handbook. For the purpose of this manual, the history will begin with the current Edmonton Zoning Bylaw (Bylaw No. 12800), which came into effect June 14, 2001. Edmonton City Council decides on many local land use planning and development matters. The major elements or tools that are relevant to our community are:

- The Municipal Development Plan;
- Area Structure Plans;
- Neighbourhood Area Structure Plans;

- Neighbourhood Structure Plans;
- Area Redevelopment Plans;
- The Zoning Bylaw and Rezoning;
- Subdivision Plans;
- Condominiums;
- **Development and Building Permits;**
- Environmental Review/Environmental Impact Assessments; and
- Non-statutory Land Use and Community Planning Studies.

Of the above, it is Development and Building Permits that we are concerned with here. For the purposes of this manual, section 3.12 of the City of Edmonton handbook is most relevant.

One can also contact the City of Edmonton Development Compliance Branch for explanations and guidance as well. In addition, there is a glossary located here:

http://webdocs.edmonton.ca/InfraPlan/zoningbylaw/ZoningBylaw/Part1/Interpretive/6_1_General_Definitions.htm

The manual aids the reader by first describing why notices arise from the City of Edmonton Development Compliance Branch. The types of permits discussed in these notices are described, and then ways of approaching and understanding these notices are dealt with in order that a written response, if chosen, can be made by the President on behalf of the League.

This manual is not comprehensive and there will always be unique and unusual development issues. When in doubt, contact the Development Officer whose name appears on the notice and ask questions.

NOTICE OF DEVELOPMENT PERMITS

Building generally requires permits. It is true that, for certain projects, no permit is required, namely fences under a certain height, alterations that do not change use, garden sheds, landscaping, and some signs. For all other cases, however, a builder must apply for two permits: Development Permit and Building Permit. It is currently the case in Edmonton that Development and Building Permits can be obtained through a single office at the Development Compliance Branch of the Planning and Development Department of the City of Edmonton. The branch is responsible for, among other things, reviewing and making decisions on applications for Development and Building Permits. Staff also carry out inspections of new developments to ensure conditions of permits and the requirements of the construction codes are met. The City of Edmonton is empowered to issue Building Permits to ensure buildings meet the Alberta Building Code. However, the Building Permit is preceded by a Development Permit, and it is at the Development Permit stage that the President will receive a notice.

A Development Permit ensures that the proposed building or structure or use of the land meets the regulations of the Zoning Bylaw for the site. That is, every piece of land in Edmonton has a zoning. These zonings describe how a property may be developed and used. There are many types of zoning, including 15 residential zones, 7 commercial zones, industrial zones, et cetera. The description of these zonings can be found here:

<http://webdocs.edmonton.ca/InfraPlan/zoningbylaw/Ezb/Introduction.htm>

Zonings like RF1, RF2, RF3, for example, are common in most communities and RF1 is the most common, and is the typical detached single-family dwelling.

This is described here:

[http://webdocs.edmonton.ca/InfraPlan/zoningbylaw/ZoningBylaw/Part2/Residential/110_\(RF1\)_Single_Detached_Residential_Zone.htm](http://webdocs.edmonton.ca/InfraPlan/zoningbylaw/ZoningBylaw/Part2/Residential/110_(RF1)_Single_Detached_Residential_Zone.htm)

Communities will have fewer RF2 and RF3 or other residential zonings, but they will have them in some cases, and each zoning gives a somewhat different allowance for development and usage possibilities.

