

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
September 9, 2015**

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

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

TO BE RAISED

I 9:00 A.M. SDAB-D-15-181 To construct (1) Freestanding Minor Digital On-Premises Sign (ROGERS BROADCASTING)

5913 Gateway Boulevard NW
Project No.: 165191429-001

BREAK: 10:15 A.M. TO 10:30 A.M.

II 10:30 A.M. SDAB-D-15-203 To operate a Major Home Based Business
(Cooking Classes in 1-120, 4245 - 139 Avenue
NW)

4245 - 139 Avenue NW
Project No.: 172190000-001

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

TO BE RAISED
ITEM I: 9:00 A.M.

FILE: SDAB-D-15-181

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 165191429-001

APPLICATION TO: Construct (1) Freestanding Minor Digital On-Premises Sign (ROGERS BROADCASTING)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 25, 2015

DATE OF APPEAL: July 17, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 5913 Gateway Boulevard NW

LEGAL DESCRIPTION: Plan 0720014 Blk 80 Lot 4C

ZONE: CB2 General Business Zone

OVERLAY: N/A

PLANS IN EFFECT: Calgary Trail Land Use Study
Southeast Industrial Area Outline Plan

DEVELOPMENT OFFICER'S DECISION

REFUSED - The proposed development is refused for the following reasons:

1) The proposed development, a Minor Digital On-premises Sign is listed as a Discretionary Use under the CB2 Zone Section 340.3(43)).

The Site is located within the Calgary Trail Land Use Study Statutory Plan Area. Section 3.4 of the Calgary Trail Land Use Study, General Urban Design Policies, states:

- b) 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.

In the opinion of the Development Officer, the intent of Section 3.4(b)(ii) of the Calgary Trail Land Use Study with respect to billboards, refers to the built form of large freestanding signs located along roadways for the purpose of outdoor advertising.

Therefore, the proposed Major Digital On-premises Off-premises Sign is in contradiction to Section 3.4(b)(ii) of the Calgary Trail Land Use Study.

2) Proposed Signs with an area 8.0 m² to 20m², shall be separated from any other Digital Sign greater than 8.0 m², or Off-premises Sign up to 20m², by a separation distance of 100 m. (Reference Section 59F.3(5)(d)).

Minimum Separation Distance:	100 m
Proposed:	86 m
Deficient by:	14 m

APPELLANT'S SUBMISSION

We worked with the Development Officer to identify different locations on the property, all were rejected. The final location to be rejected was identified as a suitable location by another Development Officer during a conference call. This new location brought our sign into conflict with another sign. It is also our opinion that the development officer categorized our project improperly - we are not a portable sign or a outdoor billboard. We are a video billboard to be used for on premise promotion. It was the opinion of the development officer that other aspects of the same company cannot be displayed on the sign, therefor changed our application to on-premise / off premise sign. Lastly, my client is extremely familiar with the Calgary Trail land use study and as a result they have created one of the most well planned and landscaped properties on all of Calgary Trail. We believe the interpretation and spirit of the land use study was not wholly considered when planning for this sign. We welcome the opportunity to meet and discuss this important project.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

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 within 14 days,

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

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

...

The decision of the Development Authority as stated on the Development Permit was dated June 25, 2015.

Sustainable Development submitted a Canada Post Registered Mail Delivery Certificate indicating the Delivery Date of the decision as July 10, 2015.

On July 17, 2015, the Appellant filed a Notice of Appeal with the Subdivision and Development Appeal Board.

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.”

Under section 340.3(41), **Minor Digital On-premises Sign** is a **Discretionary Use** in the **CB2 General Business Zone**.

Section 7.9(8) defines **Minor Digital On-premises Signs** as follows:

...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 Signs incorporate a technology or method allowing the Sign to change Copy without physically or mechanically replace the Sign face or its components. The Copy on such Sign identifies a business, activity, service or product located on the premises or Site where the Sign is displayed.

Under section 340.3(43), **Roof Off-premises Sign** is a **Discretionary Use** in the **CB2 General Business Zone**.

Section 7.9(11) defines **Roof Off-premises Signs** as follows:

...any Sign erected upon, against, or above a roof, or on top of or above, the parapet of a building 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, entertainment or service provided on the premises or Site where the Sign is displayed.

