

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
November 27, 2019**

**Hearing Room No. 2
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

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

I	9:00 A.M.	SDAB-D-19-207	Construct exterior alterations to a Single Detached House (Driveway extension, irregular shaped), existing without permits 704 – Howatt Drive SW Project No.: 341871269-001
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II	10:30 A.M.	SDAB-D-19-208	Operate a Major Home Based Business - (Personal Service Shop for Aesthetics services - RAJINDER BAHRA), expires OCTOBER 25, 2024 17116 - 98 Street NW Project No.: 341599337-001
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TO BE RAISED

III	1:30 P.M.	SDAB-D-19-175	Install (1) Freestanding General Advertising Sign with an electronic Changeable Copy panel containing on-premises and off-premises Advertising (incl. digital and static panels 6.1m x 13.5m facing E)(Condominium Corporation 9122259) 17503C - 100 Avenue NW Project No.: 311293064-001
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NOTE: *Unless otherwise stated, all references to “section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-207

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 341871269-001

APPLICATION TO: Construct exterior alterations to a Single Detached House (Driveway extension, irregular shaped), existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 23, 2019

DATE OF APPEAL: November 13, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 704 – Howatt Drive SW

LEGAL DESCRIPTION: Plan 1425761 Blk 8 Lot 2

ZONE: (RSL) Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: Hay’s Ridge Neighbourhood Area Structure Plan

Grounds for Appeal

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

The applicant is appealing the refusal issued on October 23, 2019 on the following grounds:

1. The home and driveway were constructed in 2016 prior to the amendment to the bylaw only allowing for 1 driveway and therefore should be allowed to remain as constructed;
2. The purpose of the amended bylaw was to prevent “parking lots” at residential locations. This is a single-family home and the purpose of this driveway is to provide access to the garage and not to park multiple vehicles at the front of the home;

3. There are several homes in the area of this residence that have multiple driveways – the multiple driveways on this home do not stand out in the area;
4. The multiple driveways on this home do not prejudice or in any way hinder any of the neighbouring home owners from the use or enjoyment of their home – neither the current or former owners have received a complaint from a neighbour regarding vehicles being parked in the driveway or the 2 access points to the garage; and
5. The home has existed in its current state with the multiple driveways since 2016 and it would create an undue burden on the home owner to remove one of the driveways at this time.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

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

General Provisions from the *Edmonton Zoning Bylaw*:

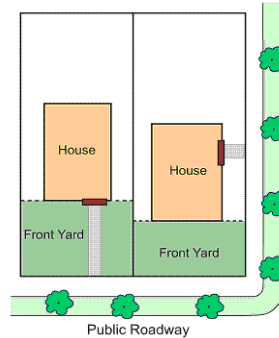
Under section 115.2(5), **Single Detached Housing** is a **Permitted Use** in the **(RSL) Residential Small Lot Zone**.

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.”

Under section 6.1, **Driveway** means “an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”

Under section 6.1, **Front Yard** means:

the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



Under section 6.1, **Garage** means “an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.”

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, **Walkway** means “a path for pedestrian circulation that cannot be used for vehicular parking.”

Section 115.1 states that the **General Purpose of (RSL) Residential Small Lot Zone** is:

to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites and Garden Suites.

Off-street Parking and Loading Regulations

Section 54.1(4) states:

The Front Yard of any ground level Dwelling in any Residential Zone, or in the case of a corner Site, either the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The Driveway shall:

- a. lead directly from the roadway to the Garage or Parking Area;

- b. ...
- c. For a Garage or Parking Area with two or more parking spaces, have a maximum width that shall be calculated as the product of 3.7 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or Parking Area, or the width of the Garage or Parking Area, whichever is the lesser; and
- d. ...

Development Officer's Determination

Section 54.1(4) - The Front Yard of any ground level Dwelling in any Residential Zone may include a maximum of one Driveway.

Section 54.1(4)(a) The Driveway shall lead directly from the roadway to the Garage or Parking Area.

Proposed: Concrete between two Driveways does not lead directly to Garage or Parking Area.


Section 54.1(4)(c) - For a Garage or Parking Area with two or more parking spaces, the Driveway shall have a maximum width that shall be calculated as the product of 3.7 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or Parking Area, or the width of the Garage or Parking Area, whichever is the lesser.

Proposed: 17.0 m

Max. allowed: 11.1 m [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.

	<h2 style="margin: 0;">Application for Alterations Permit</h2>	Project Number: 341871269-001 Application Date: SEP 30, 2019 Printed: October 23, 2019 at 2:18 PM Page: 1 of 2		
This document is a Development Permit Decision for the development application described below.				
Applicant	Property Address(es) and Legal Description(s) 704 - HOWATT DRIVE SW Plan 1425761 Blk 8 Lot 2			
Scope of Application To construct exterior alterations to a Single Detached House (Driveway extension, irregular shaped), existing without permits.				
Permit Details				
Class Of Permit: Stat. Plan Overlay/Annex Area: (none)	Site Area (sq. m.): 1029.63			
I/We certify that the above noted details are correct. Applicant signature: _____				
Development Application Decision Refused Issue Date: Oct 23, 2019 Development Authority: HETHERINGTON, FIONA Reason for Refusal Section 54.1(4) - The Front Yard of any ground level Dwelling in any Residential Zone may include a maximum of one Driveway. Section 54.1(4)(a) The Driveway shall lead directly from the roadway to the Garage or Parking Area. Proposed: Concrete between two Driveways does not lead directly to Garage or Parking Area. Section 54.1(4)(c) - For a Garage or Parking Area with two or more parking spaces, the Driveway shall have a maximum width that shall be calculated as the product of 3.7 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or Parking Area, or the width of the Garage or Parking Area, whichever is the lesser. Proposed: 17.0 m Max. allowed: 11.1 m 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.				
Building Permit Decision Refused				
Fees				
	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Application Fee	\$173.00	\$173.00	06180105	Sep 30, 2019
THIS IS NOT A PERMIT				



