

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
January 23, 2020**

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

Members Scheduled

Shari LaPerle, Presiding Officer
Mark Young
Allan Bolstad
Chris Buyze
Don Fleming

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

I 9:00 A.M. SDAB-D-20-012 Install a stationary mechanical system in the Side Yard (left side) of a Single-detached House (air conditioner, 0.74m x 0.74m)

WITHDRAWN

10610 - 138 Street NW
Project No.: 346855356-001

II 10:30 A.M. SDAB-D-20-013 Permit Masters
Move on an office trailer replacing a demolished fire damaged office building, place four seacans stacked (2x2), and operate two vehicular access (one off 143 Street and one off 114 Ave) to a General Industrial Use (existing without permits), and to erect a 2.4 m over height Fence

11404 - 143 Street NW
Project No.: 325314024-001

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

ITEM II: 10:30 A.M.

FILE: SDAB-D-20-013

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:	Permit Masters
APPLICATION NO.:	325314024-001
APPLICATION TO:	Move on an office trailer replacing a demolished fire damaged office building, place four seacans stacked (2x2), and operate two vehicular access (one off 143 Street and one off 114 Ave) to a General Industrial Use (existing without permits), and to erect a 2.4 m over height Fence.
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	November 15, 2019
DATE OF APPEAL:	December 5, 2019
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	11404 - 143 Street NW
LEGAL DESCRIPTION:	Plan 4990HW Blk 4 Lot 1
ZONE:	(IM) Medium Industrial Zone
OVERLAY:	N/A
STATUTORY PLAN:	N/A

Grounds for Appeal

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

It is our opinion that the development authority did not evaluate the application appropriately. We believe that the requested variances meet the test established by the Land Use Bylaw and by the Municipal Government Act. We also note that the proposed landscaping was supported by the Parks group and they did not object to the proposal.

We will file additional material to support our appeal once the date of the hearing is established.

General Matters

Appeal Information:

The Board is advised that the appeal hearing was scheduled for January 22 or 23, 2020 at the request of the Appellant.

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;

- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;
- ...
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 420.2(6), **General Industrial Uses** is a **Permitted Use** in the **(IM) Medium Industrial Zone**.

Under section 7.5(3), **General Industrial Uses** means:

development used principally for one or more of the following activities:

- a. the processing of raw materials;
- b. the making, manufacturing or assembling of semi-finished or finished goods, products or equipment;
- c. the cleaning, servicing, repairing or testing of materials, goods and equipment normally associated with industrial or commercial businesses or cleaning, servicing and repair

- operations to goods and equipment associated with personal or household use, where such operations have impacts that would make them incompatible in Non-industrial Zones;
- d. the storage or transshipping of materials, goods and equipment;
 - e. the distribution and sale of materials, goods and equipment to institutions or industrial and commercial businesses for their direct use or to General Retail Stores or other sales Uses defined in this Bylaw for resale to individual customers; or
 - f. the training of personnel in general industrial operations.

This Use includes vehicle body repair and paint shops and Cannabis Production and Distribution licensed and operating pursuant to provincial or federal legislation. This Use does not include Major Impact Utility Services and Minor Impact Utility Services or the preparation of food and beverages for direct sale to the public.

Under section 6.1, **Accessory** means “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.”

Section 420.1 states that the **General Purpose** of the **(IM) Medium Industrial Zone** is:

to provide for manufacturing, processing, assembly, distribution, service and repair Uses that carry out a portion of their operation outdoors or require outdoor storage areas. Any nuisance associated with such Uses should not generally extend beyond the boundaries of the Site. This Zone should normally be applied on the interior of industrial areas adjacent to collector and local industrial public roadways such that Uses are separated from any adjacent residential areas by a higher quality Industrial or Commercial Zone.

<i>Setback</i>

Section 420.4(2) states:

A minimum Setback of 3.0 m shall be required where any lot line of a Site abuts a public roadway, other than a Lane. If any lot line of the Site abuts a property line of a Residential Zone, a minimum Setback of 6.0 m shall be required.

Section 420.4(3) states “No loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback.”

Under section 6.1, **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.”

Development Officer’s Determination

1. Section 420.4.2 - A minimum Setback of 3.0 m shall be required where any lot line of a Site abuts a public roadway, other than a Lane.

Required 3.0 m

Proposed Setback of trailer adjacent to 114 Avenue: 1.25 m

Deficient by 1.75 m.

Note: Trailer placed on site and existing without approval.

2. Section 420.4.3 - No loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback.

Required setback: 3.0 m

Proposed: Outdoor service area (weight scale) is located within the required Setback, contrary to Section 420.4.3. Landscaping is required within this 3.0 m setback.

Note: Weight scale placed on site and existing without approval.