The Development Officer made the following determination:

The proposed development, a Minor Digital On-premises Sign is listed as a Discretionary Use under the CB2 Zone Section 340.3(43)).

The Site is located within the Calgary Trail Land Use Study Statutory Plan Area. Section 3.4 of the Calgary Trail Land Use Study, General Urban Design Policies states:

- b) 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.****

In the opinion of the Development Officer, the intent of Section 3.4(b)(ii) of the Calgary Trail Land Use Study with respect to billboards, refers to the built form of large freestanding signs locating along roadways for the purpose of outdoor advertising.

Therefore, the proposed Major Digital On-premises Off-premises Sign is in contradiction to Section 3.4(b)(ii) of the Calgary Trail Land Use Study.

With respect to **Development Regulations for Permitted and Discretionary Uses** within the **CB2 General Business Zone**, section 340.4(9) states that “Signs shall comply with the regulations found in Schedule 59F.”

Section 5 of Schedule 59F.3 states the following with respect to **Regulations for Discretionary Signs**:

- 5. Minor Digital On-premises Signs shall be subject to the following regulations:**
 - a. the maximum Height shall be 8.0 m;**
 - b. the maximum Width shall be 8.0 m;**
 - c. the maximum Area shall be:**

- i. 20 m², to a maximum of 25% wall coverage for proposed Signs that are Fascia Signs; or
 - ii. 20 m² for proposed Signs that are Freestanding Signs. The combined Area of Digital Sign Copy and any other type of Copy on the same Sign face shall not exceed 30 m²;
- d. 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 8.0 m ² to less than 20 m ²	100 m
20 m ² to 40 m ²	200 m
Greater than 40 m ²	300 m

The separation shall be applied from the larger Off-premises Sign or Digital Sign location.

- e. the top of proposed Signs that are Fascia Signs shall not extend more than 30 cm above the building roof or parapet wall;
- f. proposed Signs that are Fascia Signs shall have structural elements concealed from view;
- g. proposed Signs that are Fascia Signs shall not extend more than 40 cm out from the wall or structure and shall not extend beyond the horizontal limits of the wall;
- h. proposed Signs that are Fascia Signs extending over a public right-of-way or passageway intended for pedestrian travel shall maintain a minimum clearance of 2.4 m; and
- i. the maximum number of Freestanding On-premises Signs, Minor Digital On-premises Signs and Minor Digital Off-premises Signs on a Site shall be four.

The Development Officer made the following Determination:

2) Proposed Signs with an area 8.0 m² to 20m², shall be separated from any other Digital Sign greater than 8.0 m², or Off-premises Sign up to 20m², by a separation distance of 100 m. (Reference Section 59F.3(5)(d)).