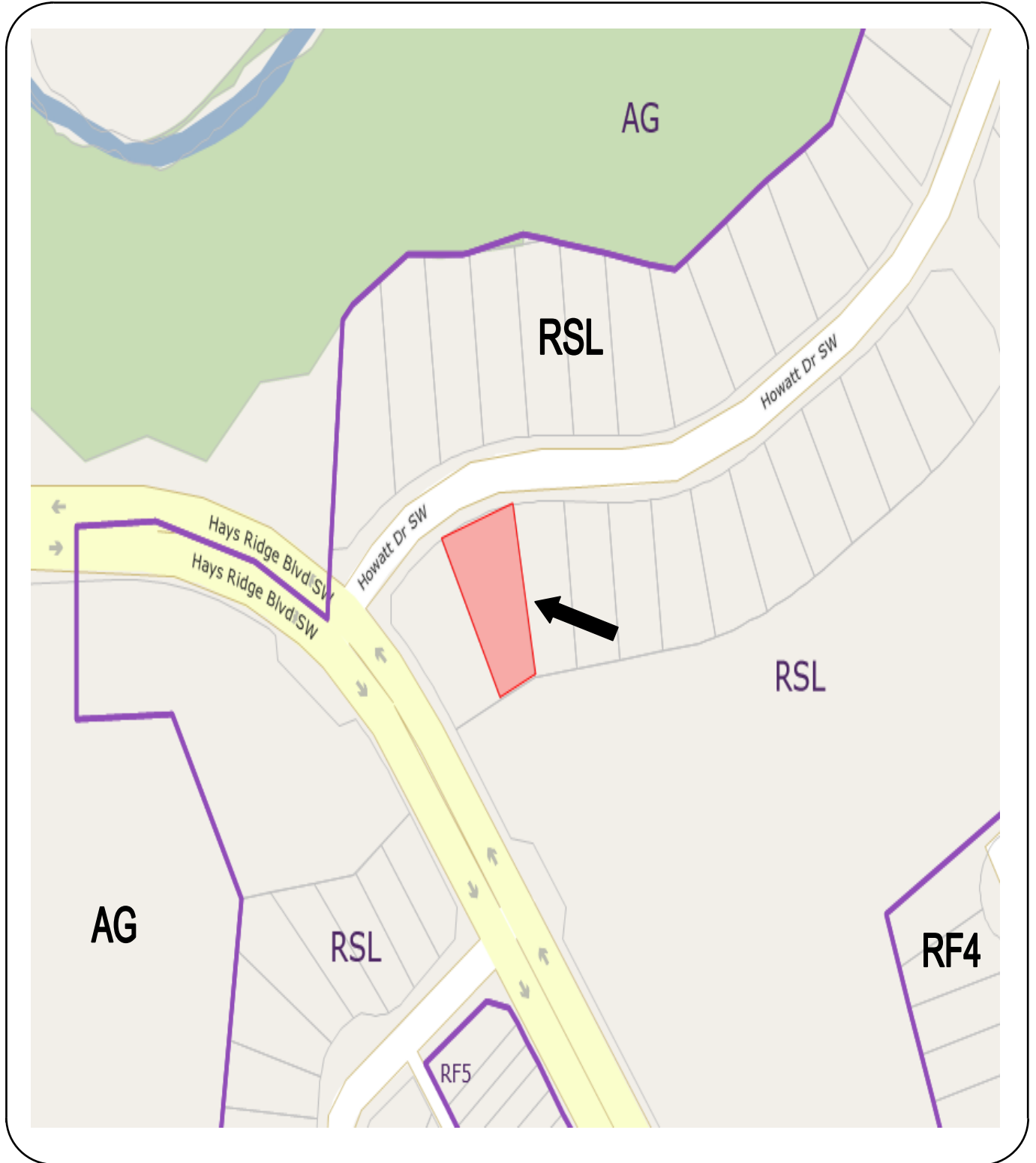
Application for Alterations Permit

Project Number: **341871269-001**
Application Date: SEP 30, 2019
Printed: October 23, 2019 at 2:18 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Existing Without Permit Dev Application Penalty Fee	\$173.00	\$173.00	06180105	Sep 30, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$346.00</u>	<u>\$346.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-207



ITEM II: 10:30 A.M.

FILE: SDAB-D-19-208

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT PROPERTY OWNER

APPELLANT:

APPLICATION NO.: 341599337-001

APPLICATION TO: Operate a Major Home Based Business - (Personal Service Shop for Aesthetics services - RAJINDER BAHRA), expires OCTOBER 25, 2024

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: October 25, 2019

DATE OF APPEAL: November 14, 2019

NOTIFICATION PERIOD: October 31, 2019 through November 21, 2019

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 17116 - 98 Street NW

LEGAL DESCRIPTION: Plan 7722048 Blk 4 Lot 11

ZONE: (RF1) Single Detached Residential 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:

We would like to appeal the development permit submitted for address 17116-98 Street NW (City File # 341599337-001). We have noticed a home-based business operating out of this house for approximately a year already. Many clients have been observed using the home-based business inconveniencing the surrounding neighbors.

