

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
January 9, 2019**

**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-19-005

To leave as built two (2) Dwellings to an existing Apartment House (total 20 Dwellings) and to construct interior alterations

3632 - 34 Avenue NW
Project No.: 290990505-001

II 10:30 A.M. SDAB-D-19-006

To install one (1) Fascia On-premises Sign (LORENZO LAWRENCE SALON)

10903 - 77 Avenue NW
Project No.: 115091167-004

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-19-005

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 290990505-001

APPLICATION TO: Leave as built two (2) Dwellings to an existing Apartment House (total 20 Dwellings) and to construct interior alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: December 14, 2018

DATE OF APPEAL: December 17, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3632 - 34 Avenue NW

LEGAL DESCRIPTION: Plan 7922359 Blk 6 Lot 1

ZONE: (RA7) Low Rise Apartment 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:

This building was built as a 20 suite apartment complex in 1981. The original builder/ owner applied or a permit for 18 suites only. It has been operating as a 20 suite complex and been renting out as a 20 suite apartment since 1981. We purchased the property in August 2018 and it was brought t our attention at that time that previous tax notices and city assessments were based on an income of 20 units. I am asking to have the permit issued based on the history of this building. I am not changing anything nor am I building anything new in the complex

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.

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.

Non-conforming use and non-conforming buildings

643(1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

(2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.

(4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.

(5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

- (a) to make it a conforming building,
- (b) for routine maintenance of the building, if the development authority considers it necessary, or
- (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75percent of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 210.2(1), **Apartment Housing** is a **Permitted Use** in the **(RA7) Low Rise Apartment Zone**.

Under section 7.2(1), **Apartment Housing** means:

development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use.

Section 210.1 states that the **General Purpose** of the **(RA7) Low Rise Apartment Zone** is “To provide a Zone for Low Rise Apartments.”

<i>Parking</i>

Section 54.2, Schedule 1(A) provides the following with respect to **All Areas Outside of the Downtown Special Area, Main Street Corridors, and Transit Nodes**:

Residential and Residential-Related Uses		
1. Apartment Housing Stacked Row Housing	Dwelling Size	Minimum
	Studio	1
	1 Bedroom Dwelling	1
	2 Bedroom Dwelling	1.5
	3 or more Bedroom Dwelling	1.7

	<p>Visitor parking shall be provided at a minimum rate of 0 visitor parking spaces for the first 7 Dwellings, and 1 visitor parking space per 7 Dwellings thereafter. Visitor parking spaces shall be readily available to the primary building entrance for each multi-unit residential building on Site, and be clearly identified as visitor parking, to the satisfaction of the Development Officer.</p>
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Development Officer’s Determination

Parking - The site has 23 parking stalls, instead of 24 (Section 54.2 and Schedule 1). [unedited]

Density

Section 210.4(2) states “The maximum Density shall be 125 Dwellings/ha; [...]”

Under section 6.1, **Density** means “when used in reference to Residential and Residential-Related development, the number of Dwellings on a Site expressed as Dwellings per hectare.”

Under section 6.1, **Dwelling** means:


a self contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household.

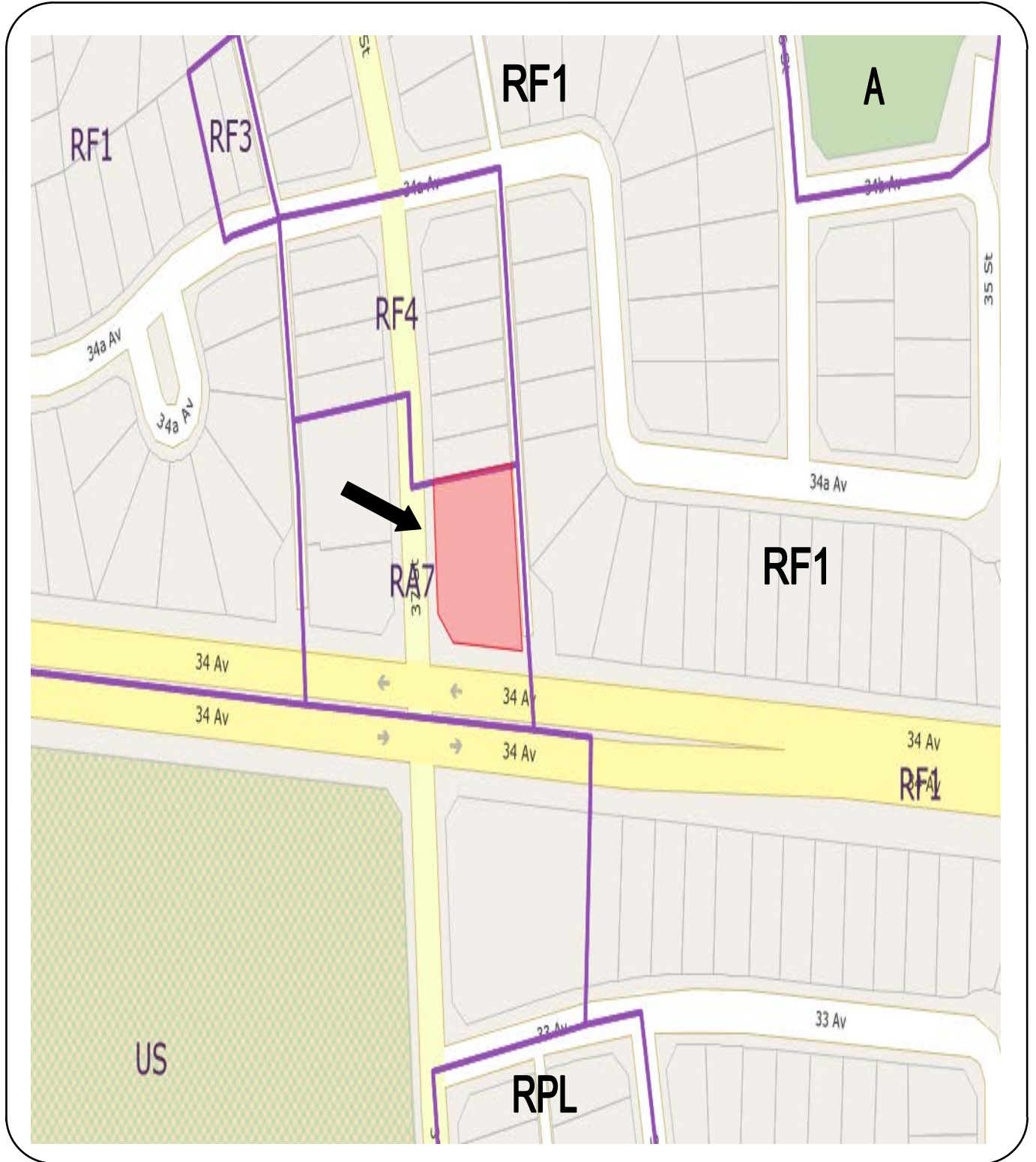
Development Officer’s Determination

Density - The maximum density shall be 136 dwellings/ha, instead of 125 dwellings/ha (Section 210.4.2). [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 Major Development Permit</h2>	Project Number: 290990505-001 Application Date: AUG 27, 2018 Printed: December 17, 2018 at 9:11 AM Page: 1 of 1																														
This document is a Development Permit Decision for the development application described below.																																
Applicant	Property Address(es) and Legal Description(s) 3632 - 34 AVENUE NW Plan 7922359 Blk 6 Lot 1																															
	Specific Address(es) Entryway: 3632 - 34 AVENUE NW Building: 3632 - 34 AVENUE NW																															
Scope of Application To add 2 Dwellings to an existing Apartment House (total 20 Dwellings) and to construct interior alterations.																																
Permit Details																																
Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: Y Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: 5 Stat. Plan Overlay/Annex Area: (none)																															
I/We certify that the above noted details are correct. Applicant signature: _____																																
Development Application Decision Refused Issue Date: Dec 14, 2018 Development Authority: YEUNG, KENNETH Reason for Refusal Parking - The site has 23 parking stalls, instead of 24 (Section 54.2 and Schedule 1). Density - The maximum density shall be 136 dwellings/ha, instead of 125 dwellings/ha (Section 210.4.2). 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 <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <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: right; width: 10%;">Receipt #</th> <th style="text-align: right; width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$948.00</td> <td style="text-align: right;">\$835.00</td> <td style="text-align: right;">05288703</td> <td style="text-align: right;">Aug 27, 2018</td> </tr> <tr> <td>Sanitary Sewer Trunk Fund 2012+</td> <td style="text-align: right;">\$3,258.00</td> <td></td> <td></td> <td></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;">\$4,206.00</td> <td style="text-align: right; border-top: 1px solid black;">\$835.00</td> <td></td> <td></td> </tr> <tr> <td colspan="5">(\$3,371.00 outstanding)</td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$948.00	\$835.00	05288703	Aug 27, 2018	Sanitary Sewer Trunk Fund 2012+	\$3,258.00				Total GST Amount:	\$0.00				Totals for Permit:	\$4,206.00	\$835.00			(\$3,371.00 outstanding)				
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THIS IS NOT A PERMIT																																



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-005



ITEM II: 10:30 A.M.

FILE: SDAB-D-19-006

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 115091167-004

APPLICATION TO: Install one (1) Fascia On-premises Sign
(LORENZO LAWRENCE SALON)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 29, 2018

DATE OF APPEAL: December 12, 2018

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 10903 - 77 Avenue NW

LEGAL DESCRIPTION: Plan 108HW Lot C

ZONE: DC2.771 Site Specific Development
Control Provision

OVERLAY: N/A

STATUTORY PLAN: 109 Street Corridor Area Redevelopment
Plan

Grounds for Appeal

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

The sign on the building at 10903 77 Avenue has been on the building for almost 10 years. We were not aware when the sign company installed the letters that they did not have the proper permit. We are not able to move the lettering on the building at this time. If it was something that we could do, we would. If we remove the letters and move them, there will be damage to the stucco behind them. There will be an outline of the letters from sun damage and it is not easy to fix stucco in a patch like this. No matter what we do it will stand out on the building. Besides the damage it would leave behind, there is also not a place below the second story where the lettering would fit and look aesthetically appealing.

Financially we are not able to do this at this time with the current economic situation of small businesses.

Other businesses along 109 Street south of the river close to us have signs that are 75cm above the floor of the second story.

<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.

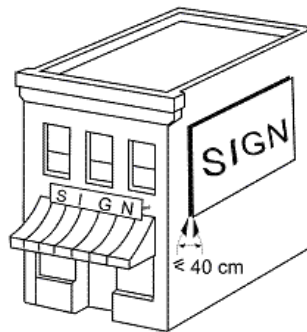
General Provisions from the *Edmonton Zoning Bylaw*:

Under DC2.771.3.a, **Fascia On-premises Signs** is a **listed Use** in the **DC2.771 Site Specific Development Control Provision**.

Under section 7.9(2), **Fascia On-premises Signs** means “a Fascia Sign, which is a Permanent Sign, displays On-premises Advertising and contains no Digital Copy.”

Under section 6.2, **Fascia Signs** means:

a Sign that is painted on or attached to an exterior building wall, or any other permitted structure, on which a two dimensional representation may be placed. Fascia Signs do not extend more than 40 cm out from the building wall or structure. Fascia Signs include banners or any other two dimensional medium.



DC2.771.4.p states “Signs shall be provided in accordance with Schedule 59B of the Edmonton Zoning Bylaw.”

DC2.771.1 states that the **General Purpose** of the **DC2.771 Site Specific Development Control Provision** is:

To accommodate the development of a commercial use, limited to a hair care business, within an existing single detached house in a mature neighbourhood, adjacent to 109 Street. The DC2 Provision contains development regulations to increase compatibility with surrounding residential development, and to provide the opportunity to revert the commercial use back to single detached housing in accordance with the regulations of the RF3 Zone.

Schedule 59B – Sign Regulations

Schedule 59B.2(1)(c) states “Fascia On-premises Signs shall not extend higher than 75 cm above the floor of the second Storey. [...]”

Development Officer’s Determination

1. Fascia On-premises Signs shall not extend higher than 75 cm above the floor of the second Storey (reference Section 59B.2(1)(c)).

Required: Less than 75 cm

Proposed: 396 cm


Exceeds By: 321 cm [unedited]

Previous Subdivision and Development Appeal Board Decisions

Application Number	Description	Decision
SDAB-D-06-077	Construct exterior alterations to a Single Detached House (3rd floor roof top addition, 4.06 metres by 2.84 metres)	April 21, 2006; the Board does NOT ACCEPT JURISDICTION.
SDAB-D-06-052	Construct exterior and interior alterations to a Single Detached House (relocate north front entrance to south side of building and relocate approved Salon from basement to main floor)	March 31, 2006; that the appeal be DENIED and the development GRANTED subject to 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: 115091167-004 Application Date: OCT 09, 2018 Printed: November 29, 2018 at 4:13 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) 10903 - 77 AVENUE NW Plan 108HW Lot C																
	Location(s) of Work Entryway: 10903 - 77 AVENUE NW Building: 10903 - 77 AVENUE NW																
Scope of Application To install (1) Fascia On-premises Sign (LORENZO LAWRENCE SALON).																	
Permit Details																	
ASA Sticker No./Name of Engineer: Construction Value: 2268	Class of Permit: Expiry Date:																
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 1 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: 0	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: Nov 29, 2018 Development Authority: MERCIER, KELSEY Reason for Refusal 1. Fascia On-premises Signs shall not extend higher than 75 cm above the floor of the second Storey (reference Section 59B.2(1)(c)). Required: Less than 75 cm Proposed: 396 cm Exceeds By: 321 cm 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.																	
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THIS IS NOT A PERMIT																	



Application for Sign Combo Permit

Project Number: **115091167-004**
Application Date: OCT 09, 2018
Printed: November 29, 2018 at 4:13 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Existing Without Dev Permit Penalty Fee	\$93.00	\$93.00	05403198	Oct 10, 2018
Existing Without Building Permit Penalty Fee	\$156.00	\$156.00	05403198	Oct 10, 2018
Sign Development Application Fee	\$93.00	\$93.00	05403198	Oct 10, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$504.24</u>	<u>\$504.24</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-006

