

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
February 27, 2020**

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

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

I	9:00 A.M.	SDAB-D-20-025	Operate a General Retail Store (Whitecourt Homeless Animals Rescue Foundation) 10722 - 124 Street NW Project No.: 345226026-002
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II	10:30 A.M.	SDAB-D-20-026	Change the Use from a Professional, Financial and Office Support Service to a Childcare Service (80 Children) and construct Exterior Alterations (outdoor play space) 14703 - 40 Avenue NW Project No.: 346607158-002
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III	1:30 P.M.	SDAB-D-20-027	Change the Use from Professional, Financial and Office Support Services to a Personal Service Shop (operating as Body Rub Centre) 16872 - 111 Avenue NW, 16904C - 111 Avenue NW Project No.: 348590018-002
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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-20-025

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 345226026-002

APPLICATION TO: Operate a General Retail Store
(Whitecourt Homeless Animals Rescue Foundation)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 13, 2020

DATE OF APPEAL: February 2, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10722 - 124 Street NW

LEGAL DESCRIPTION: Plan RN22 Blk 28 Lot 15

ZONE: (CB1) Low Intensity Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

Premise of Appeal:

- Subsection 642(1) of the Municipal Government Act (MGA) provides that, “When a person applies for a development permit in respect of a development provided for by a land use bylaw pursuant to section 640(2)(b)(i), the development authority must, if the application otherwise conforms to the land use bylaw and is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw”.

- The zoning bylaw relevant to WHARF’s application provides that “General Retail Use” is a permitted use under subsection 640(2)(b)(i) of the MGA.
- Subsection 642(4) of the MGA provides that, “If a development authority refuses an application for a development permit, the decision must include the reasons for the refusal.”
 - Applied in context of the whole of section 642, subsection 642(4) provides that reasons for refusal must state why the development authority has determined that conditions under subsection 642(1) have not been met, in that the application does not reflect a permitted use under subsection 640(2)(b)(i).
- Despite subsection 642(1), the Development Officer has provided no reasons under subsection 642(4) as per why they determined that the application does not reflect a permitted use of the land, as detailed below.

Please see attached document for further details.

<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*:

Animal Hospitals and Shelters is **neither** a Permitted Use **nor** a Discretionary Use in the (CB1) Low Intensity Business Zone, sections 330.2 and 330.3 respectively.

Small Animal Breeding and Boarding Establishments is **neither** a Permitted Use **nor** a Discretionary Use in the (CB1) Low Intensity Business Zone, sections 330.2 and 330.3 respectively.

Under section 330.2(7), **General Retail Stores**, up to a maximum Floor Area of 1 000 m², is a **Permitted Use** in the (CB1) Low Intensity Business Zone.

Under section 330.3(11), **General Retail Stores**, with a Floor Area greater than 1 000 m², is a **Discretionary Use** in the (CB1) Low Intensity Business Zone.

Under section 7.4(2), **Animal Hospitals and Shelters** means “development used for the temporary accommodation and care or impoundment of small animals within an enclosed building. This Use does not include Small Animal Breeding and Boarding Establishments.”

Under section 7.6(5), **Small Animal Breeding and Boarding Establishments** means “development used for the breeding, boarding or training of small animals normally considered as household pets. Typical Uses are kennels and pet boarding establishments.”

Under section 7.4(24), **General Retail Stores** means:

development used for the retail or consignment sale of new goods or merchandise within an enclosed building, not including the sale of gasoline, heavy agricultural and industrial equipment, alcoholic beverages, or goods sold wholesale. Accessory Uses may include the assembly or repair of products sold on Site, or minor public services such as postal services or pharmacies. This Use does not include Aircraft Sales/Rentals, Automotive and Minor Recreation Vehicle Sales/Rentals, Cannabis Retail Sales, Flea Market, Gas Bars, Greenhouses, Plant Nurseries and Garden Centres, Pawn Stores, Liquor Stores, Major Service Stations, Minor Service Stations, Secondhand Stores, and Warehouse Sales.

Section 7 provides the following with respect to ***Use Definitions***:

7.1 General

1. Uses, as set out in subsections 7.2 through 7.9 inclusive, are grouped according to common functional or physical impact characteristics.
2. Use definitions are used to define the range of Uses, which are Permitted Uses or Discretionary Uses, within the various Zones of this Bylaw.

3. The following guidelines shall be applied in interpreting the Use definitions:
 - a. the typical purposes or activities, which may be listed in the definitions, are not intended to be exclusive or restrictive;
 - b. where specific purposes or activities do not conform to any Use definition or generally conform to the wording of two or more Use definitions, the Development Officer may, at their discretion, deem that the purposes or activities conform to and are included in that Use which they consider to be the most appropriate. In such a case, the Use shall be considered a Discretionary Use, whether or not the Use is listed as a Permitted Use or Discretionary Use within the applicable Zone; and
 - c. the headings such as Residential Uses or Commercial Uses do not mean that the Uses listed under these headings are permitted only in Residential or Commercial Zones of this Bylaw. Reference must be made to the lists of Permitted Uses and Discretionary Uses within each Zone.

Under section 6.1, **Use** means “the purposes or activities for which a piece of land or its buildings are designed, arranged, developed or intended, or for which it is occupied or maintained.”

Section 330.1 states that the **General Purpose** of the **(CB1) Low Intensity Business Zone** is:

to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

Section 819.1 states that the **General Purpose** of the **Main Streets Overlay** is:

to encourage and strengthen the pedestrian-oriented character of Edmonton’s main street commercial areas that are located in proximity to residential and transit-oriented areas, by providing visual interest, transparent storefront displays, and amenities for pedestrians.

