

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Thursday, 9:00 A.M.
April 5, 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-18-048	Install (1) Freestanding Minor Digital Off-premises Sign (3 metres by 6.2 metres single sided facing South) (PATTISON - CANADIAN PACIFIC RAILWAY COMPANY). 7811 - Gateway Boulevard NW Project No.: 270891153-001
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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-18-048

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 270891153-001

APPLICATION TO: Install (1) Freestanding Minor Digital Off-premises Sign (3 metres by 6.2 metres single sided facing South) (PATTISON - CANADIAN PACIFIC RAILWAY COMPANY).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 5, 2018

DATE OF APPEAL: March 8, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7811 - Gateway Boulevard NW

LEGAL DESCRIPTION: Plan 0521161 Blk L Lot 3

ZONE: CB2 General Business Zone

OVERLAY: Main Streets Overlay
Whyte Avenue Commercial Overlay

STATUTORY PLAN: Strathcona Junction Area Redevelopment Plan

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 client's 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 CB2 District.

2. There is no prohibition in the Strathcona Junction Area Redevelopment Plan applicable to this application.
3. The issue of separation from the nearest Digital Sign has been addressed in a recent SDAB decision (October 13, 2017; SDAB-D-17-169) wherein a variance to precisely this same deficiency was approved. If the existing separation between "A" and "B" has been found to meet the test for a variance, then surely the separation between "B" and "A" must do so as well.
4. The height restriction at section 819.3(26)(a) was recently imposed (November 15, 2017). Since the site is not in a pedestrian-oriented commercial environment and will not be for the foreseeable future (per the Strathcona Junction Area Redevelopment Plan) and since the sign has existed at its present height for some five years without any complaints in that regard, a variance to this restriction is warranted.
5. The only non-compliance with the Main Streets Overlay is in relation to the sign height per section 819.3(26)(a). Accordingly, to the extent the Development Officer was relying on section 819.3(28) to solicit comments from the neighbourhood, she should have noted that the nearest residential development to the subject sign:
 - (a) is over 100 metres distant; and
 - (b) lies to the northeast of the subject sign, which sign is one sided and faces south-southwest.
6. The proposed development fits well within and even enhances the character of the Urban Area in which it is located.
7. The proposed development is appropriate at this location and will not, in any manner, detract from nor diminish the character of the neighbourhood or the surrounding built environment.
8. Such further and other reasons as may be presented at the hearing of the within appeal.

<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.

Section 340.3(42) states a **Minor Digital Off-premises Sign** is a **Discretionary Use** in the **CB2 General Business Zone**.

Minor Digital 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 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 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 (Section 7.9(6)).

Section 819.3(26) states Signs shall complement the pedestrian-oriented commercial environment and shall be provided in accordance with Schedule 59E of this Bylaw.

Section 340.1 states 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 819.1 states the **General Purpose** of the **Main Streets Overlay** is to encourage and strengthen the pedestrian-oriented character of Edmonton's main street commercial areas that are located in proximity to residential and transit-oriented areas, by providing visual interest, transparent storefront displays, and amenities for pedestrians.

Strathcona Junction Area Redevelopment Plan

Section 3.1.10 of the Strathcona Junction Area Redevelopment Plan (page 19) states: Signs will respect the character of an urban area. Billboards will not be allowed.

Section 1.4 Policy Context Strathcona Junction Area Redevelopment Plan (page 7) states (in part):

The Way We Grow, Edmonton's Municipal Development Plan, was adopted in 2010 to help implement The Way Ahead. This ARP aligns with the following strategic goals contained in The Way We Grow:

...

Urban Design: The ARP requires high quality urban spaces, buildings and streets. It repositions Gateway Boulevard as a scenic route into the city and will result in a more urban block structure

Development Officer's Determination

1) Section 3.1.10, Strathcona Junction ARP (pg. 19): Signs will respect the character of an urban area. Billboards will not be allowed.