In addition, some communities have Zoning Overlays. An overlay is an additional set of restrictions or considerations that supersede the zoning itself. That is, the Zoning Overlay is a detailed set of limitations *overlaid* on the zone. For many communities, in particular those in more central Edmonton, there is the Mature Neighbourhood Overlay. This applies to all zones RF1, RF2, RF3, RF4, and RF5. The Mature Neighbourhood Overlay applies to specific, more central regions of Edmonton, and can be found here:

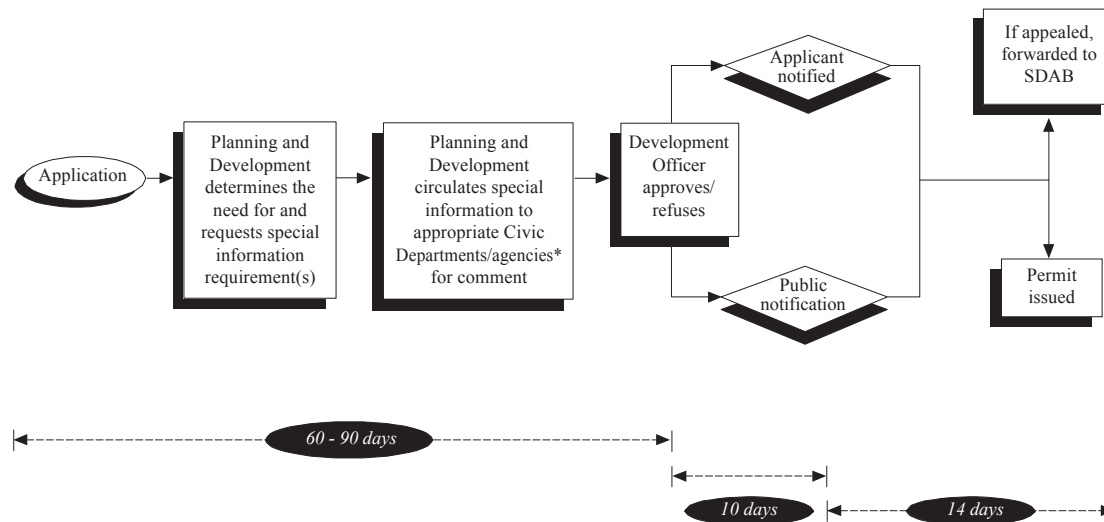
http://webdocs.edmonton.ca/InfraPlan/zoningbylaw/ZoningBylaw/Part2/Overlays/814_Mature_Neighbourhood_Overlay.htm

This Zoning Overlay is where a number of details concerning developments are specified, usually involving measurements, and this is often the basis or areas of concern when permits often are or are not granted. It is up to the Development Officer to review a builder's application (which will consist of a Real Property Report and specific engineered drawings) and determine if a Development Permit will be approved or refused. The Building Permit (which deals with the construction codes and technical aspects of construction) follows an approved Development Permit.

The process of issuance of development permits is illustrated in Figure 15 of the City of Edmonton Handbook, (http://webdocs.edmonton.ca/InfraPlan/plan_devel_handbook25.pdf), the figure being reproduced below.

The Development Officer will first look at the zoning, and then check if there is a zoning overlay. If the development is within the zoning and the zoning overlay conditions stated, the permit is almost certainly going to be granted. If the development is outside the zoning or the zoning overlay, it is usually refused. However, minor variances from the zoning overlay are often allowed at the discretion of the Development Officer.

FIGURE 15 *Processing Procedure for a Complex or Major Impact Development Permit Application Requiring Special Information Requirements*



* This may include adjacent municipalities pursuant to Schedule A of Plan Edmonton

Development permits are grouped into two development classifications to reflect the impacts or intensity of the proposed development or use:

1. Class A - Permitted Developments

This includes all developments for which applications are required and are for a permitted use or accessory buildings (including garages) or activities that comply with the regulations of the Zoning Bylaw. These are often call “minor permits” and are rarely refused, because they comply with the Zoning Bylaw for that property.

