

Edmonton Subdivision and Development Appeal Board

Churchill Building
10019 - 103 Avenue NW
Edmonton, AB T5J 0G9
Phone: 780-496-6079 Fax: 780-577-3537
Email: sdab@edmonton.ca
Web: www.edmontonsdab.ca

The Physi-Yogis
2058 - Town Centre Boulevard NW
Edmonton AB
T6R 3M7

Date: January 29, 2016
Project Number: 179169405-001
File Number: SDAB-D-16-027

Notice of Decision

- [1] On January 15, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on December 18, 2015.
- [2] The appeal concerned the decision of the Development Authority, issued on December 1, 2015, to approve the following development:
- Change the Use from Commercial Schools (maximum 4 students), General Retail Store and a Personal Service Shop use to Health Services and to construct interior alterations (relocate stairs, remove two overhead doors on north and south elevations and install two new doors) [unedited from the Development Permit]
- [3] The subject property is located on Plan 2239X Blk 1 Lot 2, municipal description 7525 - 99 Street NW, within the CNC Neighbourhood Convenience Commercial Zone.
- [4] The following documents, received prior to the hearing and copies of which are on file, were read into the record:
- Notice of Appeal filed on December 18, 2015;
 - Appellant's written submissions received on January 15, 2016;
 - Written submissions of the Development Officer, dated January 4, 2016; and
 - Copy of the Ritchie Area Redevelopment Plan.

Preliminary Matters:

- [5] The Board confirmed that Mr. A. Bhambhani was the Applicant-Respondent with respect to the approved Development Permit under appeal.
- [6] Mr. Bhambhani clarified that although he is not the current owner of the subject property, he is an interested buyer and would like to purchase the property for the Use as described in the initial application and the Development Permit. He also confirmed that prior to the hearing, he spoke with the current owner of the subject property, Mr. D. Gendron (who was also in attendance), and he believed that he had verbal authorization from Mr. D. Gendron to speak on his behalf, if needed.

- [7] Upon being satisfied that all parties in attendance had standing to be heard by the Board per Section 686(1) of the *Municipal Government Act*, RSA 2000, c M-26, the Presiding Officer then confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [8] The Board also confirmed the date that the Appellant, Mr. J. Nykoluk, received notice of the Development Authority's decision. Although page 3 of the Development Permit states that the notification period, as determined by the Development Authority, runs from December 8, 2015 to December 21, 2015, the Board must still find that the Appellant received sufficient notice pursuant to Section 686(1)(b) of the *Municipal Government Act*.
- [9] Mr. Nykoluk expressed that although he could not remember the precise date he received notice of the issuance of the permit, he believed it would have been about one week after the date of the Development Permit decision, which was December 1, 2015.
- [10] The Board therefore finds that Mr. Nykoluk received notice on or about December 7, 2015. Since Mr. Nykoluk filed his appeal on December 18, 2015, the Board finds that the appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26, and the Board therefore has jurisdiction to hear the matter under appeal.

Summary of Hearing:

i. Position of the Appellant, Mr. J. Nykoluk

- [11] Mr. Nykoluk provided a history of the subject property, a summary of which follows:
- 1) The subject property is located on a small lot in the CNC Neighbourhood Convenience Commercial Zone.
 - 2) He referred to a Property Information report published by the City and dated July 23, 2003, which stated: "The property is contaminated and it is recommended that "sensitive uses" within the existing CNC Zone such as "health services, child care services, or religious assembles not be developed on the site."
 - 3) He owns the building next to the property under appeal, and acknowledged that his building encroaches onto the subject site.
 - 4) To remedy the encroachment problem, he submitted a bid to purchase the subject site from the City. However, Mr. R. Gendron, the current owner's father, won the bid.
 - 5) He subsequently enquired about purchasing the lot after Mr. R. Gendron won the bid, but was informed that the site had major development issues that must be adhered to.
 - 6) Mr. R. Gendron then sold the property to his sons, including Mr. D. Gendron, who successfully obtained an approved Development Permit in 2013.