"Billboard" is not a defined term in the ARP or the Zoning Bylaw, and the Development Officer must apply the ordinary meaning to this word: Zoning Bylaw, Section 3.5(2). The plans submitted in support of this application show a digital off-premises sign intended to display outdoor advertising on its face. This would commonly be described and characterized as a billboard. The Applicant characterizes the style of the proposed sign on its website as a "digital billboard". The direction in the Strathcona Junction ARP uses mandatory language, and serves to prohibit "billboard" signage at the proposed location - it does not provide an exception for billboards that are digital.

The Strathcona Junction ARP requires high quality urban spaces, buildings and streets. It repositions Gateway Boulevard as a "scenic route into the city": ARP, Section 1.4. The inclusion of billboards into the Gateway Boulevard streetscape is inconsistent with this direction. Giving effect to an ARP will usually be achieved in an incremental fashion; each discretionary development permit application serves as an opportunity to direct development toward the aims of the statutory plan. The Development Officer is of the opinion that this development will detract from the direction of City Council found in the ARP.

Separation Distance

Section 59E.3(5)(d) states proposed Sign locations shall be separated from any other Digital Sign greater than 8.0 square metres or Off-premises Sign as follows:

Proposed Sign Area	Minimum separation distance from Digital Signs greater than 8.0 square metres or other Off-premises Sign
Greater than 8.0 square metres to less than 20 square metres	100 metres
20 square metres to 40 square metres	200 metres
Greater than 40 square metres	300 metres

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

Development Officer’s Determination

2) Proposed Sign locations shall be separated from Digital Signs greater than 8.0m² or Off-premises Signs greater than 20m² by 200m. The separation shall be applied from the larger Off-premises Sign or Digital Sign location.

Area of Existing Sign (DP: 124059029-003): 31.8 m²

Location: 7904-Gateway Blvd NW

Required Separation Distance: 200 m

Proposed Separation Distance: 84 m

Deficient by: 116 m

The proposed sign is deficient in separation distance by 116 m contrary to Section 59E.3(5)(d).

The Zoning Bylaw establishes separation distances to prevent the proliferation of large signs. Multiple billboards in close proximity can lead to visual blight and clutter. In this neighbourhood, City Council has directed a strong focus on high quality design and urban spaces. Reducing the prescribed separation by more than 50% is not appropriate and will negatively impact the streetscape and will create visual clutter.

Height

Section 819.3(26)(a) states the maximum Height of a Freestanding Sign or Digital Sign shall be 6.0 metres.

Development Officer's Determination

3) Signs shall complement the pedestrian-oriented commercial environment and shall be provided in accordance with Schedule 59E of this Bylaw, except that the maximum Height of a Freestanding Sign or Digital Sign shall be 6.0 m. (Main Streets Overlay Section 819.3(26)(a)).

Proposed: 7.9m

Exceeds by: 1.9m

The sign exceeds the maximum height prescribed in the Zoning Bylaw. The overheight nature of this billboard demonstrates that the signage is not built to a pedestrian-oriented scale. The proposed sign does not complement the pedestrian-oriented commercial environment contrary to Section 819.3(26)).

Surrounding Development

Section 59.2(7) states for all Sign Applications for Major Digital Sign, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs, the Development Officer shall review the application in context with the surrounding development, such as (but not limited to): the architectural theme of the area; any historic designations; the requirements of any Statutory Plan; any streetscape improvements; proximity to residential development; driver decision points; and traffic conflict points. The Development Officer may require application revisions to mitigate the impact of a proposed Sign, and may refuse a permit that adversely impacts the built environment.

Development Officer's Determination

The Development Officer solicited comments from the neighbourhood in accordance with Section 819.3 (28) of the Zoning Bylaw. No comments in support of the development were received. Based on comments received in opposition, residents have concerns about the brightness and distraction caused by the digital sign in their neighbourhood. In the opinion of the Development Officer the sign adversely impacts the built environment and is not compatible with the current or future/envisioned character of the area.