<i>Development Officer’s Determination</i>

1. Notwithstanding the applicant's submission, the Development Officer has reviewed the applicant's public website, Whitecourt Homeless Animal Rescue Foundation, <http://wharfrescue.ca>. Also, information was reviewed from the City's investigation of the site as a consequence of a complaint, including an on site inspection of the use of the building.

Based on the review of this information, it is determined by the Development Officer, that the proposed development is not a General Retail Store, and is an Animal Hospital and Shelter. An Animal Hospital and Shelter is neither listed as a Permitted or Discretionary Use under the CB1 (Low Intensity Business) Zone, contrary to Section 330.2 and 330.3.


Advisement: Animal Hospitals and Shelters means development used for the temporary accommodation and care or impoundment of small animals within an enclosed building. This Use does not include Small Animal Breeding and Boarding Establishments, reference Section 7.4(2). The applicant's website describes the use to primarily rescues animals, accepts donations of animal care items and takes care of animals until they are fostered or adopted. The City's on site inspection corroborates the use of the building with the applicant's description of their website.

2. The subject property is zoned CB1 (Low Intensity Business Zone). The general purpose of this Zone is to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood, reference Section 330.1. The proposed development, an Animal Hospital and Shelter, does not meet the General Purpose of the CB1 (Low Intensity Business) Zone, and would generate a negative impact to the neighbourhood, specifically noise and odour (accommodation of animals with associated outdoor services (storage/dog run) area at the back of the building).

[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: 345226026-002 Application Date: OCT 30, 2019 Printed: February 3, 2020 at 8:39 AM Page: 1 of 2		
<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) 10722 - 124 STREET NW Plan RN22 Blk 28 Lot 15 Specific Address(es) Suite: 10724 - 124 STREET NW Entryway: 10724 - 124 STREET NW Building: 10722 - 124 STREET NW		
Scope of Application To Operate a General Retail Store (Whitecourt Homeless Animals Rescue Foundation).			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: Site Area (sq. m.): </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: 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: Jan 13, 2020 Development Authority: XU, HAILEE Reason for Refusal 1. Notwithstanding the applicant's submission, the Development Officer has reviewed the applicant's public website, Whitecourt Homeless Animal Rescue Foundation, http://wharfrescue.ca . Also, information was reviewed from the City's investigation of the site as a consequence of a complaint, including an on site inspection of the use of the building. Based on the review of this information, it is determined by the Development Officer, that the proposed development is not a General Retail Store, and is an Animal Hospital and Shelter. An Animal Hospital and Shelter is neither listed as a Permitted or Discretionary Use under the CB1 (Low Intensity Business) Zone, contrary to Section 330.2 and 330.3. Advisement: Animal Hospitals and Shelters means development used for the temporary accommodation and care or impoundment of small animals within an enclosed building. This Use does not include Small Animal Breeding and Boarding Establishments, reference Section 7.4(2). The applicant's website describes the use to primarily rescues animals, accepts donations of animal care items and takes care of animals until they are fostered or adopted. The City's on site inspection corroborates the use of the building with the applicant's description of their website. 2. The subject property is zoned CB1 (Low Intensity Business Zone). The general purpose of this Zone is to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood, reference Section 330.1. The proposed development, an Animal Hospital and Shelter, does not meet the General Purpose of the CB1 (Low Intensity Business) Zone, and would generate a negative impact to the neighbourhood, specifically noise and odour (accommodation of animals with associated outdoor services (storage/dog run) area at the back of the building).			
THIS IS NOT A PERMIT			



Application for Major Development Permit

Project Number: **345226026-002**
Application Date: OCT 30, 2019
Printed: February 3, 2020 at 8:39 AM
Page: 2 of 2

