

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
March 15, 2017**

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

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

I 9:30 A.M. SDAB-D-17-054

To change the use from General Retail Stores to
a Personal Service Shop (Body Rub Centre)
(The Gallery)

6914 - 76 Avenue NW, 6912 - 76 Avenue NW
Project No.: 234397167-001

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

ITEM I: 9:30 A.M.

FILE: SDAB-D-17-054

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

APPELLANT:

APPLICATION NO.: 234397167-001

APPLICATION TO: Change the use from General Retail Stores to a Personal Service Shop (Body Rub Centre) (The Gallery)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: January 24, 2017

DATE OF APPEAL: February 10, 2017

NOTIFICATION PERIOD: January 31, 2017 through February 14, 2017

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6914 - 76 Avenue NW, 6912 - 76 Avenue NW

LEGAL DESCRIPTION: Plan 1023437 Unit 5, Condo Common Area (Plan 1023435, 1023437, 1621131)

ZONE: IB- Industrial Business 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 have recently received a notice that a development permit has been granted for a Body Rub Centre named The Gallery in Girard Industrial at the above address. We wish to appeal this decision.

We are a small company which owns two condominiums (6920 76 Ave. and 6932 76 Ave.) in this small complex of nine businesses; as such we are very concerned with the type of businesses that are allowed to operate within this complex. We believe a Body Rub Centre is not the type of business we wish to have in this neighbourhood. We feel certain it will adversely affect us when we, or any of the owners, need to find a new tenant for one of our properties in the complex or wish to sell. This type of business is regarded by many as immoral and distasteful and we are very concerned about the image it brings to the businesses operating in this complex and the people it brings to our neighbourhood. There already is a liquor store in our complex and a large casino right across the street, both of which are considered by the city as "negative land uses". (See "Design Guide for a Safer City" "Balancing Negative Land Uses" on City of Edmonton website) We certainly do not want another "negative land use" business in such close proximity!

On another note, we wish to also point out the risk to people involved in this type of business. We are all aware, I'm sure, that there is a high risk of sexual exploitation and human trafficking in this type of business. This complex is in an area where, if someone was in trouble late at night, there are not many people close by and it could presumably be very difficult for them to find someone to help them. I'm sure you would agree that it is of great importance to do your best to protect the people who work in a body rub centre.

For these reasons we wish to appeal the development permit; thank you for considering our appeal.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board, at a hearing on February 15, 2017, made and passed the following motion:

"That the hearing for 234397167-001 be tabled to March 15, 2017, at the written request of the Appellant and with the consent of the Respondent".

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 within 14 days,

(a) in the case of an appeal made by a person referred to in section 685(1), after

(i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

Hearing and Decision

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

...

(a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

(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), a **Personal Service Shop** is a **Discretionary Use** in **IB Industrial Business Zone**.

Under section 7.4(41), **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(14), a **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.

Development Officer’s Determination:

Discretionary Use - The Personal Service Shop is approved as a Discretionary Use (Section 400.3).

Body Rub Centres – Section 97

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. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.



Project Number: 234397167-001
Application Date: NOV 03, 2016
Printed: February 7, 2017 at 10:21 AM
Page: 1 of 3

Major Development Permit

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)

6912 - 76 AVENUE NW
Condo Common Area (Plan
1023435,1023437,1621131)
6914 - 76 AVENUE NW
Plan 1023437 Unit 5

IB

Specific Address(es)

Suite: 6914 - 76 AVENUE NW
Entryway: 6914 - 76 AVENUE NW
Building: 6912 - 76 AVENUE NW

Scope of Permit

To change the use from General Retail Stores to Personal Service Shop (Body Rub Centre) (The Gallery).

Permit Details

Class of Permit: Class B
Gross Floor Area (sq.m.): 283.4
New Sewer Service Required: N
Site Area (sq. m.): 3515.2

Contact Person:
Lot Grading Needed?: N
NumberOfMainFloorDwellings: 0
Stat. Plan Overlay/Annex Area: (none)

I/We certify that the above noted details are correct.

Applicant signature: _____

Development Permit Decision

Approved

The permit holder is advised to read the reverse for important information concerning this decision.



Project Number: **234397167-001**
 Application Date: NOV 03, 2016
 Printed: February 7, 2017 at 10:21 AM
 Page: 2 of 3

Major Development Permit

Subject to the Following Conditions

- 1) This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1).
- 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) 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 of the Edmonton Zoning Bylaw 12800).
- 4) 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. (Ref. S. 97.3).

NOTES:

- 1) An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.
- 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 (Ref. Section 17.1).
- 3) Signs require separate Development Applications.
- 4) 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 the presence or absence of any environmental contaminants on the property.
- 5) A Building Permit is required for any construction or change in 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 for further information.
- 6) This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.

Variances

Discretionary Use - The Personal Service Shop is approved as a Discretionary Use (Section 400.3).

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.

Issue Date: Jan 24, 2017 **Development Authority:** WELCH, IMAI
Notice Period Begins: Jan 31, 2017 **Ends:** Feb 14, 2017

Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$323.00	\$323.00	03724891	Nov 03, 2016

The permit holder is advised to read the reverse for important information concerning this decision.



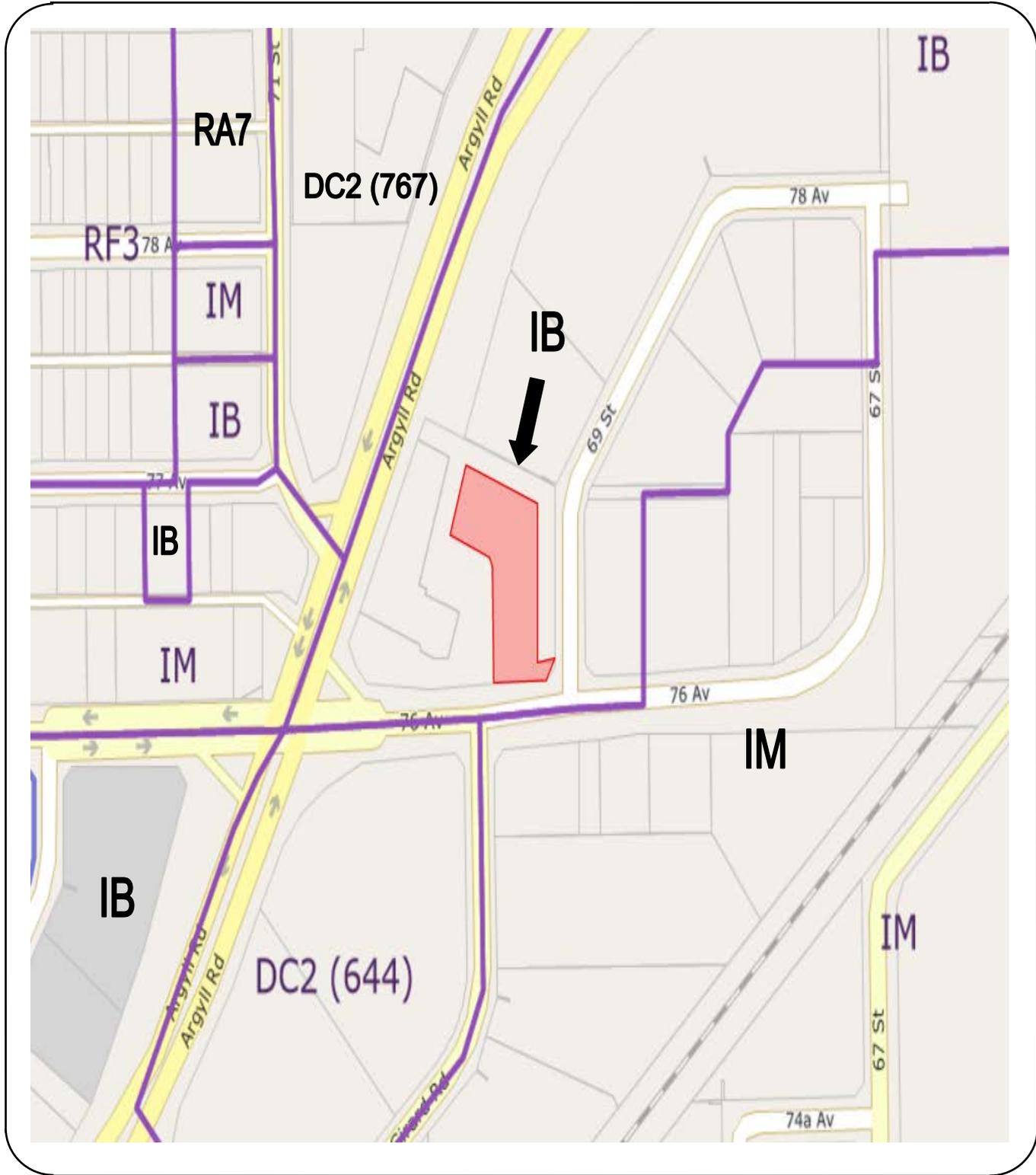
Project Number: **234397167-001**
Application Date: NOV 03, 2016
Printed: February 7, 2017 at 10:21 AM
Page: 3 of 3

Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$102.00	\$102.00	03724891	Nov 03, 2016
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$425.00	<u>\$425.00</u>		

The permit holder is advised to read the reverse for important information concerning this decision.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-054