Our appeal is on the following basis:

1. The claimed 4-customers per day limit on the requested permit does not seem accurate. Clients come and go out of the property for a few hours per day, some days up to 6 hours.
2. Site parking does not meet the business requirements. There have been multiple instances where clients are arriving before the prior client has left. This affects street traffic.
3. Clients coming and going do not follow parking laws: blocking driveways, parking in the wrong direction on the opposing side of the street, and blocking a fire hydrant. There was one instance of a car parked in the centre of the road, with driveway and street parking available.
4. We are worried for the safety of the small children on the street. Clients have been observed driving with excessive speed around the corner directly beside the house.
5. Clients have been observed to drive over the sidewalk on both sides of the street to complete a u-turn.
6. The increased traffic is a nuisance to the neighborhood.

Images are included below of recent illegal street parking. Over the ~year the business has been in operation, none of the clients have been parking in the driveway, all on the street. Recently, more clients are parking in the driveway, although street parking is still occurring. We have not captured many images, only starting recently as the increased parking and traffic has started to affect the neighborhood. Often times, clients will park on the side of the street opposite from the home-based business when there are plenty of spots available on site or directly in front of the business, now affecting the personal visitors to our home.

<i>General Matters</i>

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.

(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,

(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, or

(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

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

...

(a.1) must comply with the land use policies;

(a.2) subject to section 638, must comply with any applicable statutory plans;

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

General Provisions from the *Edmonton Zoning Bylaw*

Under section 110.3(4), **Major Home Based Business** is a **Discretionary Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.3(7), **Major Home Based Business** means:

development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution.

Section 110.1 states that the **General Purpose** of the **(RF1) Single Detached Residential Zone** is “to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.”

Under section 75, a **Major Home Based Business** shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;
7. a Bed and Breakfast Operation, operating as a Major Home Based Business shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;
8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored;
9. the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area; and

10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

<i>Discretionary Use</i>

Development Officer's Determination

You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw. The proposed development complies with the Zoning Bylaw, and there are no variances to the development regulations. [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: **341599337-001**
 Application Date: SEP 20, 2019
 Printed: October 25, 2019 at 12:18 PM
 Page: 1 of 3

Home Occupation

This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.

Applicant	Property Address(es) and Legal Description(s) 17116 - 98 STREET NW Plan 7722048 Blk 4 Lot 11
	Specific Address(es) Suite: 17116 - 98 STREET NW Entryway: 17116 - 98 STREET NW Building: 17116 - 98 STREET NW

Scope of Permit
 To operate a Major Home Based Business - (Personal Service Shop for Aesthetics services - RAJINDER BAHRA), expires OCTOBER 25, 2024.

Permit Details # of business related visits/day: 4 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: N	# of vehicles at one time: 1 Business has Trailers or Equipment?: N Description of Business: Personal Services shop for aesthetics services - Eyebrow, waxing, and facial services. Maximum 4 clients per day, 20 per week. Operating between 11am and 5pm, Monday to Friday. All visits to be by appointment only. No walk ins. All business related parking to be on site. Expiry Date: 2024-10-25 00:00:00
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Permit Decision
 Approved
Issue Date: Oct 25, 2019 **Development Authority:** WINGET, MARK



Project Number: **341599337-001**
 Application Date: SEP 20, 2019
 Printed: October 25, 2019 at 12:18 PM
 Page: 2 of 3

Home Occupation

Subject to the Following Conditions

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

1. The business owner must live at the site. The business use must be secondary to the residential use of the building and shall not change the residential character of the Dwelling or Accessory Building (Section 7.3(7)).
2. There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling (Section 75.1).
3. The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located (Section 75.3).
4. If non-resident employees or business partners are working on-site, the maximum number shall not exceed the number applied for with this application.
5. If there are visits associated with the business the number shall not exceed the number applied for with this application.
6. Clients visit must be by-appointment only and appointments shall not overlap.
7. There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
8. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
9. The business use must maintain the privacy and enjoyment of adjacent residences and the characteristic of the neighborhood.
10. All parking for the Dwelling and Home Based Business must be accommodated on site unless a parking variance has been granted for this Major Home Based Business.
11. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
12. This approval is for a 5 year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on ****OCTOBER 25, 2024****.

Notes:

1. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site (Section 5.2).
2. This Development Permit is not a Business License.
3. Subject to the right of appeal. The permit is not valid until the required Notification Period expires (date noted below in accordance with Section 21.1 and 17.1).

Variations

You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw. The proposed development complies with the Zoning Bylaw, and there are no variations to the development regulations.