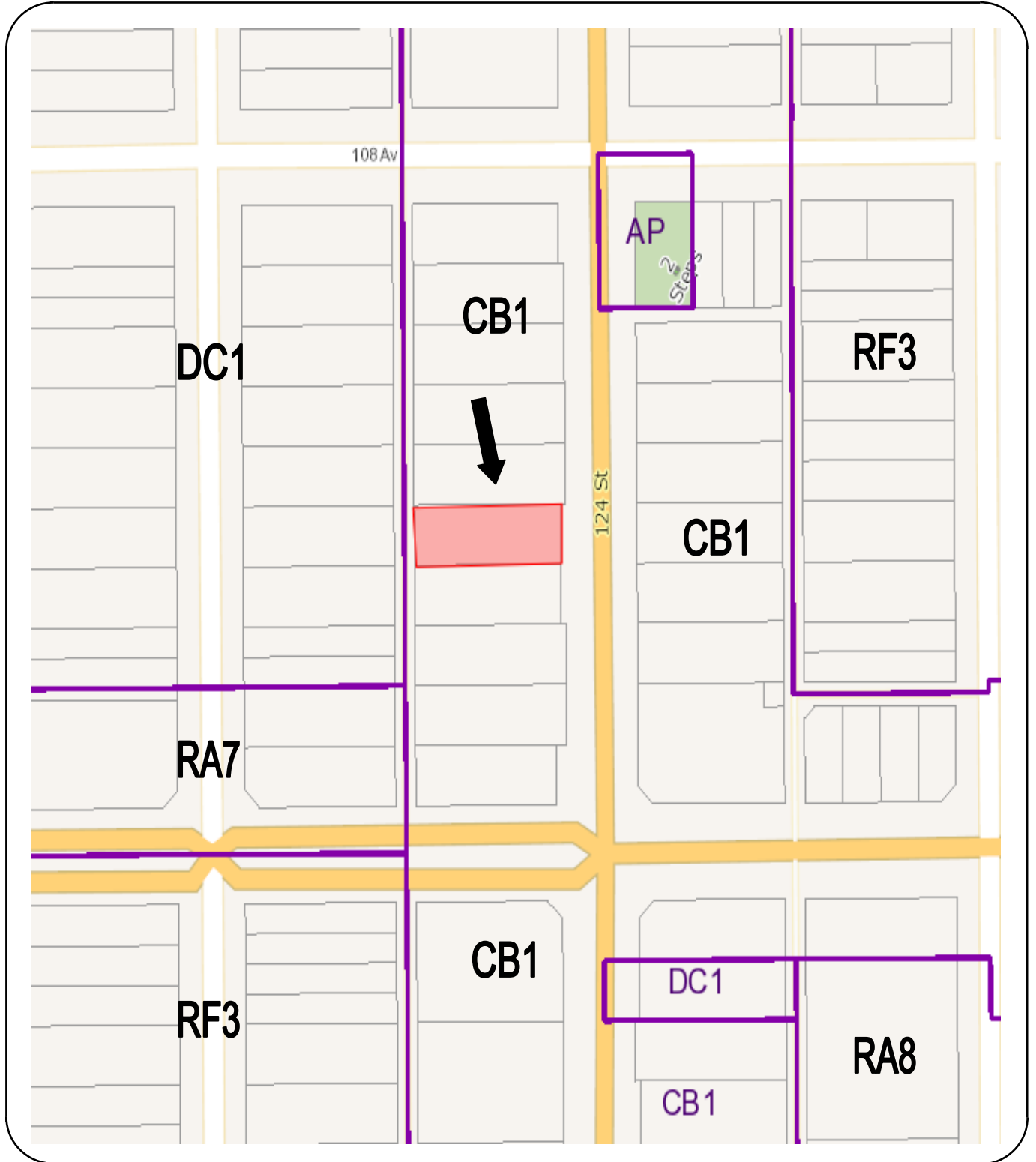
Rights of Appeal

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.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$518.00	\$518.00	894426662273001	Nov 04, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$518.00</u>	<u>\$518.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-025



ITEM II: 10:30 A.M.

FILE: SDAB-D-20-026

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 346607158-002

APPLICATION TO: Change the Use from a Professional, Financial and Office Support Service to a Childcare Service (80 Children) and construct Exterior Alterations (outdoor play space)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 14, 2020

DATE OF APPEAL: February 3, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 14703 - 40 Avenue NW

LEGAL DESCRIPTION: Plan 8621495 Blk 107 Lot 1

ZONE: DC2.836 Site Specific Development Control Provision

OVERLAY: N/A

STATUTORY PLAN(S): Rhatigan Ridge Neighbourhood Structure Plan
Riverbend Area Structure Plan

Grounds for Appeal

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

Reasons for Refusal:

- 1) Section 80.2.c – No portion of a Child Care Services Use, including the building, building bay and on-Site outdoor play space, when provided shall be located within 50m of a Major Service Station, a Minor Service Station or a Gas Bar. This distance shall be measured from the closest pump island, fill pipes, vet pipes, or service station gas bar building, to the Child Care Services Use.

Operating a Child Care service facility serves no negative impact to the centre, its patrons, the attendees, neighbours, or other tenants. The distance from the building to the pump is 35.8m which is 14.2m shy of the 50m requirement. We are requesting a variance to be granted, as no building in this centre/on site is located greater than 50m from the closest pump island, fill pipes, vent pipes, or service station gas bar building yet a child care facility is an approved use on site per the DC2.836.4 zoning. In no circumstances will children be playing in the front of the premises thus will not be exposed to the Gas Bar.

Given the number of schools (6) in the area and the demographics of residents in the 1,3,5 km radius, there is a shortage of childcare facilities in the area for the growing population. The area residents and neighbouring tenants would benefit from the increased traffic to the centre as they are family oriented businesses.

See attached document for further reasons and details

<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, [...]

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.

General Provisions from the *Edmonton Zoning Bylaw 12800*:

Under section 7.8(2), **Child Care Services** means:

a development intended to provide care, educational activities and supervision for groups of seven or more children under 13 years of age during the day or evening, but does not generally include overnight accommodation. This Use typically includes daycare centres; out-of-school care centres; preschools; and dayhomes/group family care providing child care to seven or more children within the care provider's residence.

General Provisions from the DC2.836 Site Specific Development Control Provision (Bylaw 16461) ("DC2"):

Under section DC2.836.3.b, Child Care Services is a Listed Use in the DC2.

Section DC2.836.1 states that the **General Purpose** of the **DC2** is:

To establish a Site Specific Development Control Provision to accommodate a limited range of convenience commercial and personal service Uses which are intended to serve the day-to-day needs of neighbourhood residents, with Site development regulations requiring the achievement of a residential character so that the development will be compatible with the surrounding residential land Uses.

Child Care Services – Location Requirements

Section 80(2)(c) states:

No portion of a Child Care Services Use, including the building, building bay and on-Site outdoor play space, where provided, shall be located within 50 m of a Major Service Station, a Minor Service Station or a Gas Bar.

This distance shall be measured from the closest pump island, fill pipes, vent pipes, or service station or gas bar building, to the Child Care Services Use.