- 7) The 2013 Permit granted a number of variances, to which Mr. Nykoluk has no objections, but in his opinion, the Gendrons pushed the limits of those variances once construction work began.
 - 8) He submits that the Gendrons never had any intention to move into the building, but intended to construct something as large as possible, and to resell quickly at a profit.
 - 9) Mr. Nykoluk observed that the Development Officer assigned to the 2013 Development Permit was Mr. M. Harrison; however, the current Development Officer with respect to the current Permit under appeal is Ms. C. Li. In this regard, he expressed both dissatisfaction with the Development Authority, and his belief that there should be greater accountability with respect to the Authority's decision-making.
 - 10) He noted that the current application is the third time that the property has attracted a prospective buyer, but in his opinion, the subject site simply is not feasible for many developments, due to parking and space limitations.
- [12] After providing a brief history of the subject property, Mr. Nykoluk addressed the variances which were granted in the Development Permit currently under appeal, specifically his concerns with the parking space variance.
- [13] When the City widened 99 Street, two concrete barricades were installed, which eliminated four parking spaces in the Front Yard of his property. A bus stop was also placed at the front of his property facing onto 76 Avenue NW, further limiting the available parking. Parking for long-term residents on the block is restricted by the designation of several handicapped parking spaces along 76 Avenue NW. Finally, during the winter months and the City's seasonal parking bans, wind rows along 76 Avenue NW negatively impact the parking situation.
- [14] Upon questioning by the Board, Mr. Nykoluk acknowledged that most of his customers park along the street. Only staff use the parking available to the rear of his property, which provides space for three vehicles, or four very small vehicles.
- [15] He referred the Board to a photograph in his written submissions, which provided a view of 76 Avenue NW on a typical, snowy day when the City's seasonal parking ban is in place. The photo showed that despite the parking ban, cars are still parked along 76 Avenue NW.
- ii. *Position of the Development Officer, Ms. C. Li*
- [16] Ms. Li provided a brief history of the various Development Permits that had been granted for the subject property. The first Permit was approved by the Subdivision and Development Appeal Board on October 9, 2013.

- [17] On December 15, 2014, a second Development Permit was granted, partially to allow the enlargement of the second floor mezzanine to create a full second Storey floor. However, construction of the full second Storey never took place.
- [18] Subsequently, an April 21, 2015 Development Permit was approved to change the Use to a Commercial School, General Retail Store and a Personal Service Shop.
- [19] The development currently under appeal is the Development Permit that she approved on December 1, 2015, changing the Use to Health Services and to construct interior alterations. She noted that the interior alterations will not change the footprint of the building, but the Floor Area will increase to 304.9 square metres, which exceeds the maximum allowable under Section 310.4(1) of the *Edmonton Zoning Bylaw*. As such, a variance of 29.9 square metres is required.
- [20] With respect to the contaminated land referred to by the Appellant, she noted that the Property Information report is dated 2003, and the environmental issue would have been addressed when the original building was approved in the 2013 Development Permit. With respect to this specific Development Permit, she noted that there is no requirement for Development Officers to require an environmental assessment for a change of Use application.
- [21] In her opinion, she is satisfied the parking variance is appropriate, considering the availability of on-street parking spaces along 76 Avenue, the proximity of various bus routes during both weekdays and weekends, and the grid network of streets and sidewalks in the area that contribute to walkability and provides accessibility without the need for a private vehicle.
- [22] In addition, she referred the Board to her written submissions and the memo from Transportation Services, which indicate that Transportation Services has no issues or concerns with the proposed eight stall parking variance being granted.
- [23] Upon questioning by the Board with respect to the Floor Area variance, she clarified that the purpose of the maximum Floor Area stipulated under Section 310.4(1) has no relation to the Floor Area Ratio as defined under Section 6.1(35). Rather, it is due to the pre-existing December 15, 2014 Development Permit which approved the enlargement of the second floor mezzanine that the variance is required.
- [24] Further, she noted that if the main floor physiotherapy and acupuncture clinic had been considered separate from the second floor yoga business, the maximum Floor Area would not be a concern. It is only because the applicant prefers that the two business operations remain tied together that a variance to the maximum Floor Area is required.

iii. Position of the Respondent, Mr. A. Bhambhani

[25] Mr. Bhambhani was accompanied by the current owner of the subject property, Mr. D. Gendron, who provided the following history in response to the information provided by the Appellant:

- 1) He acknowledged that approximately 20 years ago, 99 Street was widened. At the time, he lived across the street from the subject site. He grew up in the Ritchie neighbourhood.
- 2) After his father won the bid, the site remained undeveloped for a period of time.
- 3) The City cleaned up the environmental contamination, and a full Phase 2 Environmental Remediation was completed. The cleanup was part of the original permit granted in 2013.
- 4) He clarified that the Appellant has a 3,500 square metre lot, and does not actually have four legal parking spaces. Instead, he has two parking spaces.
- 5) Mr. D. Gendron explained that due to the two feet encroachment of the Appellant's property onto the subject site, a third parking space is created, in effect, by parking a third vehicle on the subject property.
- 6) He has attempted to address the two feet encroachment with the Appellant in the past, but without success.
- 7) Upon questioning by the Board, he confirmed that following the widening of 99 Street, an encroachment agreement is in place with the City, but not with the Appellant.
- 8) He stated that every property on 76 Avenue has a back alley. On the evening prior to the appeal hearing, he sat in his car on 76 Avenue NW for approximately one hour, and observed that not a single car accessed the back alley to the subject property. In his opinion, neither a parking variance nor adding additional parking will have a significant impact on accessibility.

[26] After providing the above history of the subject property, Mr. D. Gendron deferred to Mr. Bhambhani, who provided the following information with respect to his development plans for the subject property:

- 1) He reiterated the information submitted on his application form with respect to the proposed Use for the subject property.
- 2) His business already supplies services to patients in the Ritchie area at the current location on 89 Street and 82 Avenue, so he believes that his patients will not experience any problems accessing the new location, which is approximately 10 blocks away.
- 3) Upon questioning by the Board, he stated that the intent is to completely transition the business from the old location to the subject site. However, he is leaving his options open, and it is possible that the old location will remain open.
- 4) He provided the following information with respect to proposed plans to address parking concerns:
 - a. There is adequate bus access to the area.

- b. The parking space closest to the building will be for disabled access. He hopes to create an in-house placard so that the space can also be used for people with low mobility.
 - c. The two other parking spaces to the rear of the property will be used by staff.
 - d. The remaining three tandem parking spaces will be for client use: two for patient parking, and the third for pick-up/drop-off.
- 5) He provided a summary of how many patients per hour are assigned to employees per day. The employees include a physiotherapist, a junior physiotherapist, a massage therapist, an acupuncturist, and support staff. In almost all cases, professional staff meet with patients on a one-on-one basis.
 - 6) At maximum capacity, he anticipates needing 11 parking stalls, so up to five patients would need to park on the street.
 - 7) Some patients will likely be able to use the handicapped parking spaces along 76 Avenue.
 - 8) He believes there are 23 parking spaces available on 76 Avenue, barring the windrow.
 - 9) He emphasized that he runs a high quality clinic, as opposed to a high quantity business – the focus is not to try to schedule as many patients as possible throughout the day, but to provide a high quality service.

iv. *Rebuttal of the Appellant, Mr. J. Nykoluk*

- [27] With respect to the two feet encroachment, he drew attention to the fact that the Gendrons purchased the subject property knowing full well that the encroachment exists.
- [28] He noted that the Appellant provided no information with respect to how he intends to address parking concerns related to the yoga studio.

Decision:

- [29] The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The Development is GRANTED.
- [30] In granting the development, the Subdivision and Development Appeal Board grants the following variances:
- 1) Section 54.1(1)(b)(ii) is varied, such that the applicant will not be required to increase the off-street parking requirements resulting from the change of Use to Health Services. The development is therefore permitted to proceed with the existing 6 parking spaces (including 3 tandem parking spaces) instead of the required 14 parking spaces for Health Services Use.
 - 2) Section 310.4(1) is varied to allow a maximum Floor Area of 304.9 square metres.