Project Number: **341599337-001**
 Application Date: SEP 20, 2019
 Printed: October 25, 2019 at 12:18 PM
 Page: 3 of 3

Home Occupation

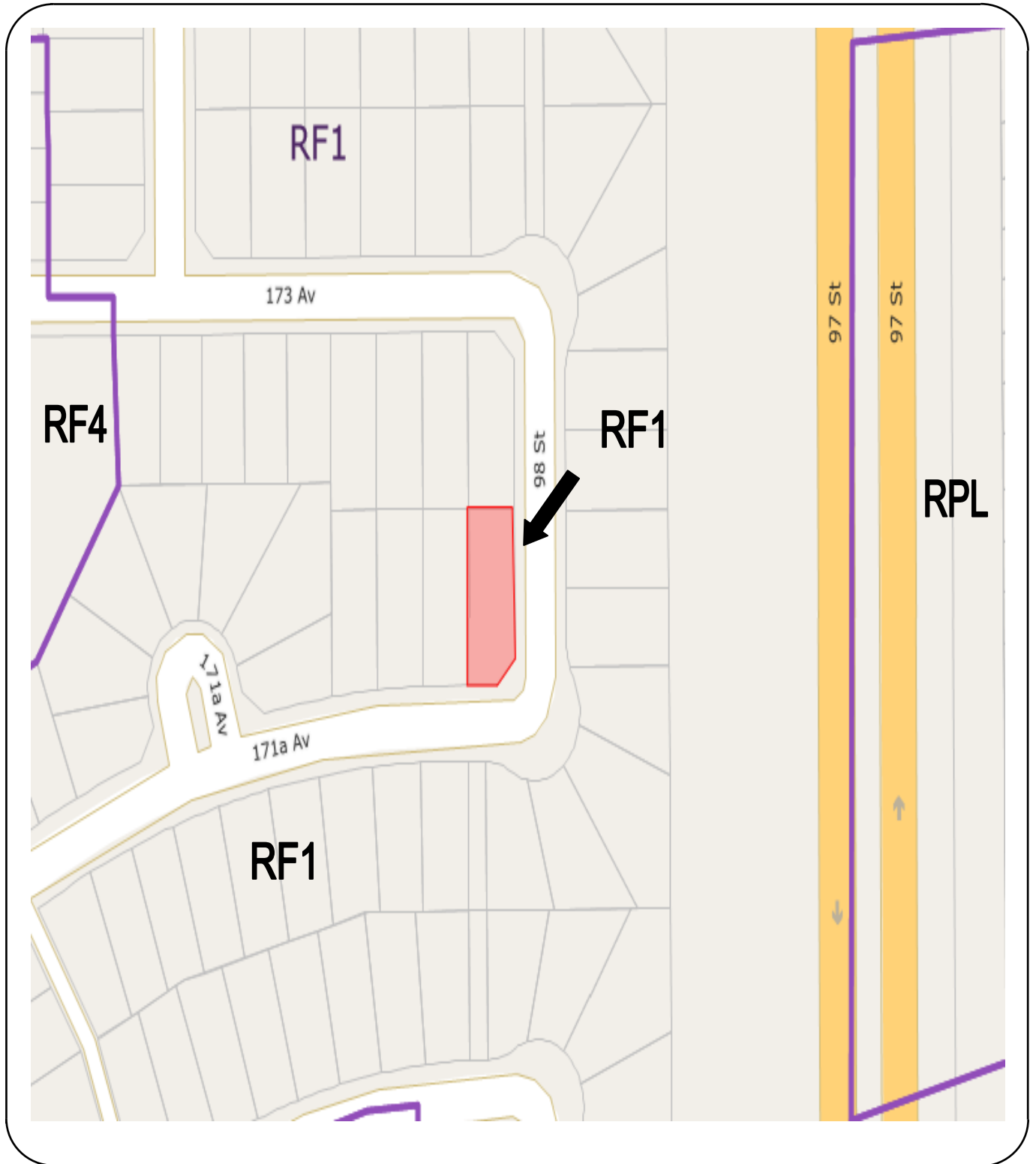
Rights of Appeal

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

Notice Period Begins: Oct 31, 2019 **Ends:** Nov 21, 2019

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$321.00	\$321.00	06153587	Sep 20, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	\$321.00	\$321.00		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-208



TO BE RAISED
ITEM III: 1:30 P.M.

FILE: SDAB-D-19-175

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 311293064-001

APPLICATION TO: Install (1) Freestanding General Advertising Sign with an electronic Changeable Copy panel containing on-premises and off-premises Advertising (incl. digital and static panels 6.1m x 13.5m facing E)(Condominium Corporation 9122259)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 6, 2019

DATE OF APPEAL: September 12, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 17503C - 100 Avenue NW

LEGAL DESCRIPTION: Condo Common Area (Plan 9122259)

ZONE: DC2.208 Site Specific Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Place La Rue Neighbourhood Area Structure Plan

Grounds for Appeal

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

We are solicitors for Pattison Outdoor Advertising, the Applicant in the above noted matter. Our clients' Development Permit Application has been refused. On behalf of our clients, we hereby appeal the refusal on the following grounds:

1. The Development Officer failed to follow the directions of City Council as set out in:
 - (a) The Edmonton Zoning Bylaw, section DC2.208.4(i) which section states that signs shall be allowed in the Zone in accordance with stated provisions from the Edmonton Land Use Bylaw:
 - (b) The Edmonton Land Use Bylaw, section 79E.1(1)(c) which section states that On-premise Business Identification signs shall be allowed in the Zone;
 - (c) The Edmonton Land Use Bylaw, section 79E.1(1)(f) which section states Freestanding General Advertising Signs shall be allowed in the Zone; and
 - (d) The Edmonton Land Use Bylaw, sections 14.3(1) and (2) which sections states that Freestanding On-premise Identification or Business Identification Signs and Freestanding General Advertising Signs are to be considered as Permitted Uses.
2. The Board has determined on numerous occasions that what is now called a Freestanding Off-Premise Minor Digital Sign under the current Zoning Bylaw is that which was previously called a Freestanding General Advertising Sign. In so finding, the Board has observed, *inter alia*, that: *“Nothing in the Land Use Bylaw prohibits poster panels from being comprised of a media which displays static digital images.”*
3. As indicated in previous Board decisions and as is borne out in both the Land Use Bylaw and the Zoning Bylaw, “Changeable Copy” is not digital copy of the sort associated with Minor Digital Signs (as that term is found in the Edmonton Zoning Bylaw), and the proposed sign does not contain “Changeable Copy”. Accordingly, the Development Officer further failed to follow the directions of Council by applying the “Changeable Copy” restrictions from the Land Use Bylaw to those portions of the Proposed Sign which are to function as a General Advertising Sign contrary to the provisions of section 9.2(8) of the Land Use Bylaw.
4. The Appellants commissioned a Sign Safety Assessment (June 10, 2019) and, on July 10, 2019, Subdivision Planning (Transportation) advised: *“The Sign Safety Assessment has reviewed crash history, traffic volumes, roadway speed, existing and expected driver workload, the relative complexity of the geometry and concluded that a traffic safety concern will not be anticipated with the installation of a minor digital sign at the proposed location as shown in the DS_311293064-001. Subdivision Planning accepts the conclusions of the report and therefore does not object the installation of the proposed sign.”*

5. To the extent any variances are required (and none are anticipated), the governing DC Bylaw provides: “The Development Officer may grant relaxations to the regulations contained in sections 50 through 79 of the Land use Bylaw and the provisions of this District if, in his opinion, such a variance would be in keeping with the General Purpose of the District and would not adversely affect the amenities, use and enjoyment of neighbouring properties.”
6. Such further and other reasons as may be presented at the hearing of this appeal.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on October 10, 2019:

“That SDAB-D-19-175 be TABLED to November 13 or 14, 2019 at the verbal request of an affected property owner”

The Subdivision and Development Appeal Board made and passed the following motion on November 14, 2019:

"That SDAB-D-19-175 be TABLED to November 27, 2019 at the request of legal counsel for an affected property owner"

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, [...]

685(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

- (a) ...
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

Section 2 of the *Edmonton Zoning Bylaw* concerning Repeal, Enactment and Transition Procedures states the following:

2.4 Subject only to the provisions in the Municipal Government Act respecting legal non-conforming Uses and notwithstanding the effect it may have on rights, vested or otherwise, the provisions of this Bylaw govern from the Effective Date onward. In particular, no application for a Development Permit shall be evaluated under the procedural or substantive provisions of the previous Land Use Bylaw after the Effective Date, even if the application was received before the Effective Date.

...

2.6 Any Direct Control Districts that were in effect immediately prior to the Effective date are hereby deemed to continue in full force and effect and are hereby incorporated into Part IV of this Bylaw.

2.7 Unless there is an explicit statement to the contrary in a Direct Control District or Provision, any reference in a Direct Control District or Direct Control Provision to a land use bylaw shall be deemed to be a reference to the land use bylaw that was in effect at the time of the creation of the Direct Control District or Provision.

At the time of the creation of the subject Direct Control Site, the *City of Edmonton Land Use Bylaw 5996* was in effect. An Alberta Court of Appeal decision in *Parkdale-Cromdale Community League Association v. Edmonton (City)*, 2007 ABCA 309 concluded that section 2.7 of the *Edmonton Zoning Bylaw* only applies if there is an express cross-reference in a Direct Control

Bylaw passed before 2001 to a provision of the old *Land Use Bylaw*. In the absence of an express reference in the Direct Control Bylaw to the *Land Use Bylaw 5996*, it does not prevail over section 2.4 of the *Edmonton Zoning Bylaw*.

General Provisions from the DC2.208 Site Specific Development Control Provision (“DC2.208”):

Section DC2.208.1 states that the **General Purpose** of **DC2.208** is:

To establish a Site Specific Development Control District to accommodate a limited range of general commercial-highway corridor

uses, with site specific development regulations that will ensure compatibility with future surrounding land uses and the alignment of existing and proposed roadways adjacent to the site, and ensure a high standard of appearance appropriate to the site's location on a major entrance route to the City.

Section DC2.208.4.i states:

Signs shall be allowed in this District as provided for in Schedule 79E and in accordance with the General Development Regulations of Sections 59 to 79 inclusive of the Land Use Bylaw.

Section DC2.208.4.k states:

The Development Officer may grant relaxations to the regulations contained in Sections 50 through 79 of the Land Use Bylaw and the provisions of this District if, in his opinion, such a variance would be in keeping with the General Purpose of the District and would not adversely affect the amenities, use, and enjoyment of neighbouring properties.

General Provisions from the Edmonton Land Use Bylaw 5996:

Section 14, **Development Classes**, states that the following classes of development are hereby established:

- 1) Class O - No Development Permit Required;
- 2) Class A - Minor Permitted Use;
- 3) Class B - Permitted Use;
- 4) Class C - Discretionary Use; and
- 5) Class D - Design Review.