Development Officer's Determination

1. Section 80.2.c - No portion of a Child Care Services Use, including the building, building bay and on-Site outdoor play space, where provided, shall be located within 50 m of a Major Service Station, a Minor Service Station or a Gas Bar. This distance shall be measured from the closest pump island, fill pipes, vent pipes, or service station or gas bar building, to the Child Care Services Use.

Required distance: 50 m (to the closed Gas Bar pump island (Esso))

Proposed distance: 35.8 m

Deficient by: 14.2 m

[unedited]

DC2.836 – Development Criteria

Section DC2.836.4.j states:

Parking, loading, storage, trash collection, outdoor service or display area shall not be permitted within a required Yard. Loading, storage and trash collection areas shall be located to the rear or side of the principal building and shall be screened from view from any adjacent Sites or public roadways in accordance with the provisions of Section 55.3 of the Zoning Bylaw.

Development Officer's Determination

2. Section DC2.836.4.j - Parking, loading, storage, trash collection, outdoor service or display area shall not be permitted within a required Yard.

The proposed outdoor service area (outdoor play space) located within the required Yard adjacent to the southern property line, contrary to Section DC2.836.4.j.

Also, the proposed outdoor service area (outdoor play space) adjacent to the southern property line would generate a negative impact (specifically noise) on the residential properties to the south.

[unedited]

Parking

Section 54.2, Schedule 1(A)(29) states the following with respect to parking:

<p>Child Care Services</p>	<p>a) Passenger pick-up/drop-off spaces shall be provided at the rate of 2 pick-up/drop-off spaces for the first 10 children, plus 1 additional pick-up/drop-off space for every 10 additional children.</p> <p>i) Passenger pick-up/drop-off spaces shall be designed with signs to reserve the parking spaces for Child Care Services pick-up/drop-off, to the satisfaction of the Development Officer.</p> <p>ii) Passenger pick-up/drop-off space shall be located as close as possible to the main entrance used by the Child Care Service, and shall not be located further than 100 m from the main entrance used by the Child Care Service. The distance between the farthest parking space in the pick-up/drop-off area and the main entrance of the Child Care Service shall be measured along the shortest publicly accessible pedestrian route.</p> <p>iii) An on-street loading zone shall satisfy a portion of the passenger pick-up/drop-off parking space requirement without a variance if the Development Officer, after consultation with Transportation Operations, is satisfied with the proposal.</p> <p>b) employee parking shall be provided at the rate of:</p> <p>i) 1 parking space per 100.0 m² of Floor Area; or</p> <p>ii) 1 parking space per 360.0 m² of Floor Area where the Child Care Service is proposed within 400 m of an LRT Station, Transit Centre, Transit Avenue, or all Lots within the boundaries of the Oliver Area Redevelopment Plan, as adopted by Bylaw 11618, as amended, or all Lots within the boundaries of the Strathcona Area Redevelopment Plan, as adopted by Bylaw 11890, as amended; or</p>
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	iii) Where the Child Care Service is for a dayhome/group family care providing care to 7 or more children within the residence of the child care provider, 1 parking space for each non-resident employee, in addition to the parking required for the principal Dwelling. Where a Front Yard Driveway provides access to a parking space that is not within the Front Yard, the Development Officer may consider this Driveway as the provision of a parking space that is in tandem.
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Development Officer’s Determination

3. Parking:

a) Section 54.2 Schedule 1(A)(29) - 4 employee parking spaces and 9 Passenger pick-up/drop-off spaces required, equals 13 parking spaces overall.


**Proposed: 4 Passenger pick-up/drop-off spaces
Deficient by: 5 Passenger pick-up/drop-off spaces**


Overall, 1 additional parking space required by the proposed development, 0 provided, deficient by 1.

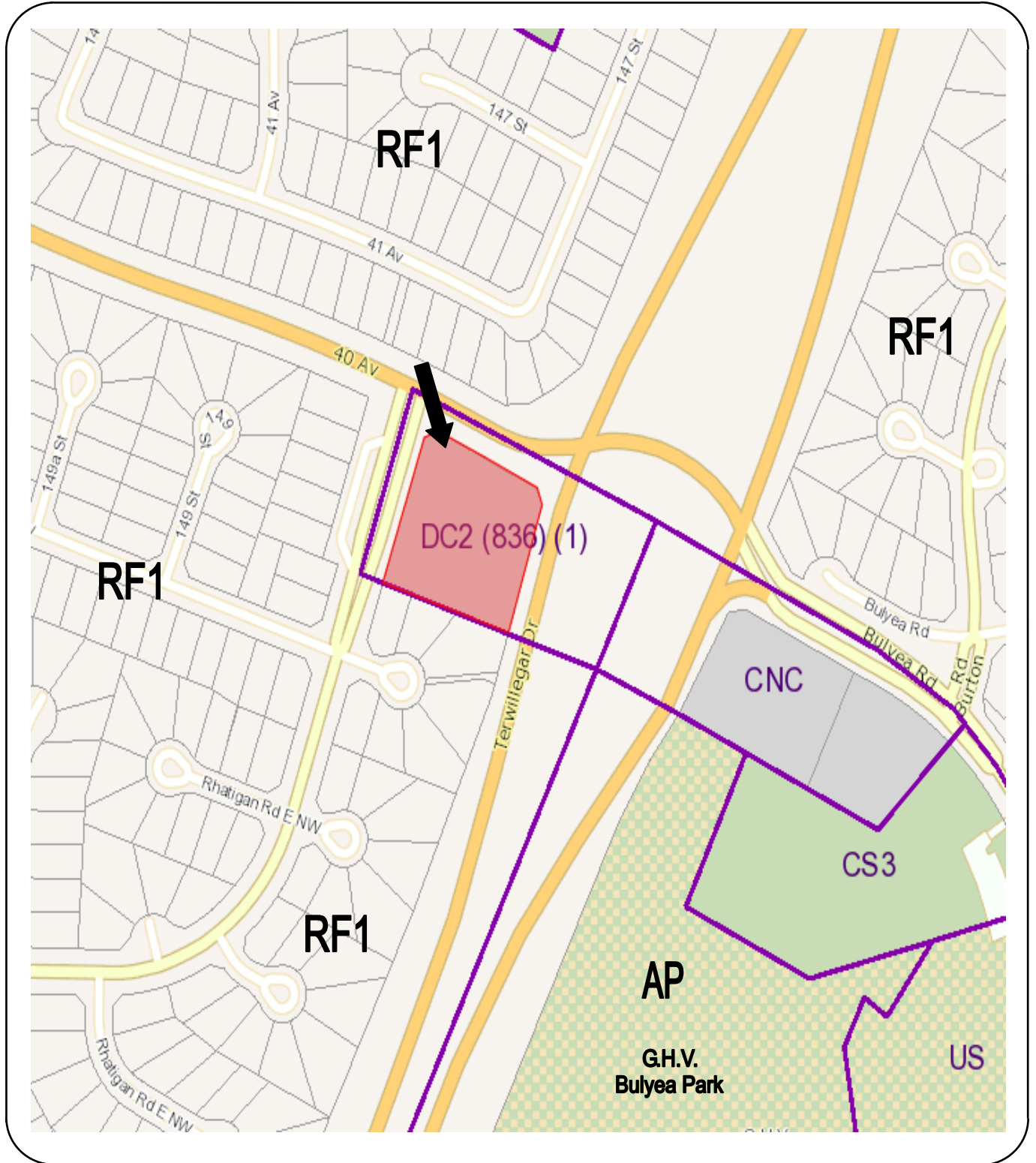
[unedited]