[unedited]

Parking

Section 54.2, Schedule 1(A)(23) states:

Use of Building or Site	Minimum Number of Parking Spaces Required
Any development within the Industrial Uses, except for Adult Mini-Theatres	1 parking space per <u>100.0 m²</u> of Floor Area provided this is not less than 3 parking spaces per tenant or establishment

Under section 6.1, **Parking Area** means “an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.”

Under section 6.1, **Floor Area** means “the total Floor Area of the building or structure, contained within the outside surface of the exterior and Basement walls, provided that in the case of a wall containing windows, the glazing line of windows may be used.”

Development Officer’s Determination

3. Section 54.2 Schedule 1(A)(23)) - The number of off-street parking spaces required is 1 parking space per 100.0 sq.m. of Floor Area.

Total Floor area: 772.2 sq.m.

Required: 8 Parking Spaces
Proposed: 5 Parking Spaces
Deficient by: 3 Parking Spaces

[unedited]

Landscaping

Section 55.3(1) states unless otherwise specified in this Bylaw, Landscaping shall be provided in accordance with the following:

- a. ...
 - b. **for new development consisting of Residential-Related Use Classes, Commercial Use Classes, Industrial Use Classes, Basic Services Use Classes, and Community, Educational, Recreational and Cultural Service Use Classes, the number of trees and shrubs provided shall be determined on the basis of the following:**
 - i. **one tree for each 25 m2 and one shrub for each 15 m2 of Setback;**
 - ii. ...
 - iii. ...
 - c. ...
 - d. ...
 - e. **all open space including Front Yards, Rear Yards, Side Yards and Yards, Amenity Areas at ground level, Private Outdoor Amenity Areas, Setback areas and Separation Spaces shall be landscaped with flower beds, grass, ground cover or suitable decorative hardscaping in addition to trees and shrubs. This requirement shall not apply to those areas designated for parking or vehicular circulation.**
- ...

Under section 6.1, **Landscaping** means:

the preservation or modification of the natural features of a Site through the placement or addition of any or a combination of the following:

- a. soft landscaping elements such as trees, shrubs, plants, lawns and ornamental plantings;

- b. decorative hardsurfacing elements such as bricks, pavers, shale, crushed rock or other suitable materials, excluding monolithic concrete and asphalt, in the form of patios, walkways and paths; and
- c. architectural elements such as decorative Fencing, walls and sculpture.

Under section 6.1, **Fence** means “a structure constructed at ground level, used to prevent or restrict passage, provide visual screening, noise attenuation, Landscaping, or to mark a boundary.”

Development Officer’s Determination

4. Section 55.3.1.b.i - Landscaping shall be provided for new development consisting of Industrial Use Classes, the number of trees provided shall be determined on the basis of one tree for each 25 sq.m. of Setback.

Landscape area of setback: 408.24 sq.m.

Required trees: 16 trees

Proposed: 4 trees

Deficient by: 12 trees

Furthermore, the proposed landscape

5. Section 55.3.1.e - All open space including Setback areas shall be landscaped with flower beds, grass, ground cover or suitable decorative hardscaping in addition to trees and shrubs.

The proposed Landscaping plan does not provide required landscaping consistently throughout the setback area, specifically:

a) at the southeast corner of the site, and

b) west, adjacent to the middle vehicular access (existing without approval) along 114 Avenue NW. This area is proposed as gravel ground cover, contrary to Section 55.3.1.e.

Any proposed fencing as part of the landscaping plan, must be located 3.0 m back of the property line, so that all landscaping shall be exposed to contribute to a reasonable standard of livability and appearance for the development from the initial placement of the Landscaping through to its mature state, to provide a positive overall image for Edmonton and to encourage good environmental stewardship.

The fence along the east boundary of the site is in front of the existing and proposed landscaping along 143 Street, which negates the benefits of the landscaping itself.

[unedited]


General Notes from the Development Authority

General Notes:

The previous Development Permit for continuing to operate a General Industrial Use was issued in 2010, Development Permit #104136966-001. There is currently six active Municipal Government Act Orders for Zoning non-compliance. [unedited]

Notice to Applicant/Appellant

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

	Project Number: 325314024-001 Application Date: JUL 12, 2019 Printed: December 5, 2019 at 9:40 AM 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	Property Address(es) and Legal Description(s) 11404 - 143 STREET NW Plan 4990HW Blk 4 Lot 1
Scope of Application To move on an office trailer replacing a demolished fire damaged office building, place four seacans stacked (2x2), and operate two vehicular access (one off 143 Street and one off 114 Ave) to a General Industrial Use (existing without permits), and to erect a 2.4 m over height Fence.	
Permit Details	
Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: Y Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Application Decision Refused Issue Date: Nov 15, 2019 Development Authority: XU, HAILEE	
THIS IS NOT A PERMIT	



Application for Major Development Permit

Project Number: **325314024-001**
 Application Date: JUL 12, 2019
 Printed: December 5, 2019 at 9:40 AM
 Page: 2 of 3

Reason for Refusal

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3. Section 54.2 Schedule 1(A)(23)) - The number of off-street parking spaces required is 1 parking space per 100.0 sq.m. of Floor Area.