2. Class B - Discretionary Developments

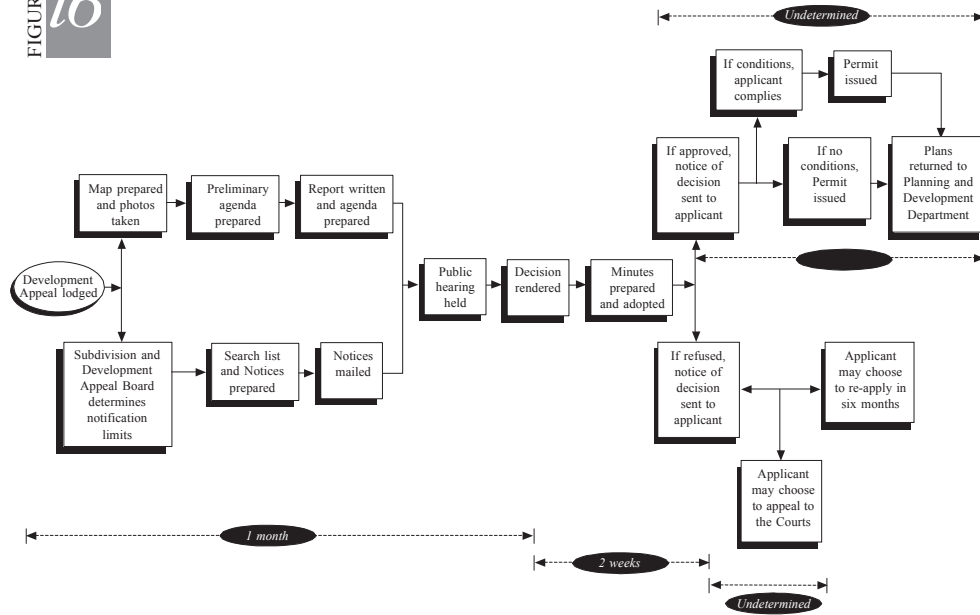
This class includes all developments for which applications are required and are for a discretionary use or require a variance to any of the regulations of the Zoning Bylaw. These can either be approved or refused by the Development Officer. If the Class B permit is approved, notice is sent to the applicant and the President of the Community, as well as to property owners within 60 metres of the development site. If the Class B permit is refused, the applicant has an option to appeal the Decision to the Subdivision and Development Appeal Board (SDAB). In the case of an appeal, again notice is sent to the applicant and the President of the Community, as well as to property owners within 60 metres of the development site.

Thus, the President of the League will receive a notice if a Class B permit is approved and will also receive a notice if the Class B permit was refused and then appealed by the applicant (or others). Both notices provide an opportunity for a response, though clearly the latter case, where a Class B permit was refused and the applicant has appealed to the SDAB, is the one that will be most likely a case for a response from the President.

Both approved and refused development permit applications can be appealed. Anyone who objects to the Development Officer either refusing or approving an application to develop may appeal that decision to the SDAB. The appeal to the Board is made in writing within 14 days after notice of the Development Officer’s decision has been given. Within 30 days of receiving an appeal, the Board holds a public hearing. The SDAB secretary notifies the applicant/appellant and all property owners considered by the Board to be affected by the appeal a minimum of five days before the hearing. SDAB members are provided with background information on the application for development, the Development Officer’s decision and reasons, and the appellant’s reasons for the appeal. At the hearing, the Board operates in a quasi-judicial manner, dealing with matters on the basis of evidence presented. Anyone claiming to be affected by the appeal may speak to the Board. Anyone going before the Board may submit materials to support their position. These materials may include letters of support or opposition from adjoining

property owners. **In addition, a letter of response from the President may be part of that evidence.** Thus property owners may in particular seek out the President for a letter to either support or oppose the development application. After hearing all submissions and rebuttals, the Board reaches its decision in private. All who appeared before the Board are requested to wait for the Board's decision. The decision is announced by the SDAB Officer. The decision is not final until the minutes are adopted and the decision with the Board's reasons is signed, approximately two weeks later. This process is illustrated in Figure 16 of the City of Edmonton Handbook, (http://webdocs.edmonton.ca/InfraPlan/plan_devel_handbook25.pdf), the figure being reproduced on the following page.