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: 346607158-002 Application Date: NOV 13, 2019 Printed: February 3, 2020 at 2:44 PM Page: 1 of 2
<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) 14703 - 40 AVENUE NW Plan 8621495 Blk 107 Lot 1
	Specific Address(es) Entryway: 14725 - 40 AVENUE NW Building: 14717 - 40 AVENUE NW
Scope of Application To Change the Use from a Professional, Financial and Office Support Service to a Childcare Service (80 Children) and construct Exterior Alterations (outdoor play space).	
Permit Details	
Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: 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: Jan 14, 2020 Development Authority: XU, HAILEE	
THIS IS NOT A PERMIT	

	Project Number: 346607158-002 Application Date: NOV 13, 2019 Printed: February 3, 2020 at 2:44 PM Page: 2 of 2																				
<h2 style="margin: 0;">Application for Major Development Permit</h2>																					
<p>Reason for Refusal</p> <p>1. Section 80.2.c - No portion of a Child Care Services Use, including the building, building bay and on-Site outdoor play space, where provided, shall be located within 50 m of a Major Service Station, a Minor Service Station or a Gas Bar. This distance shall be measured from the closest pump island, fill pipes, vent pipes, or service station or gas bar building, to the Child Care Services Use.</p> <p style="margin-left: 40px;">Required distance: 50 m (to the closed Gas Bar pump island (Esso)) Proposed distance: 35.8 m Deficient by: 14.2 m</p> <p>2. Section DC2.836.4.j - Parking, loading, storage, trash collection, outdoor service or display area shall not be permitted within a required Yard. The proposed outdoor service area (outdoor play space) located within the required Yard adjacent to the southern property line, contrary to Section DC2.836.4.j.</p> <p>Also, the proposed outdoor service area (outdoor play space) adjacent to the southern property line would generate a negative impact (specifically noise) on the residential properties to the south.</p> <p>3. Parking: a) Section 54.2 Schedule 1(A)(29) - 4 employee parking spaces and 9 Passenger pick-up/drop-off spaces required, equals 13 parking spaces overall.</p> <p style="margin-left: 40px;">Proposed: 4 Passenger pick-up/drop-off spaces Deficient by: 5 Passenger pick-up/drop-off spaces</p> <p>Overall, 1 additional parking space required by the proposed development, 0 provided, deficient by 1.</p> <p>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.</p>																					
<p>Fees</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right; width: 15%;">Fee Amount</th> <th style="text-align: right; width: 15%;">Amount Paid</th> <th style="text-align: left; width: 10%;">Receipt #</th> <th style="text-align: left; width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$331.00</td> <td style="text-align: right;">\$331.00</td> <td>90513905643G001</td> <td>Dec 05, 2019</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$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;">\$331.00</td> <td style="text-align: right; border-top: 1px solid black;">\$331.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$331.00	\$331.00	90513905643G001	Dec 05, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$331.00	\$331.00		
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<p>THIS IS NOT A PERMIT</p>																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-026



ITEM III: 1:30 P.M.

FILE: SDAB-D-20-027

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY TWO ADJACENT PROPERTY OWNERS

APPELLANT (No. 1):
APPELLANT (No. 2):

APPLICATION NO.: 348590018-002

APPLICATION TO: Change the Use from Professional, Financial and Office Support Services to a Personal Service Shop (operating as Body Rub Centre)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: January 16, 2020

DATE OF APPEAL (No.1): February 3, 2020
DATE OF APPEAL (No. 2): February 10, 2020

NOTIFICATION PERIOD: January 23, 2020 through February 13, 2020

RESPONDENT: 2213128 Alberta Ltd.

