

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
June 14, 2018**

**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-18-086

To construct an addition to a Single Detached House (enclosed deck, 4.54m x 8.11m), existing without permits

1448 - Woodward Crescent NW
Project No.: 278838248-001

II 10:30 A.M. SDAB-D-18-087

To install one (1) Freestanding Minor Digital On-premises Off-premises Sign (1 Digital panel 3 metres by 6.1 metres facing south). (PATTISON - RALLY SUBARU)

5215 - Calgary Trail NW
Project No.: 262445566-001

TO BE RAISED

III 1:30 P.M. SDAB-D-18-078

To change the Use from a Single Detached House to a Lodging House (7 Sleeping Units)

11003 – 85 Avenue NW
Project No.: 274185671-001

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-18-086

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

APPELLANT:

APPLICATION NO.: 278838248-001

APPLICATION TO: Construct an addition to a Single Detached House (enclosed deck, 4.54 metres by 8.11 metres), existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: April 20, 2018

DATE OF APPEAL: May 16, 2018

NOTIFICATION PERIOD: April 26, 2018 through May 17, 2018

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 1448 - Woodward Crescent NW

LEGAL DESCRIPTION: Plan 0523967 Blk 22 Lot 4

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:

The approved building permit, issued by the City of Edmonton, for an addition to an existing house at 1448 Woodward Crescent NW was based on granting a significant variance to the required rear yard distances. In this situation, the rear yard has been reduced from 7.5m to 3.71m – this is a reduction of 3.79 m or over 12 feet. The approved permit in my opinion will materially affect the use, enjoyment, and value of the

neighbouring properties. Further, houses within the Wolf Willow Ridge neighbourhood are subject to architectural guidelines (as per the restrictive covenants on their land title). When the City of Edmonton issued the permit, it appears that the home owner had not applied for architectural approval of the addition (which may not be consistent with the guidelines based on the design and location of the addition). Finally, the approval of the addition may create fire and safety issues.

<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 decision is made 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;

...

- (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 110.2(5), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.2(8), **Single Detached Housing** means:

development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 110.1 states that the **General Purpose** of the **(RF1) Single Detached Residential Zone** is:

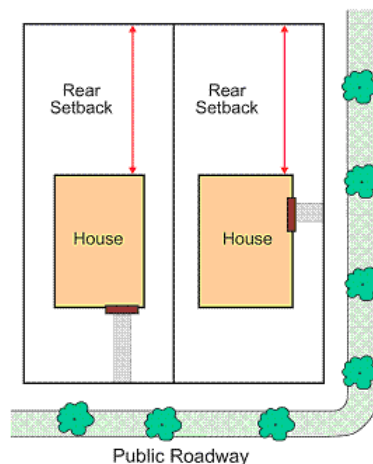
to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

Rear Setback

Section 110.4(10) states “the minimum Rear Setback shall be 7.5 m, except on a Corner Site, where a primary Dwelling with an attached Garage faces the flanking public roadway, it may be reduced to 4.5 m.”

Under section 6.1, **Rear Setback** means:

the distance that a development or a specified portion of it, must be set back from a Rear Lot Line. A Rear Setback is not a Rear Yard, Amenity Space or Separation Space.




Development Officer's Determination

**Reduced Rear Setback - The distance from the house (enclosed deck) to the property line shared with 1414 - WOODWARD CRESCENT NW (rear lot line) is 3.71m instead of 7.5m (Section 110.4.10).
[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: 278838248-001 Application Date: APR 06, 2018 Printed: April 20, 2018 at 12:02 PM Page: 1 of 2
<h2 style="margin: 0;">Minor Development Permit</h2>	
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) 1448 - WOODWARD CRESCENT NW Plan 0523967 Blk 22 Lot 4
Scope of Permit To construct an Addition to a Single Detached House (enclosed deck, 4.54m x 8.11m), existing without permits.	
Permit Details	
# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: House Addition Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none)
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Permit Decision Approved Subject to the Following Conditions This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1) The development shall be constructed in accordance with the stamped and approved drawings. Immediately upon completion of the addition, the site shall be cleared of all debris. As far as reasonably practicable, the design and use of exterior finishing materials used shall be similar to, or better than, the standard of surrounding development. Advisements: 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 Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2) Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.	
Variations Reduced Rear Setback - The distance from the house (enclosed deck) to the property line shared with 1414 - WOODWARD CRESCENT NW (rear lot line) is 3.71m instead of 7.5m (Section 110.4.10).	



Project Number: 278838248-001
Application Date: APR 06, 2018
Printed: April 20, 2018 at 12:02 PM
Page: 2 of 2

Minor Development Permit

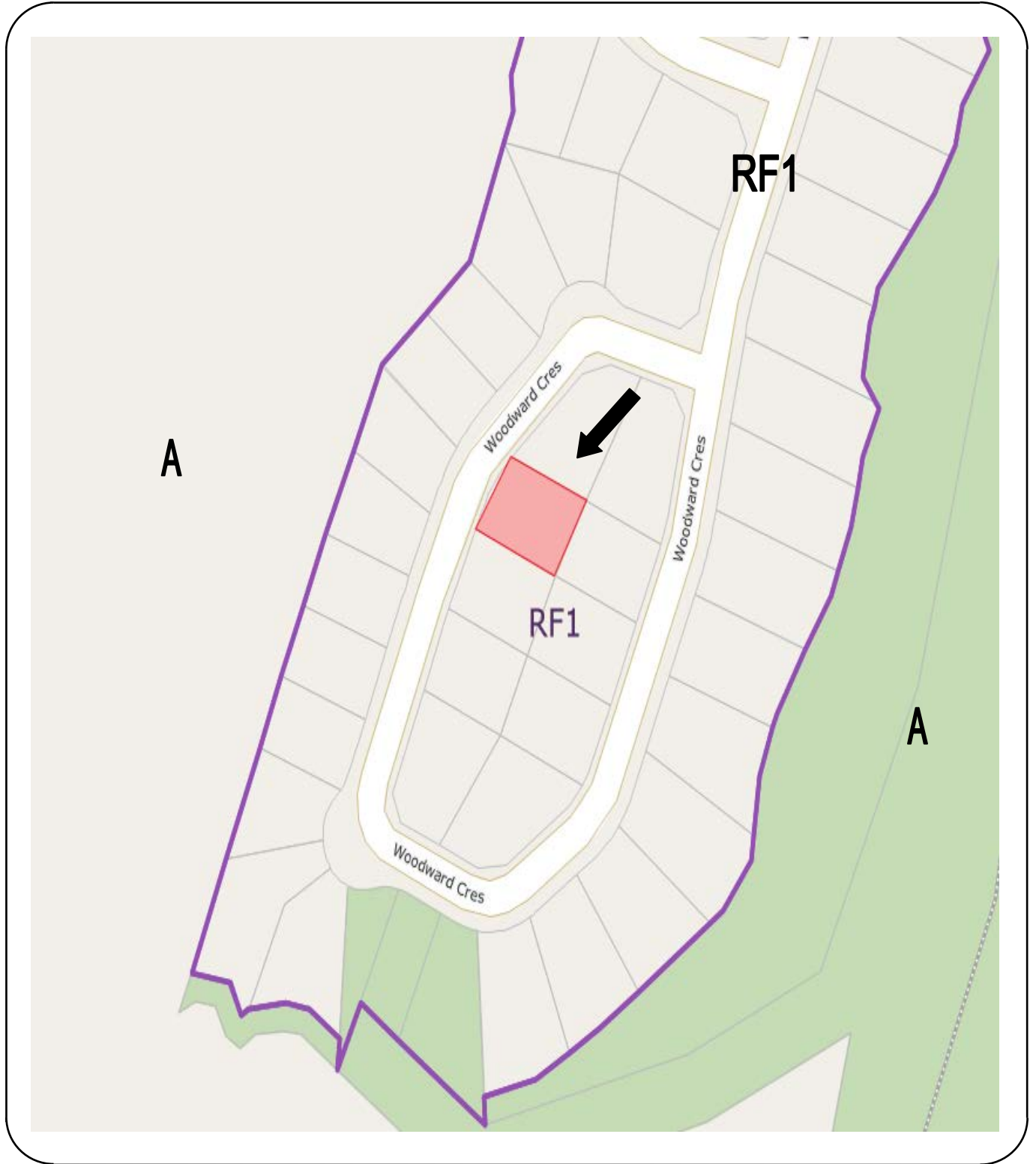
Rights of Appeal

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: Apr 20, 2018 Development Authority: Qin, Yun Peng Signature: _____
Notice Period Begins: Apr 26, 2018 Ends: May 17, 2018

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$418.00	\$418.00	04922556	Apr 06, 2018
Existing Without Permit Penalty Fee	\$0.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$418.00	\$418.00		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-086



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-087

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 262445566-001

APPLICATION TO: Install one (1) Freestanding Minor Digital On-premises Off-premises Sign (1 Digital panel 3 metres by 6.1 metres facing south). (PATTISON - RALLY SUBARU)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 11, 2018

DATE OF APPEAL: May 16, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 5215 - Calgary Trail NW

LEGAL DESCRIPTION: Plan 0326134 Blk 94 Lot 8

ZONE: (CB2) General Business Zone

OVERLAY: Major Commercial Corridors Overlay

STATUTORY PLAN: N/A

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 to renew their current has been refused. On behalf of our clients, we hereby appeal the refusal on the following grounds:

1. The proposed development, a Minor Digital Sign, is a discretionary use in the CB-2 District.

2. The proposed Digital Sign is intended to replace a Digital Sign previously existing on the lot immediate south of the present site. That previous Digital Sign had existed at its former location for many years without any difficulty or complaints, and was removed to accommodate the re-development of that site.

3. The Calgary Trail Land Use Study is not a statutory plan — it is a document upon which future planning is to be based. Until the various plans and any ensuing zoning changes called for thereunder are approved by City Council following the applicable public hearing processes, it is unfair and inappropriate to apply the Study as if it were law. Moreover, since signs now have a mandatory, limited Permit life, renewals of the same can be refused if the lawful Plans applicable to a development site change.

4. The Calgary Trail Land Use Study was adopted by Resolution (not Bylaw) of Council in 1984 at a time when sign development was not a matter of land use but merely one of regulatory approval, only. Subsequently, sign developments have become "uses of land" within the Meaning of the Zoning Bylaw. In the policy cited in the Development Officer's refusal, what is sought to be discouraged are old-fashioned billboards (which the policy, itself, equates to temporary signs). The portion of the Study not cited by the Development Officer goes on to say: "Through information received in the business survey and through visual inspection of the corridor, advertising signage, particularly older signage, is perceived by many to be unattractive." The proposed, Minor Digital Sign is brand new and similar signs throughout the City have been accepted as extremely attractive.

5. The 23 metre radial separation between the existing, Freestanding On-Premises Sign and the proposed Digital Sign does not offend the Zoning Bylaw as it is currently written. However, in anticipation of forthcoming amendments to the Zoning Bylaw, the existing Freestanding On-Premises Sign will be removed.

6. The minor variation required in radial separation distance from an existing, Freestanding Off-Premises Sign is more than compensated for by the fact that the larger Sign exists around a curved portion of the roadway from the proposed Sign, and the two cannot be seen at the same time while driving south. Neither will the relocation of the proposed Sign from its former location in any manner impact on the use, enjoyment of value of neighbouring properties not on the amenities of the neighbourhood. This is a busy commercial corridor.

7. The requested side yard setback will allow the site to be better utilized by locating the proposed Sign out of the parking areas of the site without impacting at all on the aesthetics of the area. The result will be that the average width of the setback (as addressed in the Major Commercial Corridors Overlay) will remain well in excess of the 7.5 metre requirement. Moreover, the proposed Sign location has been approved by

City Transportation at precisely the proposed location. (The setback requirement in the underlying Zone is 4.5 metres.)

8. Such further and other reasons as may be presented at the hearing of the within appeal.

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

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- (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 decision is made 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 clause (d), must comply with any 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*:

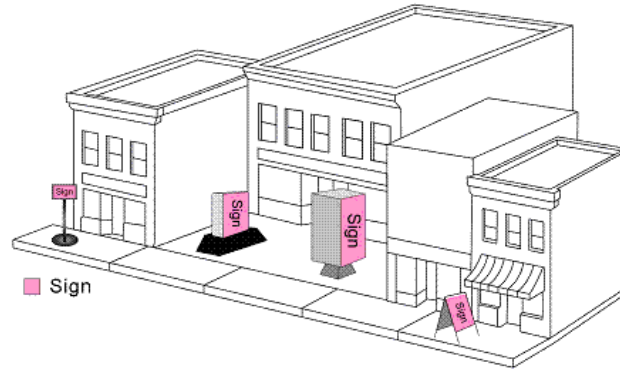
Under section 340.3(44), **Minor Digital On-premises Off-premises Signs** is a **Discretionary Use** in the (CB2) General Business Zone.

Under section 7.9(7), **Minor Digital On-premises Off-premises Signs** means:

any Sign that is remotely changed on or off Site and has a Message Duration greater than or equal to 6 seconds. Minor Digital On-premises Off-premises Signs incorporate a technology or method allowing the Sign to change Copy without having to physically or mechanically replace the Sign face or its components. The Copy on such Sign may include Copy from Minor Digital On-premises Signs and Minor Digital Off-premises Signs.

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

any On-premises or Off-premises Sign supported independently of a building. The Sign may take the form of single or multiple icons, product or corporate symbol, may involve a three dimensional or volumetric representation, may have single or multiple faces and may or may not be permanently fixed to the ground;



Under section 6.2, **Off-Premise Sign** means:

any Sign displaying Copy that directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, service or entertainment provided on the premises or Site where the Sign is displayed.

Section 340.4(9) states “Signs shall comply with the regulations found in Schedule 59F.”

Section 340.1 states that the **General Purpose** of the **(CB2) General Business Zone** is “to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.”

Section 813.1 states that the **General Purpose** of the **Major Commercial Corridors Overlay** is “to ensure that development along Major Commercial Corridors is visually attractive and that due consideration is given to pedestrian and traffic safety.”

Schedule 59F

Schedule 59F.3(6)(e) states:

proposed Sign locations shall be separated from any other Digital Sign greater than 8.0 m² or Off-premises Sign as follows:

Proposed Sign Area	Minimum separation distance from Digital Signs greater than 8.0 m ² or other Off-premises Sign
Greater than 40 m ²	300 m

Under section 6.2, **Sign Area** means:

the entire area of the Sign on which Copy is intended to be placed. In the case of double-faced or multi-faced Sign, only half of the area of each face of the Sign used to display advertising Copy shall be used in calculating the total Sign Area.

Development Officer's Determination

1) Section 59F.3(6)(e): Proposed Sign locations shall be separated from Digital Signs greater than 8.0m² or Off-premises Signs greater than 40m², by 300m. The separation shall be applied from the larger Off-premises Sign or Digital Sign location.

**Area of Existing Freestanding Off-premises Sign at 5450-Calgary Trail NW DP: 220111756-001: 62.2m²
Required Separation Distance: 300 m
Proposed Separation Distance: 280 m
Deficient by: 20m**

The Zoning Bylaw establishes the separation distances between digital signs and off-premises signs to prevent the proliferation of such signs. [unedited]

Calgary Trail Land Use Study

Section 3.4(b) of the *Calgary Trail Land Use Study* states:

Greater attention shall be given to improving the location, siting, Signage comprehensibility and design of signage in the corridor by:

- i) promoting within the business community the voluntary replacement of older advertising signage;
- ii) discouraging the use of portable signs and free-standing billboards; and
- iii) improving directional signage to major facilities such as hospitals, University, Downtown, and Government Centre.

Development Officer's Determination

2) Section 3.4.b.ii of the Calgary Trail Land Use Study: The proposed sign is located within the Calgary Trail Land Use Study adopted by Resolution of Council on September 11, 1984, with amendments in August 2015. Under the General Urban Design Policies of Section 3.4.b.ii of the Calgary Trail Land Use Study:

"Greater attention shall be given to improving the location, siting, Signage comprehensibility and design of signage in the corridor by discouraging the use of portable signs and free-standing billboards."

The proposed sign is contrary to Section 3.4.b.ii of the Calgary Trail Land Use Study. Furthermore, the proposed Digital sign is located within 23m of an existing Freestanding On-Premises sign. [unedited]

Major Commercial Corridors Overlay

Section 813.1 states that the **General Purpose** of the **Major Commercial Corridors Overlay** is “to ensure that development along Major Commercial Corridors is visually attractive and that due consideration is given to pedestrian and traffic safety.”

Development Officer’s Determination

3) Section 813.1 General Purpose: The purpose of this Overlay is to ensure that development along Major Commercial Corridors is visually attractive and that due consideration is given to pedestrian and traffic safety.

In the opinion of the Development Officer, the proposed sign contributes to sign proliferation and does not enhance development along the Major Commercial Corridor architecturally or visually. [unedited]

Section 813.4(6)(a) states:

Setbacks with a minimum Width of 7.5 m shall be provided adjacent to Major Arterial Roads within the Major Commercial Corridors and adjacent Arterial Roads that directly intersect such Major Arterial Roads. However, the Development Officer may use variance power to reduce this Setback requirement to a minimum Width of 4.5 m, provided that:

- i. the average Width of the Setback is not less than 6.0 m; and
- ii. this Setback width relaxation is required to allow for a more efficient utilization of the Site and the relaxation shall result in an articulation of the Setback width that shall enhance the overall appearance of the Site.

Under section 6.1, **Setback** means “the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space.”

Development Officer’s Determination

4) Section 813.4(6)(a) Major Commercial Corridors Overlay: Setbacks with a minimum Width of 7.5 m shall be provided adjacent to Major Arterial Roads within the Major Commercial Corridors and adjacent Arterial Roads that directly intersect such Major Arterial Roads. However, the Development Officer may use variance

power to reduce this Setback requirement to a minimum Width of 4.5 m, provided that:

- i) the average Width of the Setback is not less than 6.0 m; and**
- ii) this Setback width relaxation is required to allow for a more efficient utilization of the Site and the relaxation shall result in an articulation of the Setback width that shall enhance the overall appearance of the Site.**

Required Setback: 7.5m


Proposed Setback: 4.5 m from west property line

Deficient by: 3.0m

The proposed setback is not required for a more efficient utilization of the Site, and the relaxation of the setback will not enhance the overall appearance of the Site. In the opinion of the Development Officer, the proposed development does not meet the criteria for justification of a variance. [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 Sign Combo Permit</h2>	Project Number: 262445566-001 Application Date: SEP 18, 2017 Printed: May 16, 2018 at 10:21 AM Page: 1 of 3
This document is a Development Permit Decision for the development application described below.		
Applicant	Property Address(es) and Legal Description(s) 5215 - CALGARY TRAIL NW Plan 0326134 Blk 94 Lot 8	
Scope of Application To install (1) Freestanding Minor Digital On-premises Off-premises Sign (1 digital panel 3m x 6.1m facing S). (PATTISON - RALLY SUBARU).		
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		
THIS IS NOT A PERMIT		



Project Number: 262445566-001
Application Date: SEP 18, 2017
Printed: May 16, 2018 at 10:21 AM
Page: 2 of 3

Application for Sign Combo Permit

Reason for Refusal

1) Section 59F.3(6)(e): Proposed Sign locations shall be separated from Digital Signs greater than 8.0m² or Off-premises Signs greater than 40m², by 300m. The separation shall be applied from the larger Off-premises Sign or Digital Sign location.

Area of Existing Freestanding Off-premises Sign at 5450-Calgary Trail NW DP: 220111756-001: 62.2m²
Required Separation Distance: 300 m
Proposed Separation Distance: 280 m
Deficient by: 20m

The Zoning Bylaw establishes the separation distances between digital signs and off-premises signs to prevent the proliferation of such signs.

2) Section 3.4.b.ii of the Calgary Trail Land Use Study: The proposed sign is located within the Calgary Trail Land Use Study adopted by Resolution of Council on September 11, 1984, with amendments in August 2015. Under the General Urban Design Policies of Section 3.4.b.ii of the Calgary Trail Land Use Study:

"Greater attention shall be given to improving the location, siting, Signage comprehensibility and design of signage in the corridor by discouraging the use of portable signs and free-standing billboards."

The proposed sign is contrary to Section 3.4.b.ii of the Calgary Trail Land Use Study. Furthermore, the proposed Digital sign is located within 23m of an existing Freestanding On-Premises sign.

3) Section 813.1 General Purpose: The purpose of this Overlay is to ensure that development along Major Commercial Corridors is visually attractive and that due consideration is given to pedestrian and traffic safety.

In the opinion of the Development Officer, the proposed sign contributes to sign proliferation and does not enhance development along the Major Commercial Corridor architecturally or visually.

4) Section 813.4(6)(a) Major Commercial Corridors Overlay: Setbacks with a minimum Width of 7.5 m shall be provided adjacent to Major Arterial Roads within the Major Commercial Corridors and adjacent Arterial Roads that directly intersect such Major Arterial Roads. However, the Development Officer may use variance power to reduce this Setback requirement to a minimum Width of 4.5 m, provided that:

- i) the average Width of the Setback is not less than 6.0 m; and
- ii) this Setback width relaxation is required to allow for a more efficient utilization of the Site and the relaxation shall result in an articulation of the Setback width that shall enhance the overall appearance of the Site.

Required Setback: 7.5m
Proposed Setback: 4.5 m from west property line
Deficient by: 3.0m

The proposed setback is not required for a more efficient utilization of the Site, and the relaxation of the setback will not enhance the overall appearance of the Site. In the opinion of the Development Officer, the proposed development does not meet the criteria for justification of a variance.

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.

Issue Date: May 11, 2018 Development Authority: NOORMAN, BRENDA

Fees

THIS IS NOT A PERMIT



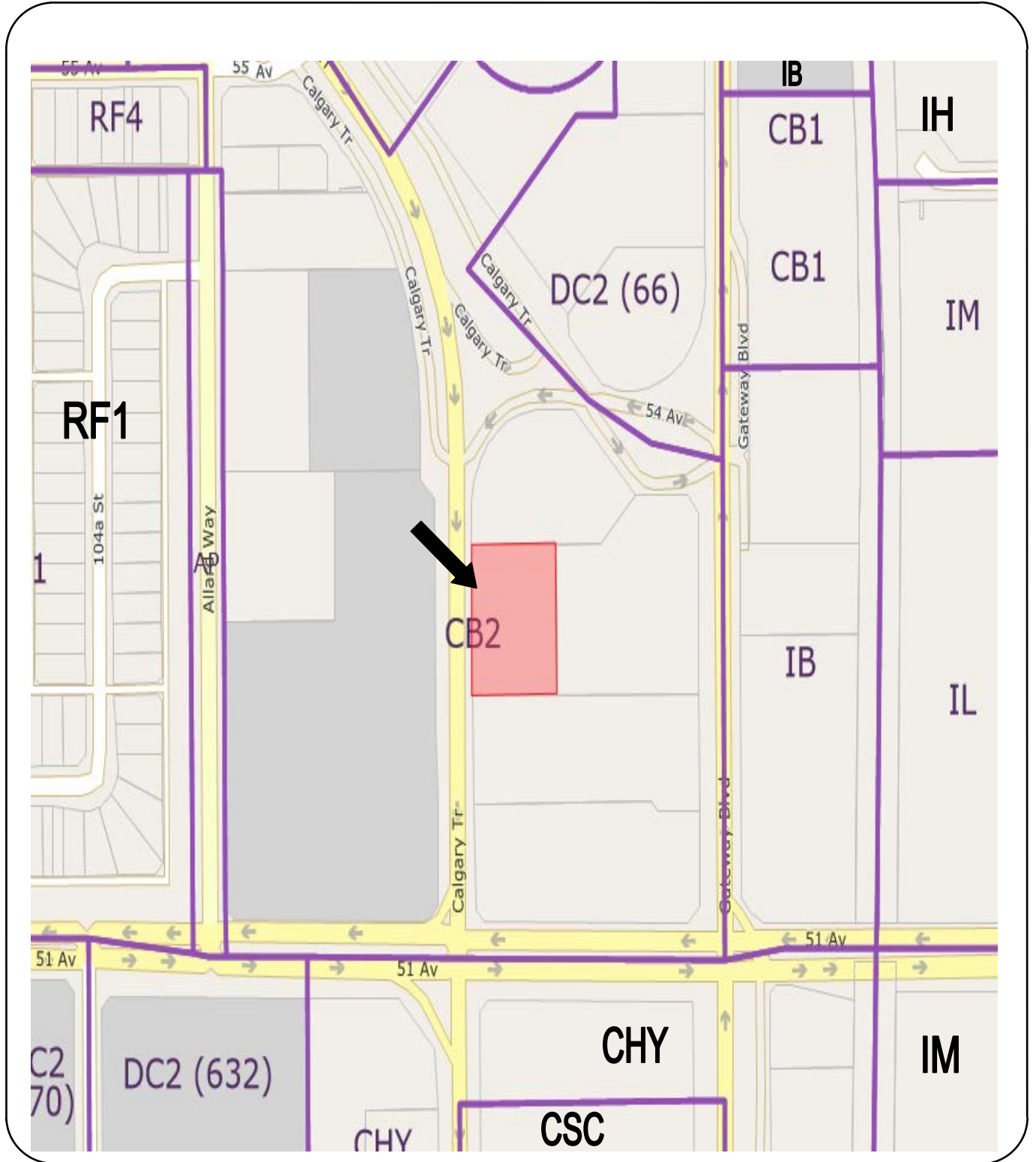
Application for Sign Combo Permit

Project Number: **262445566-001**
Application Date: SEP 18, 2017
Printed: May 16, 2018 at 10:21 AM
Page: 3 of 3

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$40.00	\$40.00	04483028	Sep 26, 2017
Sign Building Permit Fee	\$1,000.00	\$1,000.00	04483028	Sep 26, 2017
Sign Dev Appl Fee - Digital Signs	\$442.00	\$442.00	04483028	Sep 26, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,482.00	\$1,482.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-087



N

TO BE RAISED

ITEM III: 1:30 P.M.

FILE: SDAB-D-18-078

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 274185671-001

APPLICATION TO: Change the Use from a Single Detached House to Lodging House (7 Sleeping Units)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 27, 2018

DATE OF APPEAL: May 2, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11003 - 85 Avenue NW

LEGAL DESCRIPTION: Plan I23A Blk 161 Lot 32

ZONE: DC1 (Garnea Area Redevelopment Plan) Direct Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Garneau Area Redevelopment Plan

Grounds for Appeal

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

This permit was declined due to the fact that there was 7 bedrooms in the house rather than 4 (as it was explained afterward to me not at the time of application). Due to the size of the home and the large footprint of the home I am asking for an exception to this ruling. There is plenty of square footage to accommodate the request. 4 rooms are above ground 3 are in the basement. I do not fully understand this as I was originally told 8 would be permitted for this home or I may not have applied in the first place. I depend on the city to provide accurate information at one of the 3 previous meetings I had with the city before submitting the application. This application will not affect the neighbourhood in any

negative way nor will it change anything structurally to the home. It is truly the fairest single best use for the home.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on May 31, 2018:

“That SDAB-D-18-078 be TABLED to June 14, 2018 at the written request of the Appellant.”

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

Grounds for Appeal

685(1) If a development authority

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

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

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*.

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 decision is made under section 642, [...]

General Provisions from the DC1 (Garneau Area Redevelopment Plan) Direct Development Control Provision (“the DC1”):

Under section 12, **Boarding and Lodging Houses** is a **listed Use** in the DC1.

The DC1 provides the following with respect to **Development Criteria**:

The following development criteria shall apply to developments within this District pursuant to Section 710.4 of the Land Use Bylaw.

1. The General Regulations and Special Land Use Provisions of the Land Use Bylaw.
2. The development regulations of the RF3 (Low Density Redevelopment) District, provided that the Development Officer may relax these regulations for individual applications, where such relaxations would assist in the achievement of the development criteria in Clauses 3, 4 and 5 below.

...

The DC1 states the following with respect to the **Rationale** of the **DC1**:

The Garneau Plan in Policy 1.1 identifies the subject area as a "Special Character Residential Area" contributing to the city as a whole a precinct of older detached housing having interesting architectural detailing and variety in built form. This District is intended to encourage the retention and rehabilitation of existing structures while allowing for infill redevelopment. The regulations associated with this District are intended to ensure that all rehabilitation and redevelopment activities are sensitive to the existing character of both the built form and its relationship to existing streetscapes.

General Provisions from the *Edmonton Zoning Bylaw 12800*:

***It should be noted that General Provisions from the *Edmonton Land Use Bylaw 5996* are attached to the SDAB-D-18-078 file.**

Under section 7.3(6), **Lodging House** means:

a building or part of building, used for Congregate Living, containing Sleeping Units and four or more persons, and where there is no provision of on-site care, treatment or professional services of a physical or mental health nature. This Use does not include Extended Medical Treatment Services, Detention and Correction Facilities, Fraternity and Sorority Housing, Group Homes, and Limited Group Homes.

Under section 6.1(19), **Congregate Living** means:

four or more individuals occupying Sleeping Units in a building where the occupants share access to facilities such as cooking, dining, laundry, or sanitary facilities. Typical Uses where Congregate Living is found include Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses.

Under section 6.1(32), **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.

Under section 6.1(107), **Sleeping Unit** means:

a Habitable Room in a building used for Congregate Living in which the room is occupied by a person under any form of accommodation agreement providing remuneration for the room, and the room:

1. does not include provision for cooking or food preparation except as provided for in Section 76 and 79 of this Bylaw;
2. may or may not be equipped with sanitary facilities; and
3. provides accommodation for a maximum of two persons.

Section 140.4(25) of the **(RF3) Small Scale Infill Development Zone** states:

For Lodging Houses, the following regulations shall apply:

- a. no more than four Sleeping Units may be developed, whether or not in combination with a Dwelling;
- b. the minimum Site area shall be 360 m² in all cases and the Site area shall be comprised of the aggregate of 200 m² for each Sleeping Unit, or for each of the Dwelling and each Sleeping Unit when they are in combination; and
- c. the Development Officer shall exercise discretion with respect to the number of Sleeping Units developed, having regard to the character and density of existing Residential Uses.

Development Officer's Determination

1. Maximum Sleeping Units - The proposal has 7 sleeping units, instead of the maximum of 4 (Reference Section 140.4.25(a))

2. Minimum Site Area - The Site has 619.92m², instead of 1400m² (Reference Section 140.4.25(b)) [unedited]

<i>Section 76 – Lodging Houses (Edmonton Zoning Bylaw 12800)</i>

In addition to the regulations in Section 96 of this Bylaw, Lodging Houses shall comply with the following regulations:

1. The maximum occupancy of a Lodging House in a Zone where Lodging Houses are a Discretionary Use shall be a maximum of 6 residents;
2. The maximum occupancy of a Lodging House in a Zone where Lodging Houses are a Permitted Use shall be the greater of 6 residents or 1 resident per 60 m² of Lot size;
3. The Development Officer may restrict the occupancy of a Lodging House to less than the maximum number of residents allowed having regard for the threshold purpose identified in Section 96, the level of traffic generation, parking demand, and frequency of visits by emergency vehicles relative to that which is characteristic of the Zone in which the Lodging House is located;
4. A Lodging House shall be developed as either a purpose-built freestanding structure, or Single Detached Housing converted for the purpose, or part of an Apartment Housing development;
5. A Lodging House may be located in Duplex Housing or Semi-detached Housing converted for the purpose in a Zone where Lodging Houses are a Permitted Use and both units are operated by a single provider;
6. In a Zone where Lodging Houses are a Permitted Use and where more than 12 Sleeping Units are allowed in a development, Sleeping Units may include limited food preparation facilities such as bar fridge, mini-sink, and microwave;
7. No Major Home Based Business, Secondary Suite, Garden Suite or Garage Suite shall be permitted as part of a Lodging House development or on the Site of such development;
8. Where a Lodging House is designed as a freestanding structure it shall be of a size, scale, and outward appearance that is typical of surrounding residential development; and
9. Increases in vehicular traffic generation and parking demand must be to the satisfaction of the Development Officer and/or Transportation Services.

Lodging Houses Thresholds (Edmonton Zoning Bylaw 12800)

Section 96 provides the following with respect to *Lodging Houses Thresholds*:

1. Special Residential Facilities

For the purpose of this section, Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses shall be collectively referred to as Special Residential Facilities. Group Homes developed in combination with Apartment Housing either in one building or on one Site, and which meet the criteria of Section 94, Supportive Community Provisions, shall be exempt from the requirements of subsection 96(3)(b) and (c) of this Bylaw.

2. Threshold Purpose

The purpose of the Fraternity and Sorority Housing, Limited Group Homes, Group Homes, and Lodging Houses Thresholds is to:

- a. ensure that the capacity of any neighbourhood to accommodate Special Residential Facilities is not exceeded;
- b. ensure that Special Residential Facilities are available in all neighbourhoods; and
- c. protect existing Special Residential Facilities from concentration that could impair their proper functioning.

3. General Regulations

Special Residential Facilities shall comply with all thresholds contained in this Section in addition to any other regulations in this Bylaw including any relevant Special Land Use Provisions that apply. In all cases, the most restrictive threshold shall apply.

- a. When determining the threshold for the number of Special Residential Facilities per neighbourhood, a maximum of 3 facilities per 1000 persons shall be allowed in any neighbourhood.
- b. When determining the threshold for the number of Special Residential Facilities by Use per block.
 - i. a maximum of 2 Special Residential Facilities shall be allowed on a single block in a residential Zone;
 - ii. a maximum block length of 150 m measured from the nearest intersection shall be used to determine this threshold.
- c. When determining the threshold for the number of residents of Special Residential Facilities per opposing block face;
 - i. accommodation for a maximum of 12 residents shall be allowed on an opposing block face in Special Residential Facilities in any residential Zone where either Group Homes or Lodging Houses are a Discretionary Use;

- ii. accommodation for a maximum of 30 residents shall be allowed on an opposing block face in Special Residential Facilities in any residential Zone where either Group Homes or Lodging Houses are a Permitted Use; and
- iii. a maximum block face length of 150 m measured from the nearest intersection shall be used to determine this threshold.

4. Density


For the purposes of calculating Density for a Group Home or Lodging House each Sleeping Unit shall be considered a Dwelling when a development contains seven or more Sleeping Units.

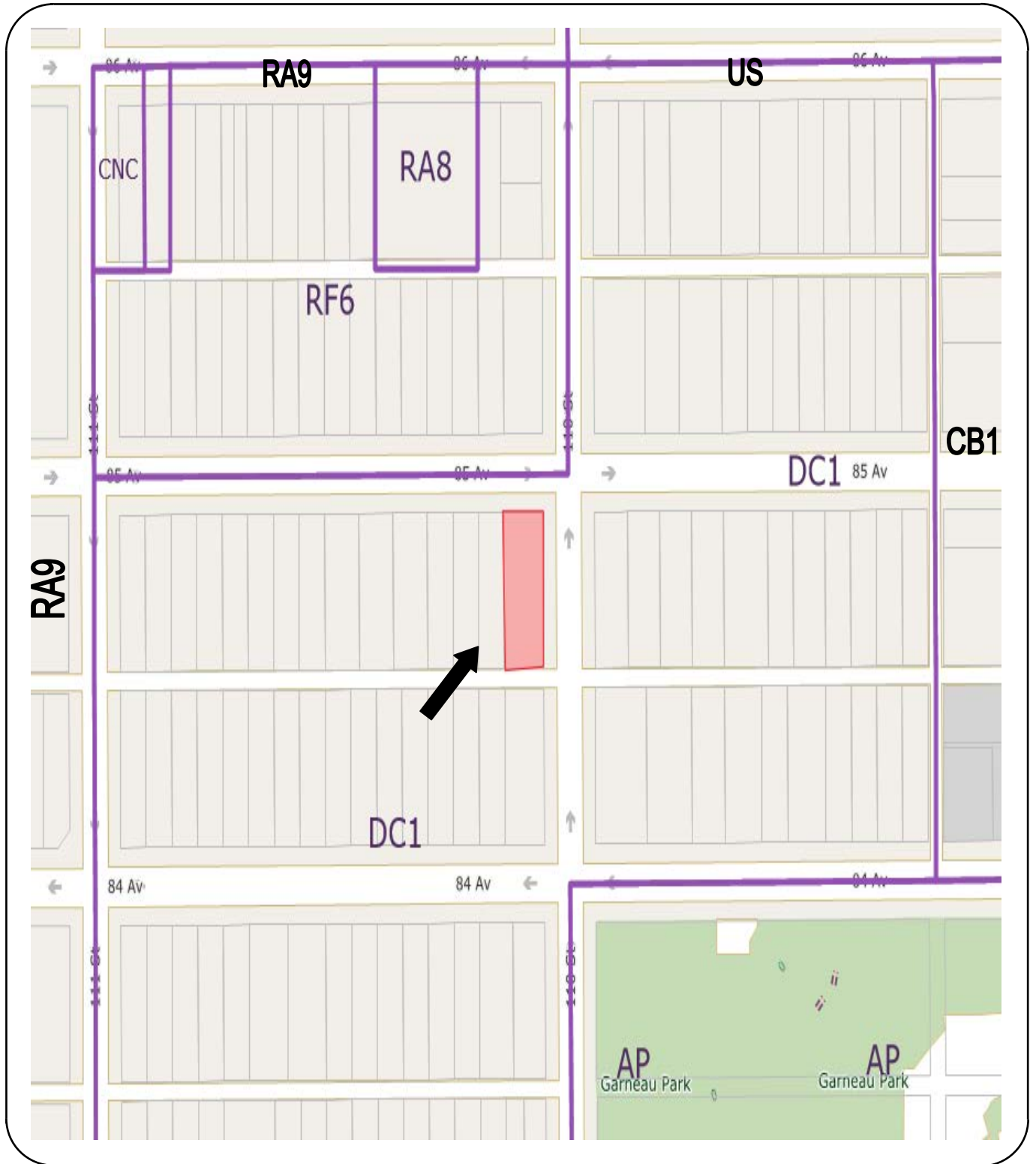
5. Register

For the purpose of applying these regulations the Development Officer shall maintain a register of all approved Special Residential Facilities. The register shall include the address of the facility, maximum occupancy of the facility, and any other necessary information.

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: 274185671-001 Application Date: FEB 06, 2018 Printed: May 2, 2018 at 3:45 PM 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) 11003 - 85 AVENUE NW Plan I23A Blk 161 Lot 32																																				
	Specific Address(es) Suite: 11003 - 85 AVENUE NW Entryway: 11003 - 85 AVENUE NW Building: 11003 - 85 AVENUE NW																																				
Scope of Application To change use from Single Detached House to Lodging House (7 sleeping units)																																					
Permit Details																																					
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 6 Stat. Plan Overlay/Annex Area: Garneau																																				
I/We certify that the above noted details are correct. Applicant signature: _____																																					
Development Application Decision Refused Reason for Refusal <ol style="list-style-type: none"> 1. Maximum Sleeping Units - The proposal has 7 sleeping units, instead of the maximum of 4 (Reference Section 140.4.25(a)) 2. Minimum Site Area - The Site has 619.92m2, instead of 1400m2 (Reference Section 140.4.25(b)) 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.																																					
Issue Date: Apr 27, 2018 Development Authority: LANGILLE, BRANDON Signature: _____																																					
Fees <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>Major Dev. Application Fee</td> <td style="text-align: right;">\$277.00</td> <td style="text-align: right;">\$277.00</td> <td style="text-align: right;">04784521</td> <td style="text-align: right;">Feb 06, 2018</td> </tr> <tr> <td>Development Permit Inspection Fee</td> <td style="text-align: right;">\$0.00</td> <td style="text-align: right;">\$510.00</td> <td style="text-align: right;">04784521</td> <td style="text-align: right;">Feb 06, 2018</td> </tr> <tr> <td>Dev. Application Fee # of dwelling units</td> <td style="text-align: right;">\$150.00</td> <td style="text-align: right;">\$150.00</td> <td style="text-align: right;">04784521</td> <td style="text-align: right;">Feb 06, 2018</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;">\$427.00</td> <td style="text-align: right; border-top: 1px solid black;">\$937.00</td> <td></td> <td></td> </tr> <tr> <td colspan="5">(overpaid by (\$510.00))</td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$277.00	\$277.00	04784521	Feb 06, 2018	Development Permit Inspection Fee	\$0.00	\$510.00	04784521	Feb 06, 2018	Dev. Application Fee # of dwelling units	\$150.00	\$150.00	04784521	Feb 06, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$427.00	\$937.00			(overpaid by (\$510.00))				
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THIS IS NOT A PERMIT																																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-078