FIGURE 16 Procedures for a Development Appeal



Definitions of Terms Used in Notices

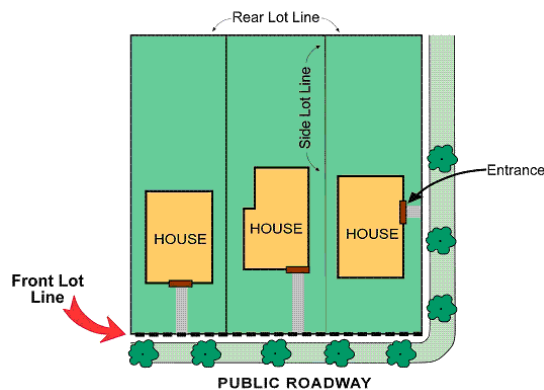
Before providing examples of how the President may assess and respond to either one of a Class B Permit that has been approved and one that has been refused (but the applicant has gone on to SDAB appeal), it is worthwhile for the President to be familiar with some of the terms of the notice provided by the Development Officer. In most communities, the variances that lead the Development Officer to refuse an application include things like building height, front or rear setback, floor area ratio, Site Coverage, or Nuisance. These terms have specific definitions, found here:

http://webdocs.edmonton.ca/InfraPlan/zoningbylaw/ZoningBylaw/Part1/Interpretive/6_1_General_Definitions.htm

One can also contact the Development Officer to explain any terms not understood. Because certain variances tend to be common and recurrent, it is worth identifying a few of them here. These definitions below are all taken or paraphrased from the above-noted glossary source.

Floor Area Ratio means the numerical value of the floor area of the building or structure relative to the site upon which it is located, excluding: (a) basement areas used exclusively for storage or service to the building; (b) parking areas below grade; (c) walkways required by the Development Officer; and, (d) floor areas devoted exclusively to mechanism or electrical equipment servicing the development, divided by the area of the site.

Front Lot Line means the property line separating a lot from an abutting public roadway other than a lane. In the case of Corner Lot, the Front Lot Line is the shorter of the property lines abutting a public roadway other than a Lane. In the case of a Corner Lot formed by a curved corner, the Front Lot Line shall be the shorter of the two segments of the property line lying between the point determined to be the actual corner and the two points at the extremities of that property line.



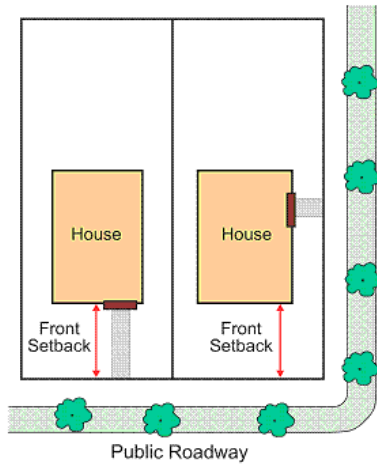
(from

http://webdocs.edmonton.ca/InfraPlan/zoningbylaw/ZoningBylaw/Part1/Interpretive/6_1

_General_Definitions.htm)

Frontage means, where used with reference to residential development, the lineal distance measured along the Front Lot Line.

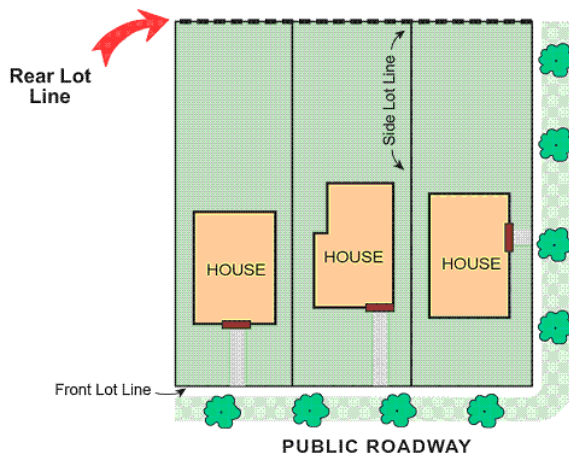
Front Setback means the distance that a development or as specified portion of it, must be set back from a Front Lot Line. A Front Setback is not a Front Yard, Amenity Space, or Separation Space.