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 16872 - 111 Avenue NW, 16904C - 111 Avenue NW

LEGAL DESCRIPTION: Plan 9724094 Unit 28, Condo Common Area (Plan 9724094)

ZONE: (IB) Industrial Business Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

Appellant (No. 1)

We do not feel that this is a good location to house a body rub Centre that is proposed for this location.

This location is too close to a family oriented gaming centre, as well as our other tenants do not wish to have such a facility this close to their business. We do not think that other business owners that may have facilities in this area or next to this proposed location would be in favor of this either.

Appellant (No. 2)

We respectfully ask that the SDAB leave the designated use of this location: 16872 – 111 Avenue NW, as Professional, Financial and Office Support Services. This designation fits with the business development of the West Sheffield Industrial area and the neighbouring businesses in the condominium complex in which it is located.

- Parking: this unit should remain designated as "Professional, Financial and Office Support Services" so that parking for employees and the occasional visitor can be accommodated without putting undue pressure on neighbouring businesses.

- According to the Zoning Bylaw, Section 7.4 (42): "Personal Service Shops means development used for the provision of personal services to an individual which are related to the care and appearance of the body, or the cleaning and repair of personal effects. This Use includes barbershops, hairdressers, beauty salons, tailors, dressmakers, shoe repair shops, and city cleaning establishments and laundromats. This Use does not include Health Services." [Source: [https://webdocs.edmonton.ca/zoningbylaw/ZoningBylaw/Part2/Industrial/400 \(IB\) Industrial Business Zone.htm](https://webdocs.edmonton.ca/zoningbylaw/ZoningBylaw/Part2/Industrial/400%20(IB)%20Industrial%20Business%20Zone.htm)]. Why has a development permit been issued for a Personal Services shop operating as a Body Rub Centre when this type of service is not included in the definition?

- Personal Safety:

1. The business licence requirements for a Body Rub Centre include a "patron management plan" that anticipates that patrons of the establishment may be: "intoxicated, under the influence of drugs, quarrelsome, riotous, disorderly, involved in illegal activities or convicted of an indictable criminal offence". If this establishment has to provide a plan to deal with these patrons, it stands to reason that these are the types of patrons that will be frequenting the business. The rest of the businesses in our complex should not have the burden of having to also deal with these patrons.

2. A body rub centre is allowed to remain open until 11:00 pm, which compromises the security of the other businesses in the complex and neighbouring area which are generally closed by 6:00 pm. Individual businesses who do remain open later will have to retain additional staff to ensure personal safety for their employees and customers.

3. The body rub centre is compelled to have a minimum of two employees, one of whom is a manager, on site at all times during open hours. This indicates that the patrons visiting the business must be supervised or it puts a lone employee at risk. The other employers in our complex feel that these regulations put us at risk as well, necessitating an unfair financial burden in having to ensure the personal safety of ourselves, our staff and our customers. [Source: Bylaw 13138: <https://vwww.edmonton.ca/documents/Bylaws/C13138.pdf>]

- A number of the businesses in our complex are operated/attended by women. Many of us occupy our spaces alone and must keep the doors unlocked due to the walk-in nature of our business. With a Body Rub Center in the complex, women will be at increased risk on a daily basis for simply running our businesses. One shop holds classes in the evening and the owner (female) or a member of her staff (usually female) may be on site alone, to finish closing up. The presence of a Body Rub Center would directly compromise our safety and, as a result, negatively affect our ability to effectively function as required to serve the demands of our work.

- A number of businesses in our complex and our neighbouring complex offer classes, programs and services to children. Allowing a development permit and licence for a Body Rub Centre will negatively impact the customer base for these businesses.

- The City of Edmonton and the Edmonton City Police have established a Body Rub Centre Task Force. The need for the city to have a full time task force devoted to Body Rub Centres also indicates that this type of business brings with it an undesirable security issue for neighbouring businesses.

- City Council debate: City Council is preparing to debate "the merits of a five year exit strategy on licensing Body Rub Centres". The report by City Administration is due in June, 2020. We feel that, at the very least, no development permits should be approved until the City has had a chance to review the report and make a decision on its current licensing practice for Body Rub Centres. [Source: <http://sirepub.edmonton.ca/sirepub/mtgviewer.aspx?doctype.Minutes&meetid=2283>]

- The location of this particular business: 16872 - 111 Avenue NW is a middle unit in a business condominium complex. It was previously occupied by a professional services company (Dynatax). Changing the permitted use of this middle unit, with limited parking, shared walls and late night hours is not consistent with the neighbouring businesses. The other business owners in this complex and in the neighbouring complexes feel that the development permit should not have been approved. The use as Professional, Financial and Office Support is the appropriate designation for this space.

- Unfair financial burden and loss of customer base: for all of the reasons above, we believe that the other owners of Condominium Corporation #972 4094 and our neighbouring businesses will have to provide additional security for our staff and for our customers, that we will have difficulty retaining staff and we will lose customers. We feel that the parking situation and the security and safety issues will result in disputes and loss of business. This would not be the case if the use of the space remains as "Professional, Financial and Office Support Services".

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

(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 400.3(23), **Personal Service Shops** is a **Discretionary Use** in the **(IB) Industrial Business Zone**.

Under section 7.4(42), **Personal Service Shops** means:

development used for the provision of personal services to an individual which are related to the care and appearance of the body, or the cleaning and repair of personal effects. This Use includes barbershops, hairdressers, beauty salons, tailors, dressmakers, shoe repair shops, and dry cleaning establishments and laundromats. This Use does not include Health Services.