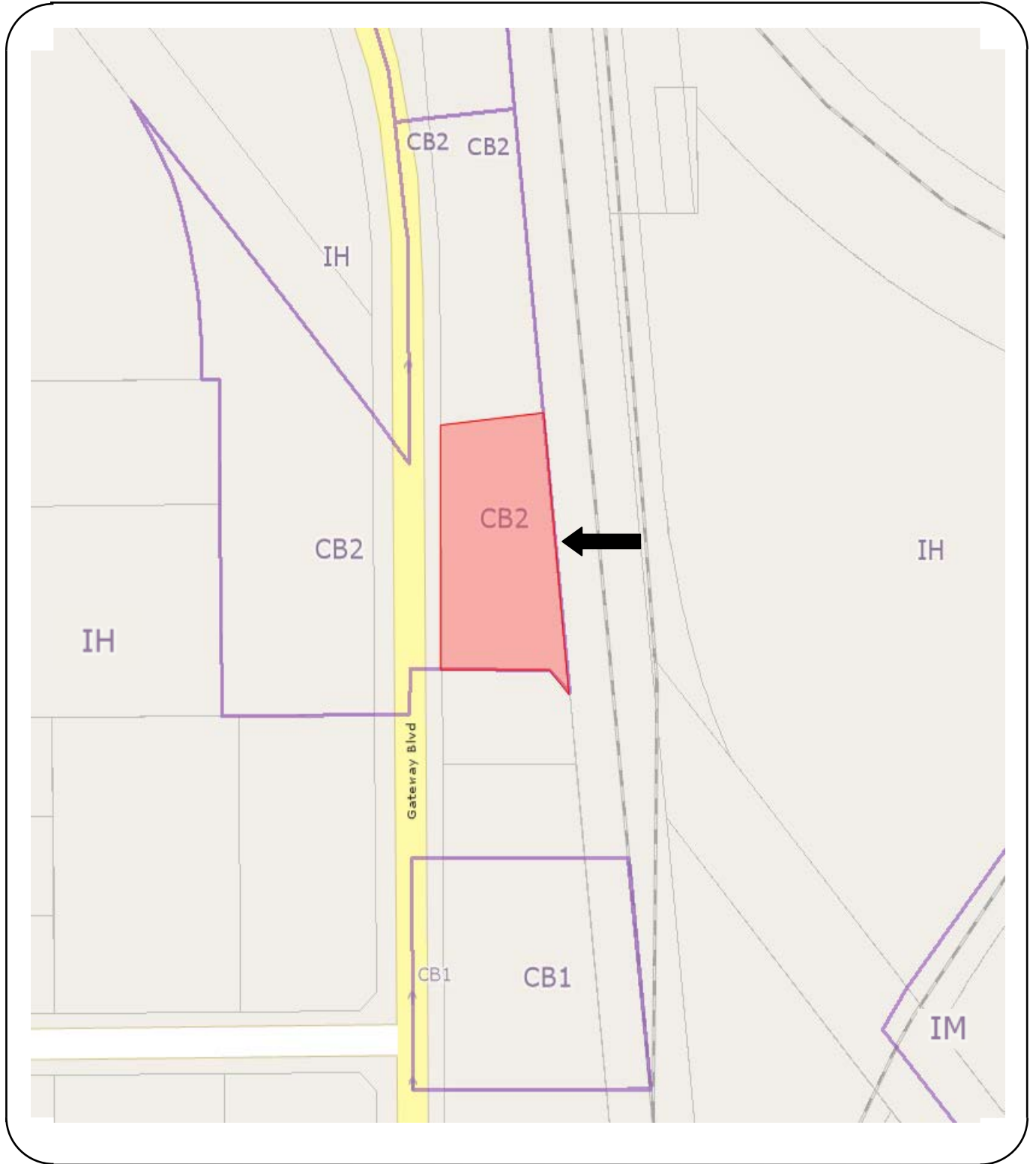
Minimum Separation Distance: 100 m

Proposed: 86 m

Deficient by: 14 m

NOTICE TO APPLICANT/APPELLANT

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*, RSA 2000, c M-26.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-181



ITEM II: 10:30 A.M.

FILE: SDAB-D-15-203

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

APPELLANT:

APPLICATION NO.: 172190000-001

ADDRESS OF APPELLANT: 1-108, 4245 - 139 Avenue NW

APPLICATION TO: Operate a Major Home Based Business (Cooking Classes in 1-120, 4245 - 139 Avenue NW)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: July 29, 2015

DATE OF APPEAL: August 13, 2015

NOTIFICATION PERIOD: August 6, 2015 through August 19, 2015

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4245 - 139 Avenue NW

LEGAL DESCRIPTION: Condo Common Area (Plan 0729585)

ZONE: RA8 Medium Rise Apartment Zone

OVERLAY: N/A

PLANS IN EFFECT: Clareview Town Centre Neighbourhood Area Structure Plan

DEVELOPMENT OFFICER'S DECISION

APPROVED - The proposed development is 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)

This Development Permit may be revoked or invalidated, at any time, if the Home Based Business as stated in the Permit Details, or if the character or appearance of the Dwelling or Accessory Building, changes. This includes mechanical or electrical equipment used

which creates external noise or interference with home electronic equipment in adjacent Dwellings. (Reference Section 23.5)

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.

This approval is for a 5 year period ONLY from the date of this decision. A new Development Permit must be applied for to continue to operate the business from this location.

There shall be no more than two business associated visit per day at the Dwelling. The business Use must be secondary to the residential Use of the building and no aspects of the business operations shall be detectable from outside the property. The number of non-resident employees or business partners working on-site shall not exceed two at any one time

No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.

The business Use shall not involve the use of commercial vehicles or vehicles weighing over 4500 kg

The business Use must maintain the privacy and enjoyment of adjacent residences and the character of the neighbourhood.

No commodity shall be displayed on the premises.

Clients visits must be by-appointment only and appointments shall not overlap with each other.