Reasons for Decision:

- [31] The proposed development for a change in Use to Health Services is a Permitted Use in the CNC Neighbourhood Convenience Commercial Zone.
- [32] The Board notes that the excess in Floor Area relates to the number of businesses operating in the proposed development, and arises only because the operator intends to operate the main floor physiotherapy clinic and the second floor yoga studio as a single business.
- [33] If the two businesses were split, no variance to the Floor Area would be required.
- [34] The Board notes that the variance required for four on-site parking spaces is additional to the previously granted 4 on-site parking spaces. However, the Board is satisfied that the Respondent provided a logical explanation of how the limited number of six on-site parking spaces will be utilized efficiently. The Board further notes that photographic evidence presented to the Board demonstrates that on-street parking is available on 76 Avenue, adjacent to the property, including designated handicapped parking spaces.
- [35] The Board further notes that the Ritchie Community League indicated support for the development in an email exchanged with the Development Officer, dated December 2, 2015. Further, the Board received no objections to the development from neighbouring property owners.
- [36] Based on the above, the Board does not believe that granting the development and the necessary variances will unduly interfere with the amenities of the neighbourhood, nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. As such, the appeal is denied and the development is granted.

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.
2. Obtaining a Development Permit does not relieve you from complying with:
 - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board;
 - b) the requirements of the *Alberta Safety Codes Act*, RSA 2000, c S-1;
 - c) the requirements of the *Permit Regulation*, Alta Reg 204/2007;
 - d) the requirements of any other appropriate federal, provincial or municipal legislation; and

- e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.

NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a 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.

Mr. N. Somerville, Presiding Officer
Subdivision and Development Appeal Board

CC:

Edmonton Subdivision and Development Appeal Board

Churchill Building
10019 - 103 Avenue NW
Edmonton, AB T5J 0G9
Phone: 780-496-6079 Fax: 780-577-3537
Email: sdab@edmonton.ca
Web: www.edmontonsdab.ca

Date: January 29, 2016
Project Number: 162641149-005
File Number: SDAB-D-16-028

Notice of Decision

[1] On January 15, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on December 18, 2015.

[2] The appeal concerned the decision of the Development Authority, issued on December 8, 2015, to approve the following development:

Operate a Major Home Based Business (Administrative Office for Roofing Contractor - Matt's Roofing) [unedited from the Development Permit]

[3] The subject property is located on Plan 8722742 Blk 29 Lot 2, municipal description 6020 - 189 Street NW, within the RF1 Single Detached Residential Zone.

[4] The following documents were received prior to the hearing, copies of which are on file, were read into the record:

- Notice of appeal filed on December 18, 2015, with attachments
- Copy of the development permit application;
- Written submissions of the Development Officer, dated January 12, 2016, with attachments;
- Copies of the Jamieson Place NSP and the West Jasper Place South Area Structure Plan; and
- Online responses from three neighbours in the notification area, opposed to the development.

Summary of Hearing:

[5] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.

[6] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

i. Position of the Appellant, Ms. L. Suru

- [7] Ms. Suru stated that she represents the entire condominium complex of Amberwood Village II (“Amberwood II”), which consists of 41 bungalow units. She has spoken to all owners, and has received support for the appeal from all. She referred to a petition submitted in her written submissions, showing that signatures had been obtained from most owners.
- [8] She has spoken to residents of Amberwood Village I, which is the other complex attached to Amberwood II, and the general consensus is that they also oppose the development, although they did not follow through with providing signatures.
- [9] She submits that construction equipment will change the character of the neighbourhood, and will cause greater wear and tear to public roadways.
- [10] Street parking is at a premium on 189 Street, particularly in the winter. She expressed the following concerns related to parking:
- 1) The property owners of the subject site are already parking on the lawn, and she has witnessed three or four vehicles parked on the site.
 - 2) A fire hydrant is also located on the subject property, which further limits the on-street parking available in front of the building.
 - 3) With the outdoor storage of the trailer on the property’s driveway, the owners will have to make use of on-street parking, which will create greater parking strains.
 - 4) She confirmed that she has witnessed the trailer parked twice on the driveway of the subject property. She described the trailer as being approximately 14 feet in length, with the hitch extending out in the front. It is also approximately the height of the overhang of the house.
 - 5) Upon questioning by the Board with respect to an online response regarding a garbage container being placed on the driveway of the subject site, she clarified that the container is, in fact, placed on the street approximately four houses down from the subject property.
- [11] Traffic congestion and roadway access is also a concern for the following reasons:
- 1) There is no other access to Callingwood Road from the south, except through 189 Street, which also provides access to Anthony Henday Drive.
 - 2) Schools to the south and surrounding area residents also use 189 Street.
 - 3) The subject property is located approximately four houses down from the traffic lights on 189 Street and Callingwood Road. The traffic lights are short-timed, which adds to further traffic congestion.
 - 4) Amberwood I only has one exit, which turns onto 189 Street, and cars often have to creep out onto the busy roadway to check for oncoming traffic before it can exit the complex safely. The traffic congestion that the development could exacerbate will have a negative impact upon residents attempting to exit the complex.