Under section 6.1, **Body Rub Centre** means:

a Personal Service Shop development where services are provided that involve the physical external manipulation of the soft tissues of the human body that are performed, offered or solicited for a fee in a manner that appeals to or is designed to appeal to erotic or sexual appetites or inclinations. This includes but is not limited to a body rub advertised by any means as “sensual”, “sexy” or by any other word or any depiction having like meaning or implication.

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

to provide for industrial businesses that carry out their operations such that no nuisance is created or apparent outside an enclosed building and such that the Zone is compatible with any adjacent non-industrial Zone, and to accommodate limited, compatible non-industrial businesses.

This Zone should normally be located on the periphery of industrial areas and adjacent to arterial or major collector roadways.

Body Rub Centres

Section 97 states:

A Personal Service Shop that is operating as a Body Rub Centre shall comply with the following regulations:

1. At the time a Development Permit application is made for a Body Rub Centre, the proposed location of the Body Rub Centre shall not be closer than 100.0 metres from any Site having a valid development permit for Public Education Services, Private Education Services, Public Park sites, Child Care Services, Temporary Shelter Services, and/or Extended Medical Treatment Services.


For the purpose of this subsection only:

- a. the 100.0 metre separation distance shall be measured from the closest point of the Body Rub Centre Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;
 - b. Public Education Services and Private Education Services are limited to primary and secondary schools inclusive that have a valid Development Permit; and
 - c. the term “Public Park sites” is limited to park Sites zoned as AP Zone, and areas in the river valley that are zoned as the A Zone.
2. Personal Service Shop Use operating as a Body Rub Centre shall not be located on a Site having a valid Development Permit for Residential Use Classes, Residential Related Use Classes, or Bars and Neighbourhood Pubs at the time of the application for the Development Permit.
 3. The Development Officer shall consider Crime Prevention Through Environmental Design Criteria (CPTED) when reviewing applications for Personal Service Shop Use Class operating as a Body Rub Centre.
 - a. The Development Officer shall determine whether a CPTED Audit of the business premises is required, and may confer with the Edmonton Police Service for their recommendation;

- b. If the Development Officer deems that a CPTED Audit is necessary, the Development Officer may include recommendations of the CPTED Audit that, in the Development Officer's opinion, have implications for land use impacts including, but not limited to, exterior illumination, landscaping, screening, signs, and access, as condition(s) of the Development Permit;
 - c. Where a Body Rub Centre is proposed to be located on the First Storey, all glazed surfaces within the Façade shall be transparent, non-reflective and maintain unobstructed visibility into and out of the Public Space of the business.
4. Signs placed on or within a Personal Service Shop Use operating as a Body Rub Centre shall comply with the applicable Sign Regulations contained in Section 59 of this Bylaw and the applicable Sign Schedule for the Land Use Zone governing the Site on which the Body Rub Centre is located, except that Fascia Signs shall not:
- a. obstruct clear glazing required in subsection 97(3)(c) of this Bylaw; and
 - b. obstruct clear glazing as required by the Land Use Zone governing the Site on which the Body Rub Centre is located.

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.

	<p>Project Number: 348590018-002 Application Date: NOV 29, 2019 Printed: February 3, 2020 at 3:11 PM Page: 1 of 3</p>		
<h2 style="margin: 0;">Major Development Permit</h2>			
<p>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.</p>			
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 16904C - 111 AVENUE NW Condo Common Area (Plan 9724094) 16872 - 111 AVENUE NW Plan 9724094 Unit 28</p>		
	<p>Specific Address(es) Suite: 16872 - 111 AVENUE NW Entryway: 16872 - 111 AVENUE NW Building: 16840 - 111 AVENUE NW</p>		
<p>Scope of Permit To change the Use from Professional, Financial and Office Support Services to a Personal Service Shop (operating as Body Rub Centre).</p>			
<p>Permit Details</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 8589.56 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 8589.56	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
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<p>I/We certify that the above noted details are correct.</p> <p>Applicant signature: _____</p>			
<p>Development Permit Decision Approved Issue Date: Jan 16, 2020 Development Authority: SHAH, NIKHIL</p>			



Project Number: **348590018-002**
 Application Date: NOV 29, 2019
 Printed: February 3, 2020 at 3:11 PM
 Page: 2 of 3

Major Development Permit

Subject to the Following Conditions

"The proposed Personal Service Shop (operating as Body Rub Centre) is listed as a Discretionary Use and is subject to the right appeal in accordance to Section 21. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

- 1) The applicant or landowner shall take all reasonable measures to fully implement the recommendations of the CPTED report for the proposed development.
- 2) Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.
- 3) Where a Body Rub Centre is proposed to be located on the First Storey, all glazed surfaces within the Façade shall be transparent, non-reflective and maintain unobstructed visibility into and out of the Public Space of the business (Reference Section 97.3(c)).
- 4) Any types of the signed are required separate development and building permits. Signs placed on or within a Personal Service Shop Use operating as a Body Rub Centre shall comply with the applicable Sign Regulations contained in Section 59 of this Bylaw and the applicable Sign Schedule for the Land Use Zone governing the Site on which the Body Rub Centre is located.
- 5) No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback.
- 6) Immediately upon demolition/ alterations of the building, the site shall be cleared of all debris.
- 7) Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51)

NOTES :

This Development Permit is not a Business Licence. A separate application must be made for a Business Licence. You may require Building permit approvals prior to issue a Business Licence.

Any proposed Signs shows under this development permit applications, if any, are not reviewed or approved. Signs require separate Development Applications. A separate application must be made for all types of Signs. You must require Development and Building permit approvals prior to installing /construct any Signs.