A new Development Permit must be obtained should the business change or expand.

There shall be no outdoor storage of materials associated with the business.

All parking for the Home Based Business must be accommodated on site. Parking on the street in conjunction with this Home Based Business is not permitted.

There shall be absolutely no outdoor business-related activities at any time.

All commercial, industrial and overweight vehicles shall be parked at an approved storage facility when not in use. The Development Permit will be revoked if any commercial, industrial and overweight vehicles are parked/stored on the Residential Site.

Hours of operation shall be Monday to Saturday, 13:00 to 19:00.

Advisements:

An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site. (Reference Section 5.2)

Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.

VARIANCES:

Class B Discretionary Development: Major Home Based Business is a Discretionary Use in the RF1 Zone. (Reference Section 110.3(7)) (This applies to Suite 1-120, 4245-139 Avenue NW)

APPELLANT'S SUBMISSION

1. From the bylaws of Clareview Courts; article 62.a.i. "An owner shall not use his unit or any exclusive area or any part thereof for any commercial, professional or other business purposes (other than in the context of a home office) or for any purpose which may be illegal or injuries to the reputation of the project or for a purpose involving the attendance of the public at such unit or common property.
 2. A business inviting the general public into our building not only risks the security of the building, but also affects the quiet enjoyment of our residence.
 3. Parking at the condo is limited
 4. The condo was not designed for this type of business; ventilation and additional fire risk
 5. Allowing a business into the building will set a precedent for others who want to start a business involving the public to enter the premises.
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SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

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

Grounds for Appeal

685(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

(a) ...

(b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

The decision of the Development Authority as stated on the Development Permit was dated June 29, 2015. The notification period was from August 6, 2015 to August 19, 2015.

On August 13, 2015, the Appellant filed a Notice of Appeal with the Subdivision and Development Appeal Board.

Under section 220.3(7), a **Major Home Based Business** is a Discretionary Use in the RA8 Medium Rise Apartment Zone.

Under Section 7.3(7), **Major Home Based Business** is defined as follows:

...development consisting of the use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses such businesses 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 Class includes Bed and Breakfast Operations but does not include General Retail Sales.

The Development Authority granted the following variance:

Class B Discretionary Development: Major Home Based Business is a Discretionary Use in the RF1 Zone. (Reference Section 110.3(7)) (This applies to Suite 1-120, 4245-139 Avenue NW)

Section 75 states the following with respect to **Major Home Based Business**:

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 Class 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 Garage Suite or 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 Garage Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

The Development Authority approved the application, 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)

This Development Permit may be revoked or invalidated, at any time, if the Home Based Business as stated in the Permit Details, or if the character or appearance of the Dwelling or Accessory Building, changes. This includes mechanical or electrical equipment used which creates external noise or interference with home electronic equipment in adjacent Dwellings. (Reference Section 23.5)

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.

This approval is for a 5 year period ONLY from the date of this decision. A new Development Permit must be applied for to continue to operate the business from this location.

There shall be no more than two business associated visit per day at the Dwelling. The business Use must be secondary to the residential Use of the building and no aspects of the business operations shall be detectable from outside the property. The number of non-resident employees or business partners working on-site shall not exceed two at any one time

No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.

The business Use shall not involve the use of commercial vehicles or vehicles weighing over 4500 kg

The business Use must maintain the privacy and enjoyment of adjacent residences and the character of the neighbourhood.

No commodity shall be displayed on the premises.

Clients visits must be by-appointment only and appointments shall not overlap with each other.

A new Development Permit must be obtained should the business change or expand.

There shall be no outdoor storage of materials associated with the business.

All parking for the Home Based Business must be accommodated on site. Parking on the street in conjunction with this Home Based Business is not permitted.

There shall be absolutely no outdoor business-related activities at any time.