- 5) Should the trailer need to be hitched to the truck on the subject property, a portion of the vehicle will project onto the road, which could cause further traffic congestion and even accidents.
 - 6) Upon questioning by the Board, she confirmed that her main objection to the trailer stems from safety concerns that may arise when it needs to be hitched to the truck, which will cause a portion of the vehicle to project onto 189 Street and impact oncoming traffic. She acknowledged that she has not witnessed the trailer being hitched, nor is there any business signage or logo on the trailer.
- [12] In her opinion, major businesses should be in a zone for commercial developments and not in a residential neighbourhood.
- [13] In her mind, an administrative office means space used for the storage of desks, papers, computers, phones, and printers. The outdoor storage of a 14 feet trailer is not suitable for an administrative office. Furthermore, storage of roofing materials will often result in materials left outside the subject property.
- [14] Should the Board uphold the decision of the Development Authority and grant the development, a precedent will be set for other businesses in the area. Indeed, she noted that there is already another individual further down the block who parks his work vehicle on the street.

ii. *Testimonies of Affected Persons*

- [15] The Board heard from the following affected persons residing in the 60 metres notification area:
- 1) Ms. M. Koch;
 - 2) Ms. D. Broughten;
 - 3) Ms. E. Hodgetts; and
 - 4) Ms. W. Langille.
- [16] Collectively, and in addition to the points raised by Ms. Suru in both her verbal and written submissions, they made the following points in opposition to the development:
- 1) Three vehicles have been seen parked in tandem on the subject property.
 - 2) The parking situation on the street is such that vehicles driving eastbound will have to wait for vehicles driving westbound to pass before proceeding.
 - 3) There is currently a bus sign that indicates future service, opposite the proposed development. Currently, the area in front of the future service bus sign is being used for on-street parking.
 - 4) Winter time is not the peak season for a roofing business, yet the development is already creating parking strains.

- 5) Bylaw Enforcement had been contacted the previous winter regarding vehicles parked illegally on the lawn of the subject property, but nothing has changed.

iii. *Position of the Development Officer, Mr. J. Xie*

- [17] Following the June 2015 inspection, a second inspection on December 18, 2015 was completed as a result of a call to Bylaw Enforcement with respect to a trailer and vehicle being parked on the front lawn of the subject property. A Bylaw Enforcement Officer investigated and found a truck parked on the lawn, but no trailer. A violation notice was issued.
- [18] The Development Officer expressed his belief that following discussions with the Bylaw Enforcement Officer, the applicant now understands that parking on the front lawn is prohibited, even in the winter time when the Driveway and Front Yard may appear to form one contiguous surface. No further violations in this regard are anticipated.
- [19] He confirmed that the trailer is 14 feet long. The applicant had informed him that the business in fact uses two trailers: one is stored in a facility, and the other is stored on the Driveway. The Development Officer understood that the trailers are often stored on construction sites for weeks at a time, and do not return often to the residential property.
- [20] Upon questioning by the Board, he acknowledged that he did not consider the impact of the peak season for roofing companies on the neighbourhood, nor did he consider that the trailer will need to be hitched to the truck on the subject property. He also did not consult with Transportation Services, but noted that no issues with respect to the entrance and egress of trailers had been flagged for the area.
- [21] With respect to the online response regarding punctured tires caused by roofing nails, he stated that he had not realized this was a concern until the appeal hearing.
- [22] He confirmed that the Development Permit does not allow any business-associated visits to the Site. He also clarified that the development was considered for a Major Home Based Business instead of a Minor Home Based Business, primarily due to the outdoor storage of the trailer; if the business was restricted to an administrative office, the application would have been considered under the Minor Home Based Business Use.
- [23] The required Front Setback for the subject property is 6 metres, so the 14 feet trailer – which is approximately 4.8 metres – should fit within the Setback.
- [24] While discussing the Front Setback for the subject property, he clarified that the aerial photo in his written submissions was obtained from Pictometry software, which is sometimes not completely accurate. In this case, the subject property is in fact the one immediately north of the marked property in the aerial photo.