(Source:

http://webdocs.edmonton.ca/InfraPlan/zoningbylaw/ZoningBylaw/Part1/Interpretive/6_1_General_Definitions.htm)

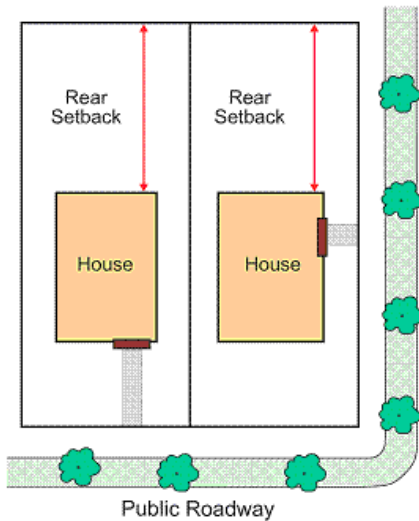
Rear Lot Line means either the property line of a lot which is furthest from and opposite the Front Lot Line, or, where there is no such property line, the point of intersection of any property lines other than the Front Lot Line, which is furthest from and opposite the Front Lot Line.



(Source:

http://webdocs.edmonton.ca/InfraPlan/zoningbylaw/ZoningBylaw/Part1/Interpretive/6_1_General_Definitions.htm)

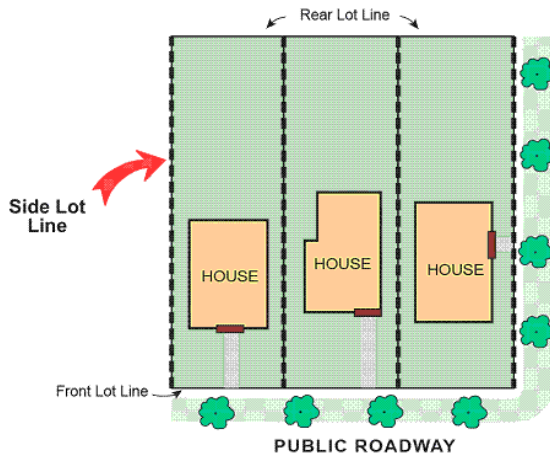
Rear Setback means the distance that a development or a specified portion of it must be set back from a Rear Lot Line. A Rear Setback is not a Rear Yard, Amenity Space, or Separation Space.



(Source:

http://webdocs.edmonton.ca/InfraPlan/zoningbylaw/ZoningBylaw/Part1/Interpretive/6_1_General_Definitions.htm)

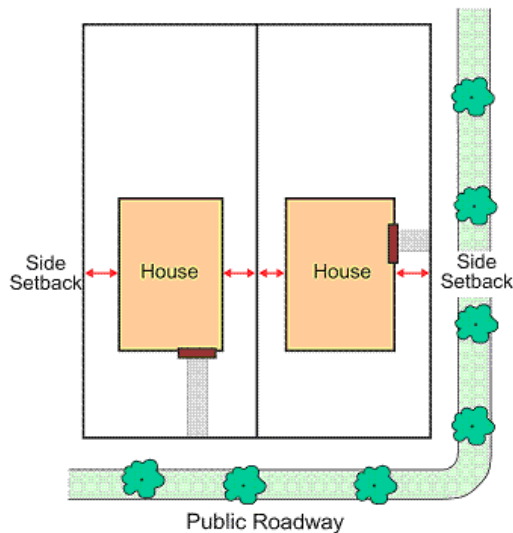
Side Lot Line means the property line of a lot other than the Front Lot Line or Rear Lot Line.



(Source:

http://webdocs.edmonton.ca/InfraPlan/zoningbylaw/ZoningBylaw/Part1/Interpretive/6_1_General_Definitions.htm)

Side Setback means the distance that a development or a specified portion of it must be set back from a Side Lot Line. A Side Setback is not a Side Yard, Amenity Space, or Separation Space.



(Source:

http://webdocs.edmonton.ca/InfraPlan/zoningbylaw/ZoningBylaw/Part1/Interpretive/6_1_General_Definitions.htm)

Site Coverage means the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 m 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 m or more above Grade; or,
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 m above Grade.