Community Consultation

Section 819.3(28) states when the Development Officer determines that a Development Permit application does not comply with the regulations contained in this Overlay:


- a. the Development Officer shall send notice to the municipal address and assessed owners of land wholly or partly located within a distance of 60.0 metres of the Site of the proposed development, and the President of each affected Community League and each Business Improvement Area Association operating within the distance described above to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been mailed, unless the Development Officer receives feedback from all specified recipients; and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit application in accordance with Section 11.2.

Previous SDAB Decision

FILE NUMBER	APPLICATION	DECISION
SDAB-D-13-030	To construct 1 Freestanding Off-premises Minor Digital Sign (3.0 metres by 6.0 metres Single Sided facing South)	February 21, 2013; that the appeal be ALLOWED and the DEVELOPMENT GRANTED subject to the following conditions: ... 3.the Minor Digital Off-premises Sign is approved for five years and will expire on February 21, 2018; ...

Notice to Applicant/Appellant

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

	Project Number: 270891153-001 Application Date: DEC 27, 2017 Printed: March 12, 2018 at 11:09 AM Page: 1 of 3				
<h2>Application for Sign Combo Permit</h2>					
<p>This document is a Development Permit Decision for the development application described below.</p>					
<p>Applicant</p> <div style="border: 1px solid black; height: 40px; width: 100%;"></div>	<p>Property Address(es) and Legal Description(s) 7811 - GATEWAY BOULEVARD NW Plan 0521161 Blk L Lot 3</p>				
<p>Scope of Application To install (1) Freestanding Minor Digital Off-premises Sign (3m x 6.2m single sided facing S) (PATTISON - CANADIAN PACIFIC RAILWAY COMPANY).</p>					
<p>Permit Details</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 50%;"> ASA Sticker No./Name of Engineer: Construction Value: 100000 </td> <td style="width: 50%;"> Class of Permit: Expiry Date: </td> </tr> <tr> <td> 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: 1 Minor Digital On/Off-premises Sign: 0 </td> <td> 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 </td> </tr> </table>		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: 1 Minor Digital On/Off-premises Sign: 0	Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0
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<p>I/We certify that the above noted details are correct. Applicant signature: _____</p>					
<p>Development Application Decision Refused</p>					
<p>THIS IS NOT A PERMIT</p>					



Project Number: **270891153-001**
 Application Date: DEC 27, 2017
 Printed: March 12, 2018 at 11:09 AM
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Application for Sign Combo Permit

Reason for Refusal

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4) Section 59.2(7): For all Sign Applications for Major Digital Sign, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs, the Development Officer shall review the application in context with the surrounding development, such as (but not limited to): the architectural theme of the area; any historic designations; the requirements of any Statutory Plan; any streetscape improvements; proximity to residential development; driver decision points; and traffic conflict points. The Development Officer may require application revisions to mitigate the impact of a proposed Sign, and may refuse a permit that adversely impacts the built environment.

The Development Officer solicited comments from the neighbourhood in accordance with Section 819.3 (28) of the Zoning Bylaw. No comments in support of the development were received. Based on comments received in opposition, residents have concerns about the brightness and distraction caused by the digital sign in their neighbourhood. In the opinion of the Development Officer the sign adversely impacts the built environment and is not compatible with the current or future/envisioned character of the area.