Total Floor area: 772.2 sq.m.

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The fence along the east boundary of the site is in front of the existing and proposed landscaping along 143 Street, which negates the benefits of the landscaping itself.

General Notes:

The previous Development Permit for continuing to operate a General Industrial Use was issued in 2010, Development Permit #104136966-001. There is currently six active Municipal Government Act Orders for Zoning non-compliance.

Rights of Appeal

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

THIS IS NOT A PERMIT



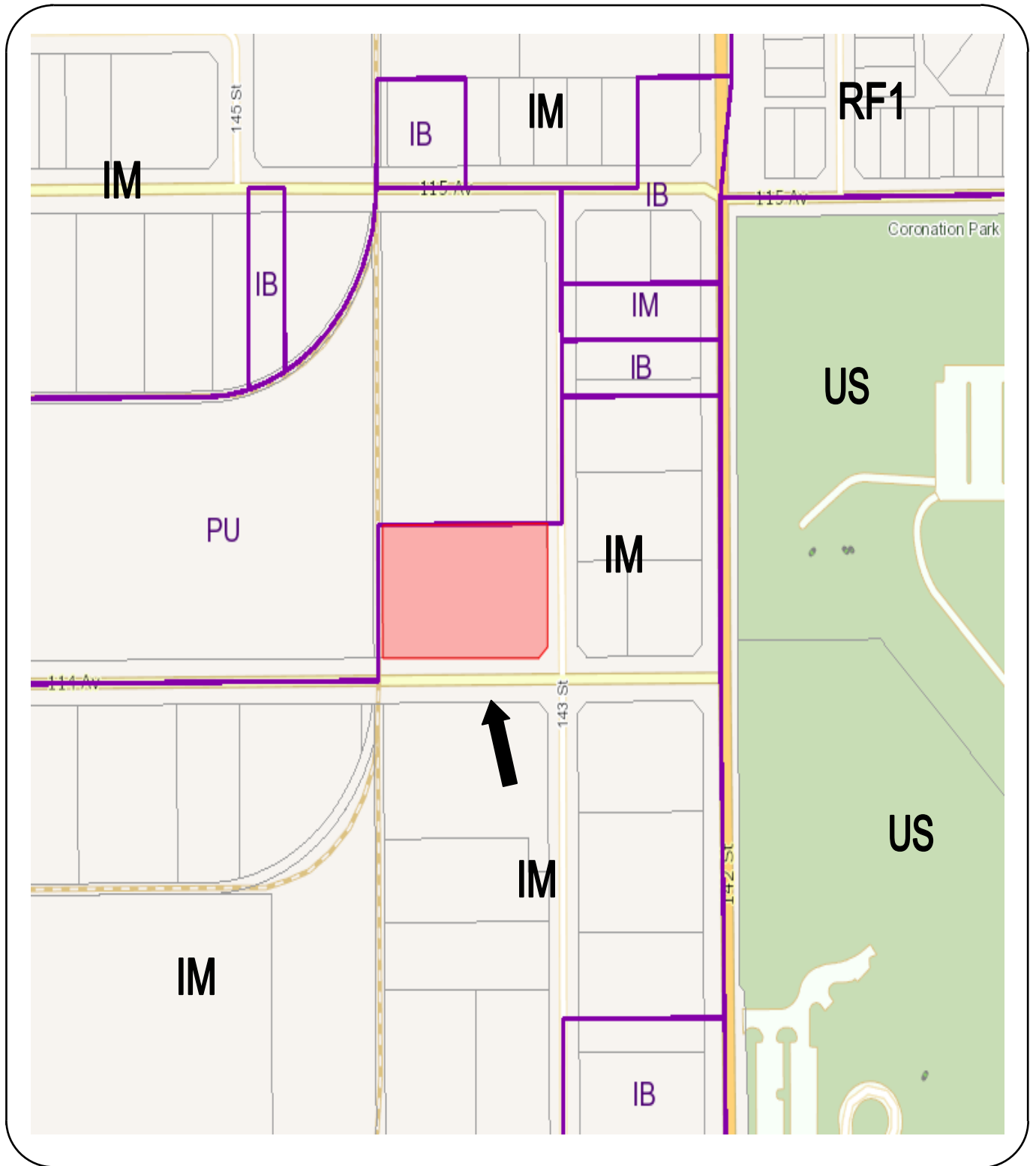
Application for Major Development Permit

Project Number: **325314024-001**
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Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$1,926.00	\$1,926.00	05986504	Jul 12, 2019
Sanitary Sewer Trunk Fund 2012+	\$631.64	\$631.64	06106051	Aug 30, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$2,557.64</u>	<u>\$2,557.64</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-013