Section 14.3, **Class B – Permitted Use**, states:

The developments included in this Class are those Permitted Uses where the regulations of this Bylaw are more complex and where the development application must be reviewed to determine its compliance with this Bylaw, or where conditions of approval or agreements to ensure compliance are considered necessary. The Development Officer shall issue a permit, with or without conditions for the development of Permitted Uses after reviewing the application and the submission requirements of this Class to ensure compliance with the regulations of this Bylaw. This Class shall include all Permitted Use developments, including those affected by an Overlay, except those identified in Class O or Class A

Class B shall also include the following sign uses and development:

- 1) Canopy, Undercanopy, Facia, Freestanding and Projecting On-premise Identification or Business Identification Signs including or not including the use of manual animation, running lights, scintillating lights, manual changeable copy and time and temperature displays;
 - 2) Facia and Freestanding General Advertising Signs; except that where such signs are to be erected in the CNC, CSC, IB or AGI Districts, or within the civic centre area defined in Sign Schedule 79G, they shall be a Class C development;
 - 3) **Deleted;** and
 - 4) any minor development within a Direct Control District, which, in the opinion of the Development Officer, is similar to other developments listed under subsection 14.3.
- ...

Section 14.4, **Class C – Discretionary Use**, states:

The developments in this Class are those involving the exercise of discretion by the Development Officer. Upon receipt of an application in its final form for development within this Class, the Development Officer shall examine the application to determine its conformity with the regulations of this Bylaw and the provisions of any applicable Statutory Plan. The Development Officer, using discretion, may refuse or approve, permanently or for a limited time period, with or without conditions, an application for development within this Class. This Class shall include:

- 1) all Discretionary Use developments; and

- 2) all major developments within Direct Control Districts except those defined as Class D.

Class C shall also apply to the parking or storage of any large Recreational Vehicle in a Residential District, where such parking or storage does not fully comply with the regulations of Section 55 of this Bylaw, but where the Development Officer may wish to exercise discretion to relax such regulations.

Class C shall also include the following sign uses and developments:

- a) comprehensive Sign Design Plans, as defined in Section 79.6 of this Bylaw;
 - b) electronically controlled Changeable Copy Signs, other than those used only for time and temperature displays;
 - c) Facia and Freestanding General Advertising Signs within the CNC, CSC, IB and AGI Land Use Districts, and within the civic centre area defined in Sign Schedule 79G;
 - d) **Deleted;**
 - e) Roof Signs;
 - f) signs painted on exterior building walls;
 - g) **Deleted;** and
 - h) any other sign that is not deemed a Class O, Class A or Class B development.
- ...

Under section 9.2(2), **Animated Sign** means:

any sign or portion of a sign having moving parts or electronically controlled colour changes which depict action or give motion to the sign. Animated Sign does not include Flashing Signs, Rotating Signs, signs with accessory running lights or flashing lights, or electronically controlled Changeable Copy Signs such as those showing time and temperature displays.

Under section 9.2(4)(b), **Billboard** means:

a General Advertising Sign that has a sign area of more than 3.75 m² (40.35 sq. ft.). The display copy of the sign can be printed on a translucent vinyl sheet or painted on a number of plywood or light steel sections which are locked into a frame to form a single sign face;

Under section 9.2(6), **Business Identification Sign** means:

a sign identifying the name, dealer, franchise association, primary function, product or service of the commercial activity conducted on the premises, and may include local advertising and changeable copy.

Under section 9.2(8), **Changeable Copy Sign** means:

a permanent On-premise Sign or portion of such a sign on which copy can be readily changed manually through the utilization of attachable characters, or automatically through the electronic switching of lamp banks or illuminated tubes. Changeable Copy Signs include mechanically controlled time and temperature displays.

Under Section 9.2(15), **Freestanding Sign** means “any sign supported independently of a building and permanently fixed to the ground.”

Under Section 9.2(16), **General Advertising Sign** means:

a sign which directs attention to a business, activity, product, service or entertainment which cannot be considered as the principal products sold nor a principal business, activity, entertainment or service provided on the premises where the sign is displayed and general advertising has a similar meaning. Typical General Advertising Signs includes Billboards and Junior Panels as defined in this Bylaw.

Under Section 9.2(21), **Local Advertising Sign** means:

a sign or portion of a sign on which the copy refers only to products or merchandise produced, offered for sale or obtainable at the premises on which the sign is displayed and which are related to the principal function of such premises, and local advertising has a similar meaning.

Under Section 9.2(25), **On-premise Sign** means:

a sign identifying or advertising a business, activity, service or product located on the premises where the sign is erected. On-premise Signs includes signs erected on a site to provide warning or direction to persons entering upon the site.

Schedule 79E of the Edmonton Land Use Study 5996

Schedule 79E.1(1) states the following Signs shall be allowed, subject to the Sign Regulations of this Schedule:

- a) ...
- b) ...

- c) Awning, Canopy, Under-canopy, Fascia, Freestanding, Projecting and Window, On-premise Business Identification Signs and On-premise Changeable Copy and Local Advertising Signs;
- d) ...
- e) ...
- f) Fascia and Freestanding General Advertising Signs;
- g) ...
- h) ...