Nuisance means anything that is obnoxious, offensive, or interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses. This could include that which creates or is liable to create a nuisance through emission of noise, smoke, dust, odour, heat, light, fumes, fire or explosive hazard; results in the unsightly or unsafe storage of goods, salvage, junk, waste or other materials; poses a hazard to health and safety; adversely affects the amenities of the neighbourhood; or, interferes with the rights of neighbours to the normal enjoyment of any land or building.

CLASS B PERMIT NOTICE – EXAMPLE OF APPROVED PERMIT

The typical content letter from the Development and Compliance Branch indicating a Development Permit (B) has been approved, will include various statements.

Note that the date of the letter will be stated with the dates of the Notification Appeal period also stated. This Development Permit has been approved, with variances allowed, but there is a period of 14 days stated during which an appeal may be made to the SDAB.

The letter then identifies the municipal and legal address of the property with a description of the proposed development. What the Development Officer then writes is a list of the variances he or she has allowed using the phrase “relaxation of:” There might be mention of Front Setback. It should be 9.31 m, but the Development Officer has allowed 6.96 m. The Side Setback is also reduced as is the Rear Setback. The allowed garage width has also been increased, et cetera.

Although the Development Permit has been granted, there remains opportunity for the nearby property owner and the community (via the President) to appeal this Development Permit, though generally, after the considerations made by the Development Officer, it is unlikely there is substantial grounds for Appeal. That is, the Development Officer will have already assessed the Zoning Bylaw and any Zoning Overlay restrictions for that property. He will know that in many cases these allowances exist in the community or have been permitted previously. If the permit was approved, it means that the Development Officer has determined that the development conforms to the Zoning Bylaw and any restrictions, and that these variances are not, by their experience extreme. That does not mean that no one can appeal the decision to the SDAB, but that there is unlikely to be a basis for a successful appeal. In these cases, from the community’s perspective, the President is unlikely to make any response to the notice, but may still write a letter encouraging the developer (builder) to consider things like maintaining existing trees on the property where possible.

The Presidential Response

A typical response to the notice of an approved Class B permit could be as follows:

[ADDRESS]

[DATE]

Dear Development Officer,

Re: Permit No. XXXXXXXXXXX-002

The [League] recently received notification of the development permit for [Address]. We appreciate the opportunity to provide the following comments on the proposed development.

1. We have looked at the property and request conditions with regard to preserving mature trees and other landscaping provisions be included. Specifically, at present there are two mature trees on the property, one in the northwest portion of the property, the other in the southeast portion. Neither tree is at a corner of the property, but they are not particularly close to the current house. We would like to see both of these trees preserved if at all possible when the properties are developed.
2. In addition, we are seeing increasing amounts of hard surface, alternative landscaping in our neighbourhood, which is harder on the drainage system, less environmentally sensitive and less aesthetically pleasing. Therefore we would like to request that the landscaping for the new development on the properties avoid hard surface or gravel type landscaping and use living plant material (it could be ground cover rather than grass), and include additional trees and shrubs.

Yours sincerely,

[PRESIDENT]
[LEAGUE NAME]

If neighbours did raise concerns, they would likely be concerned about the mass impact of these variances, the effect that a larger house may have on creating shadow on their own verandah or in their back yard, et cetera. They would have to then plead their case in front of the SDAB, and the President could write a letter OPPOSING the development, using the specific concerns of the neighbours directly affected (adjacent) to the property. Again, the appeal would have a lower likelihood of success than a case where the Development Permit was refused by the Development Officer and the applicant had to appeal to the SDAB to obtain these variances.

CLASS B PERMIT NOTICE – EXAMPLE OF REFUSED PERMIT WITH APPEAL

The Appeal Process

Where a proposed development is at variance with the Zoning Bylaw for the community and/or the Zoning Overlay restrictions, the Development Officer will refuse the application for a Development Permit. The applicant can, however, appeal this decision to the Subdivision Development Appeals Board (SDAB). As soon as this appeal is started, the President and the neighbours within 60 metres of the property concerned will be sent a notice. The applicant themselves will also likely approach the nearby neighbours and the President for support.