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 including, but not limited to, the Municipal Government Act, the ERCB Directive 079, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2)

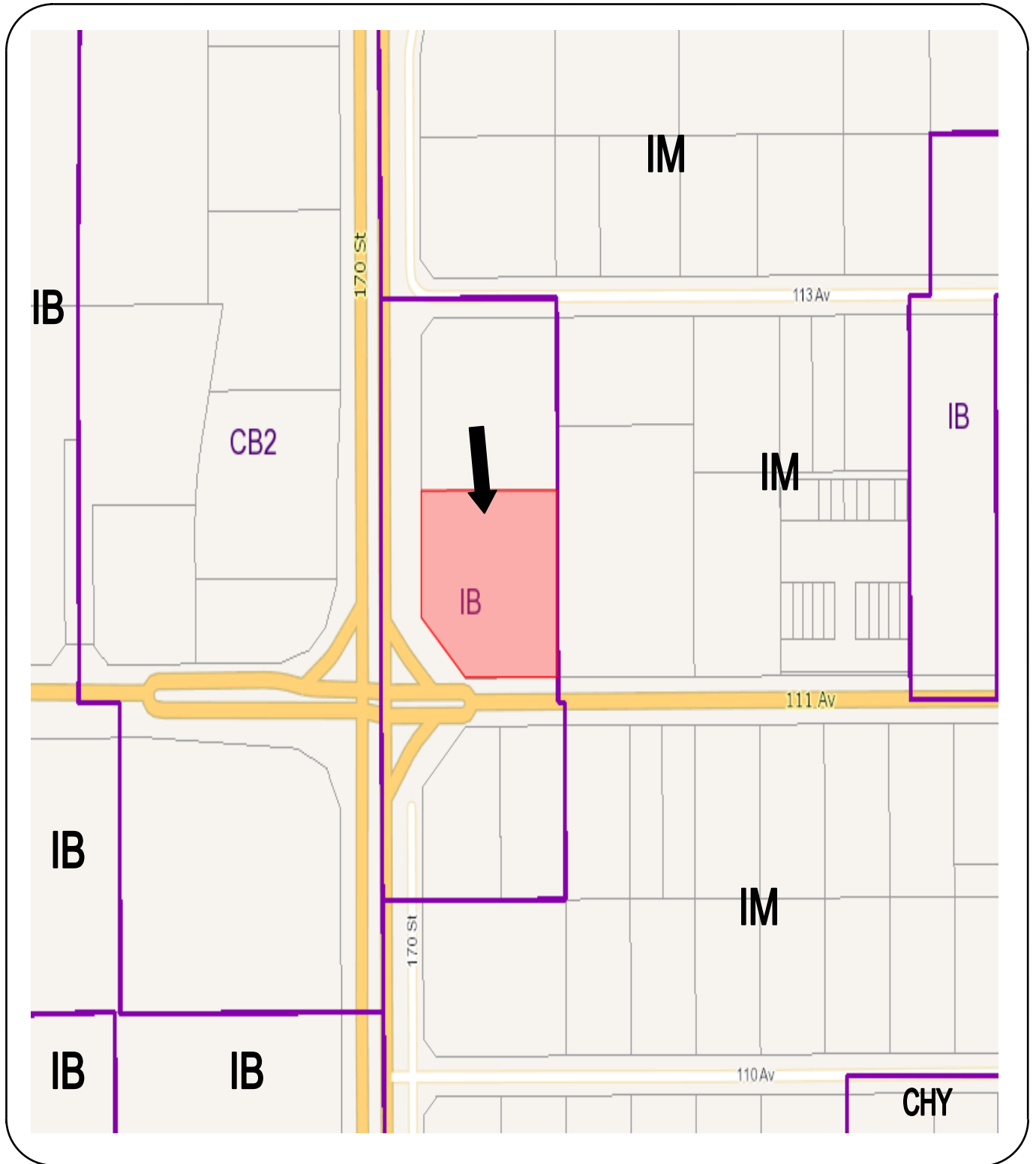
The Development Permit shall not be valid unless and until the conditions of approval, save those of a continuing nature, have been fulfilled; and no notice of appeal from such approval has been served on the Subdivision and Development Appeal Board within the time period specified in subsection 21.1 (Reference Section 17.1).

A subject development permit will expire in accordance with the provision of Section 22 of the Edmonton Zoning Bylaw 12800 as amended.

A Building Permit is required for any construction or change in the use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre (780-442-5311) for further information.

The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to

	<p>Project Number: 348590018-002 Application Date: NOV 29, 2019 Printed: February 3, 2020 at 3:11 PM Page: 3 of 3</p>																				
<h2 style="margin: 0;">Major Development Permit</h2>																					
<p>the presence or absence of any environmental contaminants on the property.</p> <p>Unless otherwise stated, all the above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800 as amended.</p> <p>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.</p> <p>Notice Period Begins: Jan 23, 2020 Ends: Feb 13, 2020</p>																					
<p>Fees</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 15%; text-align: right;">Fee Amount</th> <th style="width: 15%; text-align: right;">Amount Paid</th> <th style="width: 10%; text-align: left;">Receipt #</th> <th style="width: 10%; text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$518.00</td> <td style="text-align: right;">\$518.00</td> <td>06306377</td> <td>Nov 29, 2019</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$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; border-bottom: 1px solid black;">\$518.00</td> <td style="text-align: right; border-top: 1px solid black; border-bottom: 1px solid black;">\$518.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$518.00	\$518.00	06306377	Nov 29, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$518.00	\$518.00		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-027