Section 79.8 of the Edmonton Land Use Bylaw 5996

Section 79.8, General Regulations for General Advertising Signs

This Section contains the general regulations with which the various types of General Advertising Signs must comply, subject to any exception or additional regulations specific in a Sign Schedule.

- (1) General Provisions, the following regulations shall apply to all General Advertising Signs.
 - a) General Advertising Signs shall be purposely designed to display painted bulletins, poster panels or vinyl backlite panels.
 - ...
 - e) General Advertising Signs may be illuminated provided that the lighting is concealed or shielded to minimize glare.

Section 79.2 of the Edmonton Land Use Bylaw 5996

Section 79.2, Prohibited Signs

No Sign shall be erected, operated, used or maintained which:

- a) due to its position, shape, colour, format or illumination obstructs the view of, or may be confused with, an official traffic Sign, signal or device, as determined by the Development Officer in consultation with the City Engineer;
- ...

Section 59.2 of the Edmonton Zoning Bylaw 12800

Section 59.2, General Provisions states:

1. No Sign shall be erected, operated, used or maintained that:
 - a. due to its position, shape, colour, format or illumination obstructs the view of, or shall be confused with, an official traffic Sign, signal or device, as determined by the Development Officer in consultation with the Transportation Services;
 - b. displays lights resembling the flashing lights usually associated with danger or those used by police, fire, ambulance and other emergency vehicles; and
 - c. uses spot or reflector lights directed at on-coming traffic or displays travelling or flashing messages that create a hazard to traffic on a public roadway from which the Sign is visible.
2. Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located such that the Sign does not obscure a driver decision point. The Development Officer and Transportation Services shall be satisfied that each Copy Area:
 - a. does not physically obstruct the sightlines or view of a traffic control device or traffic control signal for oncoming vehicle traffic;
 - b. is not located in the field of view near or past the traffic control device or traffic control signal in the sightlines of oncoming vehicle traffic;
 - c. is not located in the field of view near or past other traffic conflict points such as intersections, merge points, exit ramps, or curved roadways; and
 - d. illumination does not compete with or dull the contrast of the traffic control device or traffic control signal for oncoming vehicle traffic.

Development Officer's Determination

1) Minor Digital On-Premises Off Premise Signs are not allowed in the DC2.208 Zone (Reference DC2.208.3, Schedule 79E of the Edmonton Land Use Bylaw 5996 office consolidation No.9, Dec 31, 1991))

The proposed development is determined to be equivalent to a Freestanding General Advertising Sign with an electronic Changeable Copy panel.

2) General Advertising Signs shall be purposely designed to display painted bulletins, poster panels or vinyl backlite panels. (Reference Section 79.8(1)(a))

The Development Officer has determined that the proposed Sign does not meet this regulation because it is not designed to display painted bulletins, poster panels or vinyl backlite panels.

3) General Advertising Signs may be illuminated provided that the lighting is concealed or shielded to minimize glare. (Reference Section 79.8(1)(e))

Based on the development not meeting refusal condition 2 above, the Development Officer determines that the proposed Sign lighting is not concealed or shielded to minimize glare.

4) Changeable Copy Signs means a permanent on-premises sign or portion of such a sign on which copy can be readily changed manually through the utilization of attachable characters, or automatically through the electronic switching of lamp banks or illuminated tubes. Changeable copy signs included mechanically controlled time and temperature displays. (Reference Section 9.2(4))

The definition for Changeable Copy Signs allows for on-premises advertising. In the Sign Schedule for 79E, Section 79E.1(1)(c) lists on-premises changeable copy. The proposed changeable copy portion of the sign is for on-premises and off-premises advertising and does not comply with this section.

5) In consultation with Subdivision Planning, concerns were expressed regarding the location of the proposed sign. The proposed sign is adjacent to a pedestrian crossing on 99A Avenue and may draw the drivers' attention away from crossing pedestrians. Subdivision Planning does not support the proposed location. (Reference Section 59.2(1) and (2)).

The Development Officer in consultation with Subdivision Planning, supports the Subdivision Planning concerns regarding the pedestrian crossing, and does not support the proposed sign location.


[unedited]