The Presidential Response

The notice the President receives will likely draw attention to a variance from the Zoning Bylaw or Zoning Overlay in one or more of the above-noted aspects and that this variance was not allowed. Thus, a house may, for example, be too great in height, have much too small a Front Setback or Rear Setback, or may have much too great a Site Coverage. In other words, there is insufficient reason for the Development officer to allow “relaxation of” these variances.

More extreme variances are generally the items that will be of concern to the neighbouring property owners, and it is these variances that the developer is asking to have allowed at the appeal with the SDAB.

The President can visit the Development and Compliance Branch of the City of Edmonton to view drawings of the development application.

The response of the President will in large part be determined by the response of the neighbouring property owners. If no neighbour is concerned, generally the President may opt to send no letter in response. The President may again, as with the example shown above concerning an Approved Permit, write a letter of OPPOSITION if there is a concern from neighbours. The President has the challenge of determining how significant the nearby property owner’s concerns are and whether it is in the best interest of the community to oppose developments with these types of variance concerns.

The President still ultimately has the option of making one of NO response, a response that is FOR the development, a response that OPPOSES the development, or a response that is NEUTRAL regarding the development. In general, in the case of being FOR the development or in OPPOSITION to the development, written reasons should be given. The language of the notice can itself be helpful in drafting the response.

Example 1

A notice has been received regarding a Proposed Development that was initially refused

and then the applicant appealed to the SDAB. In this notice, a Zoning Regulation was stated as the basis for the refusal:

“If vehicular access is provided from a public roadway other than a Lane and Garage may only protrude beyond the front wall of the Principal building a distance that is characteristic of the majority of existing Garages on the blockface. The Garage may have a width that does not exceed the width of the majority of existing Garages on the blockface.”

Here the President either guesses that “Blockface” means the remaining houses on the block as seen face on, or (because the term is not defined in the glossary the City of Edmonton provides), calls the Development Officer to have this term defined.

The Notice indicates the variance distance proposed and the relaxation amount requested. Here again, the President will first consider whether any neighbouring property owner raise a concern. If not, the President will likely make no response to the notice. If the neighbours do have concerns, they will have to explain how this variance affects them. The President can then make a response if the President feels this is the type of variance that would or would not be of benefit to the community, the neighbours being part of that community, and that the concerns are relevant to the issue at hand.

Example 2

A notice has been received regarding a Proposed Development that was initially refused and then the applicant appealed to the SDAB. The application is one for subdivision of a lot into two lots. In this notice, a Zoning Regulation was stated as the basis for the refusal:

The letter from the President could then look like this:

[ADDRESS]

[DATE]

Dear Development Officer,

Re: Permit No. XXXXXXXXXXX-003

The [League] recently received notification of the development permit for [Address]. We appreciate the opportunity to provide the following comments on the proposed development.

1. We have looked at the property and request conditions with regard to preserving mature trees and other landscaping provisions be included. Specifically, at present there are two mature trees on the property, one in the

northwest portion of the property, the other in the southeast portion. Neither tree is at a corner of the property, but they are not particularly close to the current house. We would like to see both of these trees preserved if at all possible when the properties are developed.

2. In addition, we are seeing increasing amounts of hard surface, alternative landscaping in our neighbourhood, which is harder on the drainage system, less environmentally sensitive and less aesthetically pleasing. Therefore we would like to request that the landscaping for the new development on the properties avoid hard surface or gravel type landscaping and use living plant material (it could be ground cover rather than grass), and include additional trees and shrubs.

We are aware that City Council recently amended the Zoning Bylaw to allow just the sort of subdivision of RF1 lots proposed in this application. This subdivision, if approved, would result in two 50 ft. lots. There are quite a number of 50 ft lots on other roads in Windsor Park.

Yours sincerely,

[PRESIDENT]