iv. Rebuttal of the Appellant, Ms. L. Suru

- [25] Following a brief recess to allow the appellant to consult with others opposed to the proposed development, Ms Suru noted that the Front Setback leaves only about 3 feet for the truck to be parked while the trailer is being hitched, which will result in a portion of the vehicle projecting onto the roadway.
- [26] She had been unaware that the business actually uses two trailers, which further adds to the concerns she has raised about parking, safety, and traffic congestion.
- [27] She drew attention to the aerial photo submitted by the Development Officer, which showed a vehicle parked in the back yard of the subject property. Since there is no roadway access to the back yard, she questioned how the vehicle got onto the property.

Decision:

- [28] The appeal is DENIED and the decision of the Development Authority is UPHeld. The Development is GRANTED.
- [29] In granting the development, the Subdivision and Development Appeal Board grants the following variance:
- 1) Section 75(5) is varied to permit the outdoor storage of a 14 feet trailer, associated with the Business, to be stored on the Driveway.

Reasons for Decision:

- [30] Under Section 110.3(7), Major Home Based Business is a Discretionary Use in the RF1 Single Detached Residential Zone.
- [31] While the Board heard a number of presentations in opposition to the proposed development, many of the concerns related to traffic, parking, and the enforcement of parking regulations within the neighbourhood, none of which was connected directly to the operation of the Major Home Based Business development under appeal.
- [32] With respect to potential traffic congestion caused by the development, the Board notes that the Development Officer indicated that no client visits will be permitted. As such, there will be very little traffic impact, apart from one departure or arrival of business-related vehicles on the occasional days that the trailer is on the subject property.
- [33] With respect to parking, the Board heard numerous concerns regarding the parking strains along 189 Street, which also impact the flow of traffic. However, the Board notes that no parking variances were required, and the subject development meets the parking space requirements for a Single Detached House within the RF1 zone.

- [34] The Board also heard concerns with respect to roofing nails causing ruptured tires, as well as illegal parking of trailer and vehicles on the Front Yard of the subject property. However, the Board does not have authority to enforce Bylaw requirements. In addition, the Board accepts the submission of the Development Officer that parking violations have been investigated and addressed, and that no future violations are anticipated.
- [35] Although the Board questions the security of storing a trailer on a construction site, the Board nevertheless accepts the Development Officer's submission that the applicant typically leaves his trailers on construction sites, and does not intend to store his work-related trailers frequently on the subject property.
- [36] The Board notes that all attendees in opposition to the development, as well as online responses received in opposition, were from residents of Amberwood II, and no representatives from adjoining properties to the north or south of the subject site submitted any objections. There is also screening provided on the development to the east, which will limit the view of the subject Site.
- [37] Finally, the Board heard from the Appellant that a major business is more appropriate for a commercial area. However, the Board notes that Major Home Based Businesses can only be approved for residential areas, which indicate that City Council had considered the scope and impacts of such businesses, and approve such Uses in residential neighbourhoods.
- [37] Based on the above, it is the opinion of the Board that granting the development will not unduly interfere with the amenities of the neighbourhood, nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. As such, the appeal is denied and the development is granted.

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 - b) the requirements of the *Alberta Safety Codes Act*, RSA 2000, c S-1;
 - c) the requirements of the *Permit Regulation*, Alta Reg 204/2007;
 - d) the requirements of any other appropriate federal, provincial or municipal legislation; and

- e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 5th Floor, 10250 – 101 Street, Edmonton.

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Mr. N. Somerville, Presiding Officer
Subdivision and Development Appeal Board

CC: