

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
May 29, 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-19-501	Comply with an Order to remove all vehicles from the front landscaped portion of the yard 10208 – 158 STREET NW Project No.: 301773285-001
<hr/>			
II	10:30 A.M.	SDAB-D-19-075	Operate a Major Home Based Business (Bed and Breakfast) expires April 11, 2024 1123 - 72 STREET SW Project No.: 153117453-003
<hr/>			
III	1:30 P.M.	SDAB-D-19-076	Run Special Events (11 Wedding Ceremonies) from a Single Detached House between May 18th, 2019 & August 17th, 2019 6240 - ADA BOULEVARD NW Project No.: 309211869-001

WITHDRAWN

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-19-501

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT COMPLIANCE OFFICER

APPELLANT:

APPLICATION NO.: 301773285-001

APPLICATION TO: Remove all vehicles from the front landscaped portion of the yard.

DECISION OF THE DEVELOPMENT COMPLIANCE OFFICER: Order Issued

DECISION DATE: March 14, 2019

DATE OF APPEAL: April 9, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10208 – 158 Street NW

LEGAL DESCRIPTION: Plan 6727ET, Block 12, Lot 2

ZONE: RF4 – Semi-detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Jasper Place Area Redevelopment Plan

Grounds for Appeal

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

My office represents Gordon Routh in this matter. I write to commence an appeal of the order issued in the above referenced file number.

For approximately the past 30 years, Mr. Routh has parked his vehicle beside his house, with the vehicle extending partially into the front yard. Mr. Routh states that this is common practice in the neighborhood of Jasper Place, and has been since before he moved to the area. He further informs me that this particular land use was grandfathered in when Jasper Place amalgamated with Edmonton in 1964 in accordance with s 54.1 of bylaw 12800.

I have contacted the City of Edmonton Archives regarding retrieving the Jasper Place bylaws. They informed me that they are presently unable to retrieve records due to construction and were unable to provide a date on which the construction will be completed. Accordingly, I request that enforcement the order be stayed until the appeal is heard, and that the hearing date be set sometime after the Jasper Place bylaws can be retrieved from the Archives.

General Matters

The Board is advised the Appeal was received by the City of Edmonton on March 27, 2019 and by the SDAB Office on April 9, 2019.

Appeal Information:

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

Stop order

645(1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Permit

683 Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

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 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*:

Objects Prohibited or Restricted in Residential Zones

Section 45.1 states No person shall keep in any part of a Site in any Residential Zone:

- a. any commercial vehicle, loaded or unloaded, having a maximum gross vehicle weight (G.V.W.R.) exceeding 4 600 kg;
- b. more than one commercial vehicle having a maximum gross vehicle weight (G.V.W.R.) of 4 600 kg or less, for longer than reasonably necessary while loading or unloading such vehicle.

Section 45.2 states For the purpose of subsection 45(1) a commercial vehicle means a vehicle that:

- a. is intended or designed for commercial purposes; or
- b. is used for commercial purposes.

Section 45.3 states “On a Site zoned Residential, no person shall keep a large Recreational Vehicle, for any longer than is reasonably necessary to load or unload such vehicle, in the Front Yard or in any Side Setback Abutting a public roadway other than a Lane.”

Section 45.4 states:

Notwithstanding Section 45(3), from April 1 to October 31 inclusive, on a Site with no rear Lane, where vehicle access is available through the Front Setback or through the flanking Side Setback, Large Recreational Vehicles shall be parked at a Setback of at least 0.6 m from the interior edge of the sidewalk, or curb where no sidewalk is present. This distance may be reduced at the discretion of the Development Officer.

Section 45.5 states “Notwithstanding Section 45(4), the 0.6 m Setback requirement does not apply to any portion of the Recreational Vehicle under 1.0 m in height where a sidewalk is present.”

Section 45.6 states:

For the purposes of subsections 45.3 and 45.4, a "large Recreational Vehicle" shall not include: small utility trailers; camper van conversions; tent trailers; campers which are mounted in trucks; boats; snowmobiles; all-terrain vehicles; jet skis; or motorcycles and trailers to carry them.

Section 45.7 states In the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:

- a. vehicles shall not be located on the landscaped portion of the Yard; and
- b. vehicles shall only be allowed on a Driveway or within an attached or detached Garage.

Section 150.1 states that the **General Purpose** of the **(RF4) Semi-detached Residential Zone** is to provide a zone primarily for Semi-detached Housing and Duplex Housing.

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.

Citizen Services
Community Standards and Neighbourhoods

City of Edmonton
2nd Floor, Edmonton Tower
10111 - 104 Avenue NW
Edmonton, AB T5J 0J4

edmonton.ca

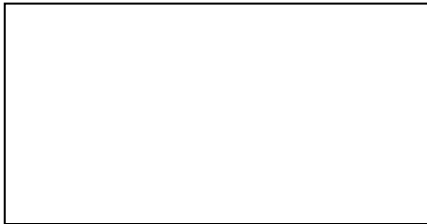


Date: March 14, 2019

Reference/File No: 301773285-001

ORDER

(Issued Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000 c. M-26)



RE: Municipal Address: 10208 - 158 Street NW, Edmonton, AB T5P 2Y2

Legal Description: Plan 6727ET Blk 12 Lot 2

Tax Roll Number: 1391556

(hereinafter referred to as “the property”)

As a result of an inspection of the property on March 12, 2019:

I find that the use of the land is not in accordance with the City of Edmonton Zoning Bylaw 12800 as follows:

45. Objects Prohibited or Restricted in Residential Zones

- 7. In the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:
 - a. vehicles shall not be located on the landscaped portion of the Yard; and
 - b. vehicles shall only be allowed on a Driveway or within an attached or detached Garage.

THEREFORE YOU ARE ORDERED TO:

Remove all vehicles from the front landscaped portion of the yard.

YOU MUST COMPLY WITH THIS ORDER BEFORE: April 5, 2019

Officer: Julianna EMEO #89 **Telephone:** 780-495-0291
Complaints and Investigations
Community Standards Branch

OFFENCE FOR NON-COMPLIANCE:

Pursuant to Section 557(a.3) of the Municipal Government Act (hereinafter referred to as the "Act") a person who contravenes or does not comply with an order under section 645 is guilty of an offence and liable to prosecution.

Pursuant to Section 566(1) of the Act a person who is guilty of an offence is liable,

- (a) to a fine of not more than \$10 000, or
 - (b) to imprisonment for not more than one year,
- or to both fine and imprisonment.

ADDITIONAL CONSEQUENCES FOR NON-COMPLIANCE:

Pursuant to Section 646(1) of the Act if a person fails or refuses to comply with an order under section 645 the municipality may, enter on the land or building and take any action necessary to carry out the order.

Pursuant to Section 553(1)(h.1) of the Act when an order is carried out under section 646(1) the expenses and costs incurred in carrying out the order may be placed on the tax roll of the property and that amount:

- a) is deemed for all purposes to be a tax imposed under Division 2 of Part 10 from the date it was added to the tax roll, and
- b) forms a special lien against the parcel of land in favour of the municipality from the date it was added to the tax roll.

If you fail to comply with the provisions of this order the City of Edmonton will, at its election, take action to enforce the order by taking whatever actions or measures are necessary to remedy the contravention of the bylaw or to prevent the re-occurrence of the, all expenses of which will be placed on the tax roll of the property.

PROCEDURE FOR STARTING AN APPEAL OF THE ORDER

Pursuant to section 685(1) of the Act a person affected by an order under section 645 may appeal to the Subdivision and Development Appeal Board.

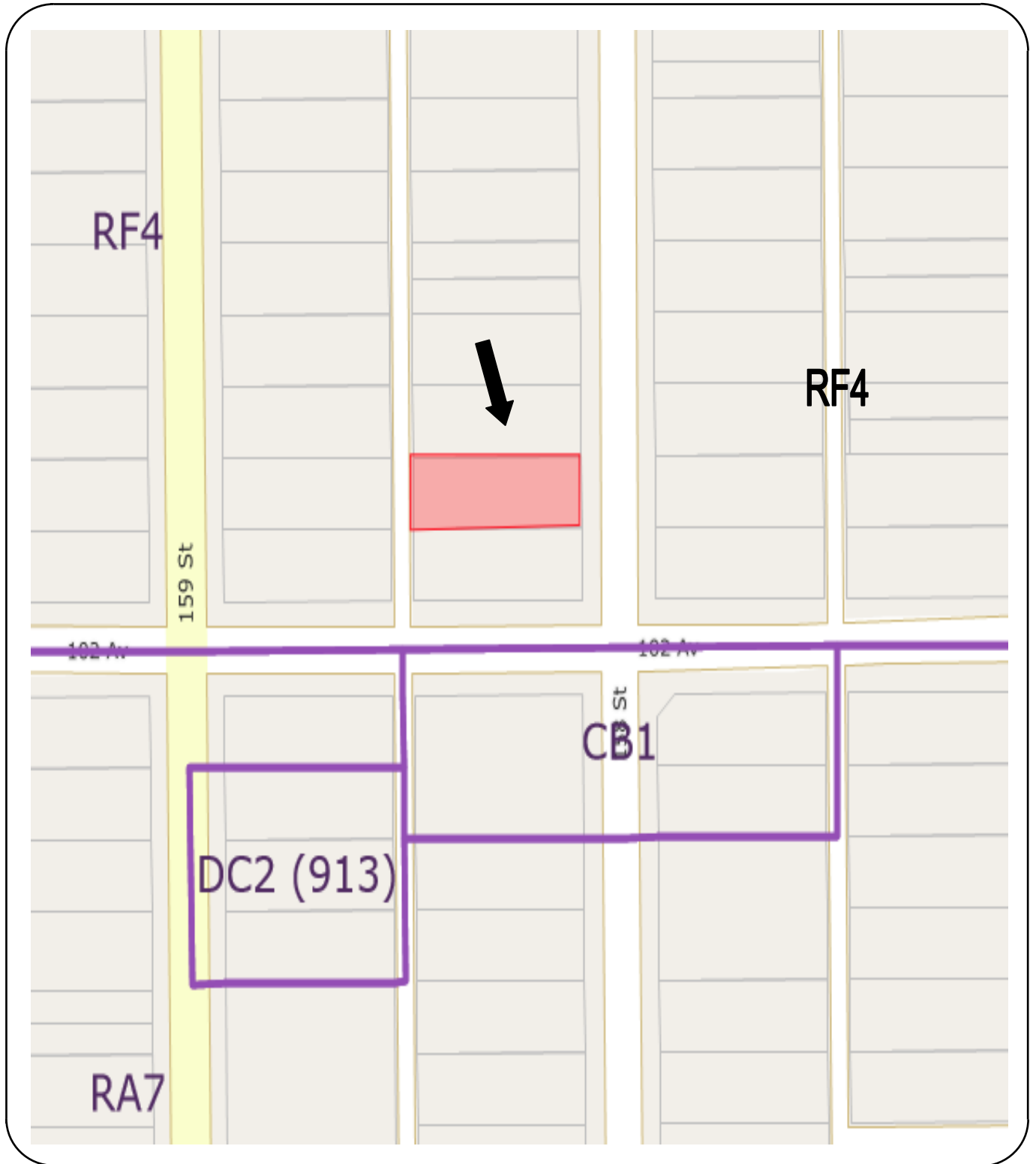
Pursuant to section 686(1) of the Act an appeal to the Subdivision and Development Appeal Board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days after the date on which the person is notified of the order under section 645.

Requests for review must be received by:

Subdivision and Development Appeal Board
Office of the City Clerk
10019 – 103 Avenue NW
Edmonton, AB T5J 0G9

Telephone: (780) 496-6079
Fax: (780) 496-8175

The Notice of Appeal must be accompanied by a cheque or money order in the sum of \$72.00 payable to the City of Edmonton or it is not considered complete and will not be processed. If you are delivering your notice of appeal in person you may pay with cash.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-501



ITEM II: 10:30 A.M.

FILE: SDAB-D-19-075

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

APPELLANT:

APPLICATION NO.: 153117453-003

APPLICATION TO: Operate a Major Home Based Business (Bed and Breakfast) expires April 11, 2024

DECISION OF THE DEVELOPMENT AUTHORITY: Approved

DECISION DATE: April 11, 2019

DATE OF APPEAL: April 26, 2019

NOTIFICATION PERIOD: April 18, 2019 through May 9, 2019

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 1123 - 72 Street SW

LEGAL DESCRIPTION: Plan 0727581 Blk 26 Lot 74

ZONE: RSL Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: Ellerslie Area Structure Plan
Summerside Neighbourhood Structure Plan

Grounds for Appeal

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

I did not appeal the first permit that was issued, to give the owners the benefit of the doubt. They have made no efforts to consult their neighbours regarding concerns with the business.

In the last 5 years, this bed and breakfast for this address has increased parking congestion in an already crowded cul-de-sac, contributed to litter in the street, and in multiple instances the occupants have been loud & disruptive enough to disturb the quiet enjoyment of my own home.

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 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*:

Section 115.3(4) states a **Major Home Based Business** is a **Discretionary Use** in the **(RSL) Residential Small Lot Zone**.

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

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

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

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

Major Home Based Business regulations – Section 75

A Major Home Based Business shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;

5. there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;
7. a Bed and Breakfast Operation, operating as a Major Home Based Business shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;
8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
9. the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.
10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

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: **153117453-003**
Application Date: APR 02, 2019
Printed: April 26, 2019 at 9:18 AM
Page: 1 of 3

Home Occupation

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

Applicant

Property Address(es) and Legal Description(s)

1123 - 72 STREET SW
Plan 0727581 Blk 26 Lot 74

Scope of Permit

To operate a Major Home Based Business (Bed and Breakfast) expires April 11, 2024

Permit Details

of business related visits/day: 1
Administration Office Only?: N
Class of Permit: Class B
Do you live at the property?: Y
Outdoor storage on site?: N

of vehicles at one time: 1
Business has Trailers or Equipment?: N
Description of Business: Bed & Breakfast (two rooms)
Expiry Date: 2024-04-11 00:00:00

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

Applicant signature: _____

Development Permit Decision

Approved

Issue Date: Apr 11, 2019 **Development Authority:**BAUER, KERRY



Project Number: **153117453-003**
Application Date: APR. 02, 2019
Printed: April 26, 2019 at 9:18 AM
Page: 2 of 3

Home Occupation

Subject to the Following Conditions

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

1. The business owner must live at the site. The business use must be secondary to the residential use of the building and shall not change the residential character of the Dwelling or Accessory Building (Section 7.3(7)).
2. There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling (Section 75.1).
3. The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located (Section 75.3).
4. If non-resident employees or business partners are working on-site, the maximum number shall not exceed the number applied for with this application.
5. If there are visits associated with the business the number shall not exceed the number applied for with this application.
6. There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
7. The number of temporary sleeping accommodations on-site shall not exceed two. Cooking facilities are prohibited within temporary sleeping accommodations (Section 75.7).
8. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
9. The business use must maintain the privacy and enjoyment of adjacent residences and the characteristic of the neighbourhood.
10. All parking for the Dwelling and Home Based Business must be accommodated on site unless a parking variance has been granted for this Major Home Based Business.
11. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
12. This approval is for a 5 year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on April 11, 2024.

Notes:

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

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.



Project Number: **153117453-003**
Application Date: APR 02, 2019
Printed: April 26, 2019 at 9:18 AM
Page: 3 of 3

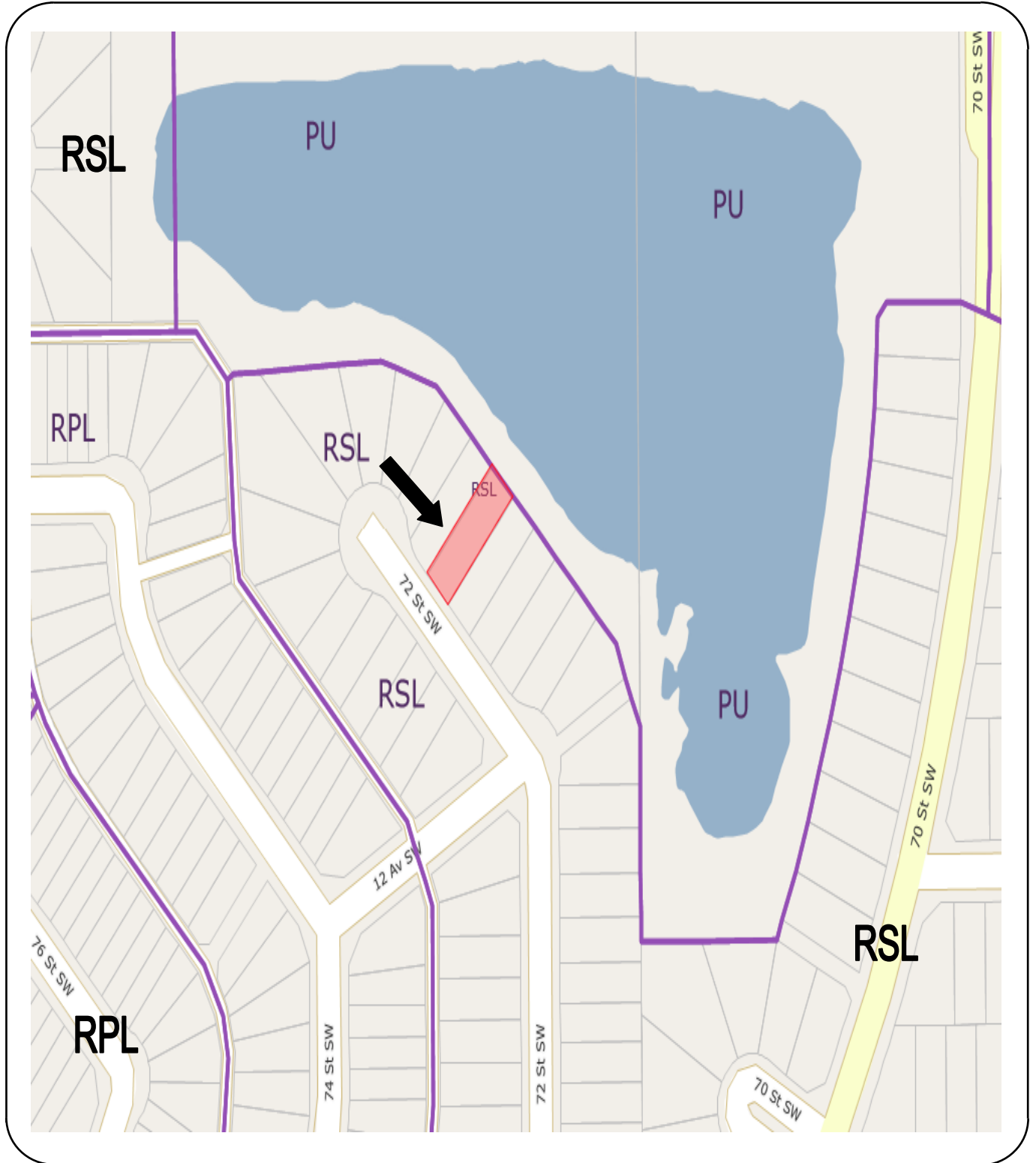
Home Occupation

Notice Period Begins: Apr 18, 2019

Ends: May 09, 2019

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$321.00	\$321.00	05756564	Apr 02, 2019
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	<u>\$321.00</u>	<u>\$321.00</u>		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-075



ITEM III: 1:30 P.M.

FILE: SDAB-D-19-076

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

APPELLANT:

APPLICATION NO.: 309211869-001

APPLICATION TO: Run Special Events (11 Wedding Ceremonies) from a Single Detached House between May 18th, 2019 & August 17th, 2019

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: April 18, 2019

DATE OF APPEAL: May 6, 2019

NOTIFICATION PERIOD: April 18, 2019 through May 2, 2019

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6240 – Ada Boulevard NW

LEGAL DESCRIPTION: Plan 1621197 Blk 9 Lot 1

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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.