THIS IS NOT A PERMIT



Application for Sign Combo Permit

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Rights of Appeal

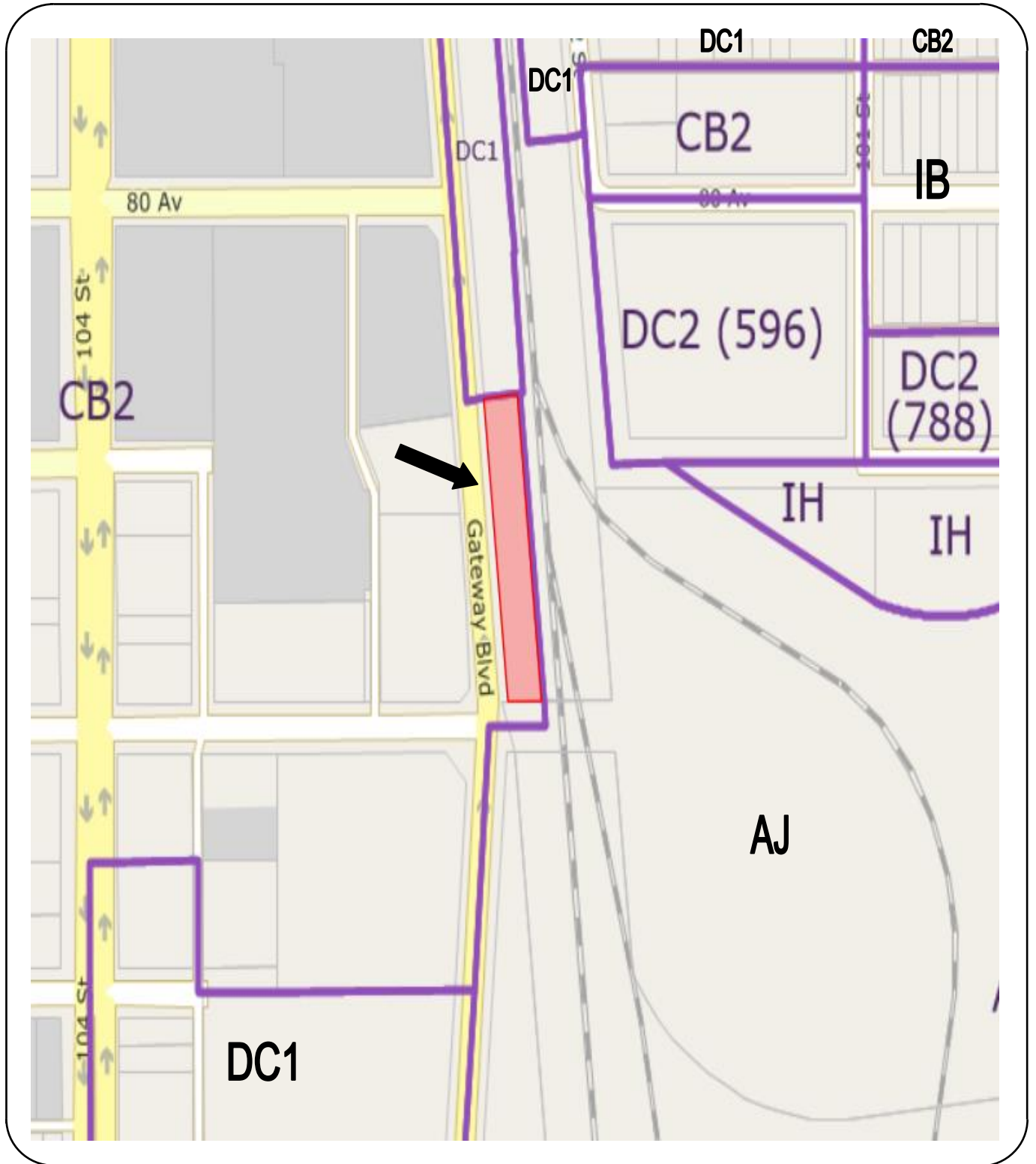
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Mar 05, 2018 Development Authority: NOORMAN, BRENDA Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sign Building Permit Fee	\$1,000.00	\$1,000.00	04713796	Dec 29, 2017
Safety Codes Fee	\$40.00	\$40.00	04713796	Dec 29, 2017
Sign Dev Appl Fee - Digital Signs	\$442.00	\$442.00	04713796	Dec 29, 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-18-048