Previous Subdivision and Development Appeal Board Decision

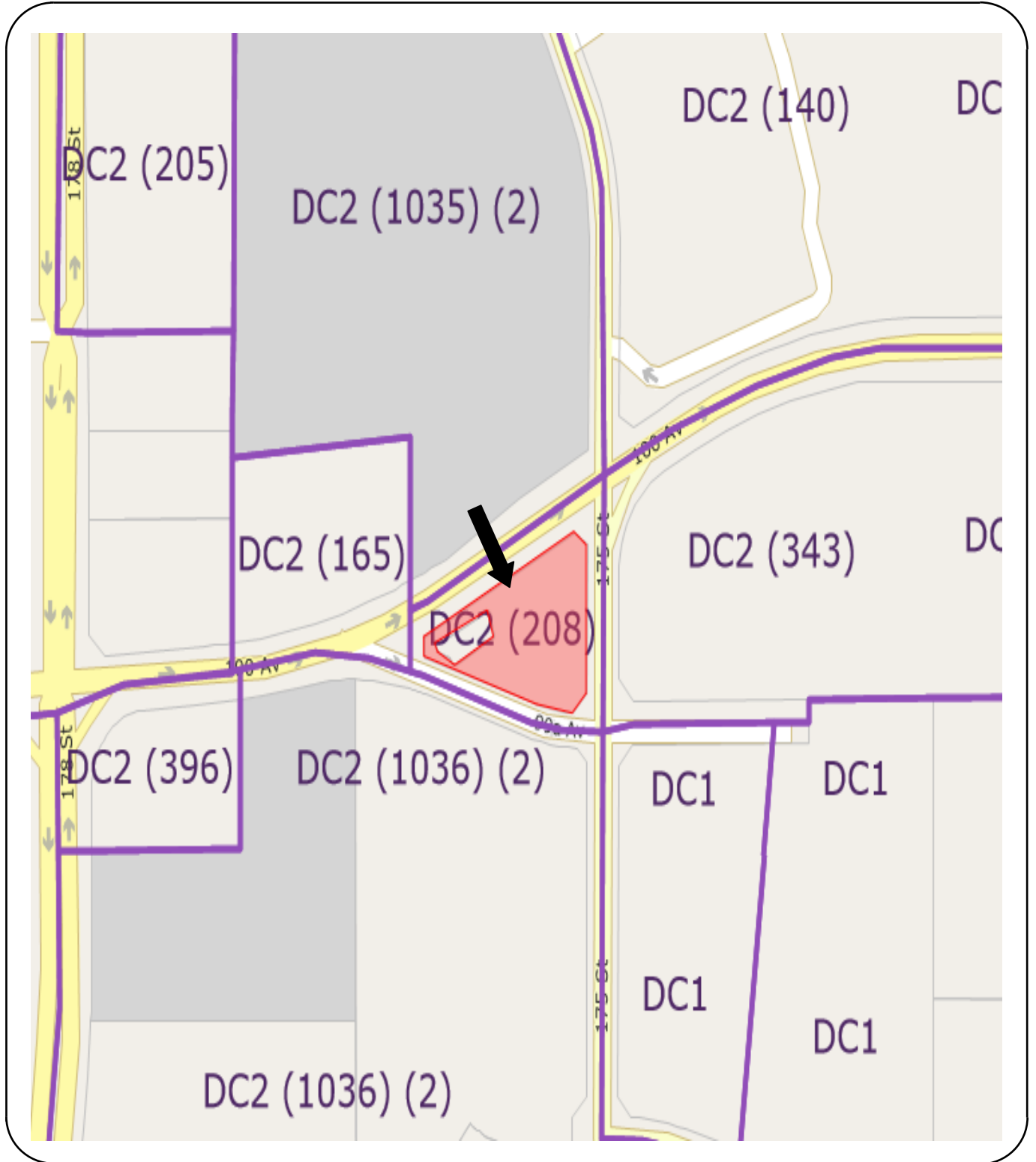
Application Number	Description	Decision
SDAB-D-06-232	Construct an addition to a General Retail building (retail bays)	November 24, 2006; the appeal be ALLOWED and the DEVELOPMENT GRANTED and the deficiency of five parking spaces be permitted, subject to the conditions.

Notice to Applicant/Appellant

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

	<h2 style="margin: 0;">Application for Sign Combo Permit</h2>	Project Number: 311293064-001 Application Date: APR 16, 2019 Printed: September 6, 2019 at 11:12 AM Page: 1 of 2
This document is a Development Permit Decision for the development application described below.		
Applicant	Property Address(es) and Legal Description(s) 17503C - 100 AVENUE NW Condo Common Area (Plan 9122259)	
	Location(s) of Work Suite: 17507 - 100 AVENUE NW Entryway: 17507 - 100 AVENUE NW Building: 17503 - 100 AVENUE NW	
Scope of Application To install (1) Freestanding General Advertising Sign with an electronic Changeable Copy panel containing on-premises and off-premises Advertising (incl. digital and static panels 6.1m x 13.5m facing E)(Condominium Corporation 9122259).		
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: 0 Minor Digital On/Off-premises Sign: 1	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 Issue Date: Sep 06, 2019 Development Authority: NOORMAN, BRENDA		
THIS IS NOT A PERMIT		

	Project Number: 311293064-001 Application Date: APR 16, 2019 Printed: September 6, 2019 at 11:12 AM Page: 2 of 2																														
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<p>Fees</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Safety Codes Fee</td> <td style="text-align: right;">\$42.28</td> <td style="text-align: right;">\$42.28</td> <td style="text-align: right;">05795714</td> <td style="text-align: right;">Apr 23, 2019</td> </tr> <tr> <td>Sign Building Permit Fee</td> <td style="text-align: right;">\$1,057.00</td> <td style="text-align: right;">\$1,057.00</td> <td style="text-align: right;">05795714</td> <td style="text-align: right;">Apr 23, 2019</td> </tr> <tr> <td>Sign Dev Appl Fee - Digital Signs</td> <td style="text-align: right;">\$458.00</td> <td style="text-align: right;">\$458.00</td> <td style="text-align: right;">05795714</td> <td style="text-align: right;">Apr 23, 2019</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$1,557.28</td> <td style="text-align: right; border-top: 1px solid black;">\$1,557.28</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Safety Codes Fee	\$42.28	\$42.28	05795714	Apr 23, 2019	Sign Building Permit Fee	\$1,057.00	\$1,057.00	05795714	Apr 23, 2019	Sign Dev Appl Fee - Digital Signs	\$458.00	\$458.00	05795714	Apr 23, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$1,557.28	\$1,557.28		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-175