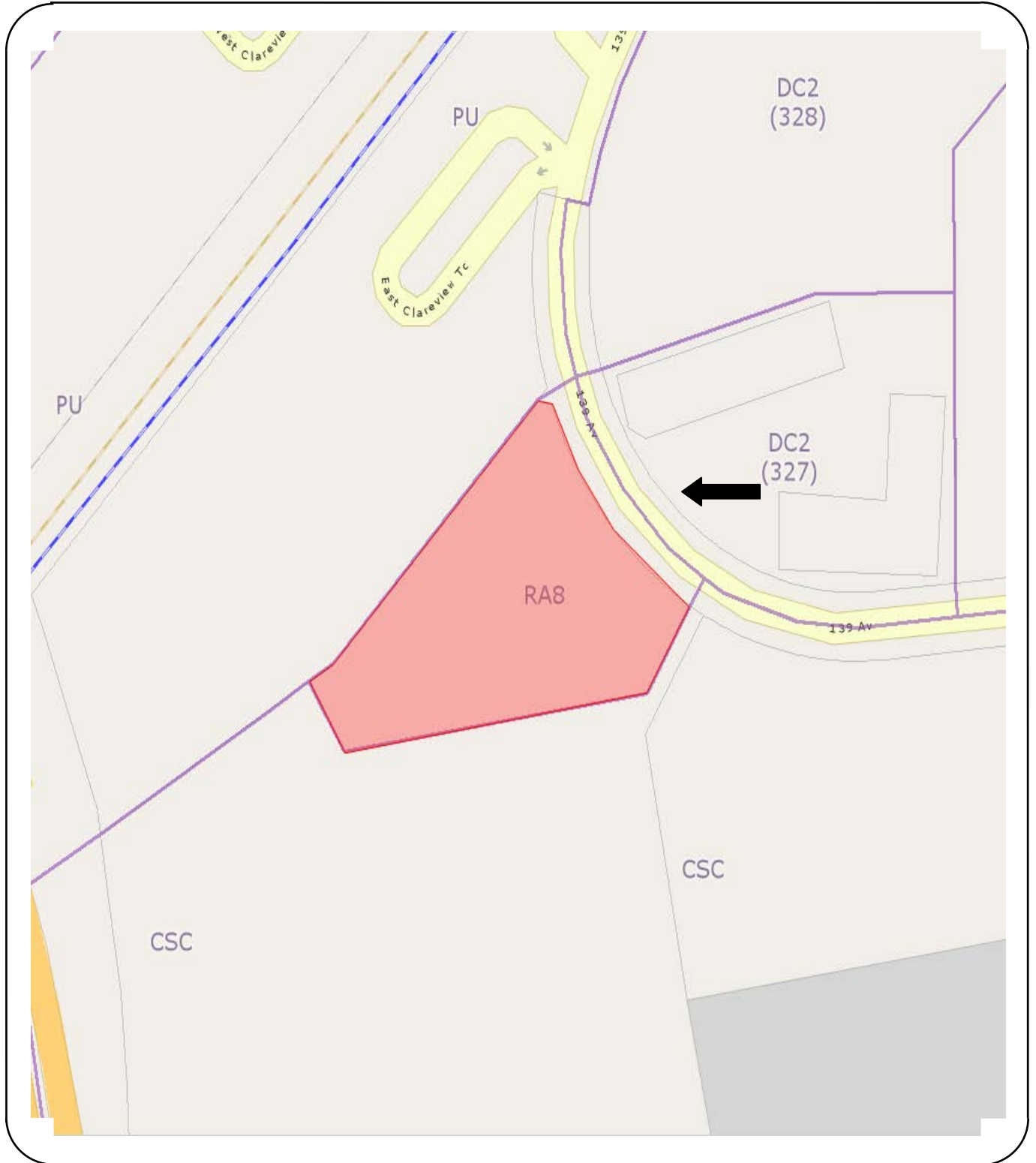
All commercial, industrial and overweight vehicles shall be parked at an approved storage facility when not in use. The Development Permit will be revoked if any commercial, industrial and overweight vehicles are parked/stored on the Residential Site.

Hours of operation shall be Monday to Saturday, 13:00 to 19:00.

Section 220.1 states that the **General Purpose** of the RA8 Medium Rise Apartment Zone “is to provide for Medium Rise Apartments”.

NOTICE TO APPLICANT/APPELLANT

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board’s decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the Municipal Government Act.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-203



BUSINESS LAID OVER

SDAB-D-15-161	An appeal to construct four Dwellings of Row Housing with attached Garages and to demolish the existing Single Detached House and rear detached Garage <i>September 23 or 24, 2015</i>
SDAB-D-15-195	An appeal by to construct 3 Apartment Housing buildings (184 Dwellings) with underground parkdades and an Accessory Building (amenity building) <i>September 23, 2015</i>