

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
April 1, 2015**

**Hearing Room No. 2
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 2**

I	9:00 A.M.	SDAB-D-15-068	Operate a Major Home Based Business (administrative office for waste removal and hauling business) 10851 - 75 Avenue NW Project No.: 166511335-001
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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-15-068

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPLICATION NO.:	166511335-001
ADDRESS OF APPELLANT:	10851 - 75 Avenue NW, Edmonton, AB, T6E 1K1
APPLICATION TO:	Operate a Major Home Based Business (administrative office for waste removal and hauling business)
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	February 25, 2015
DATE OF APPEAL:	March 9, 2015
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	10851 - 75 Avenue NW
LEGAL DESCRIPTION:	Plan 5765Q Blk 4 Lot 1
ZONE:	RF6 Medium Density Multiple Family Zone
OVERLAY:	Medium Scale Residential Infill Overlay
STATUTORY PLAN:	109 Street Corridor Area Redevelopment Plan

DEVELOPMENT OFFICER'S DECISION

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

Edmonton Zoning Bylaw 12800

45. Objects Prohibited or Restricted in Residential Zones

1. 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.) exceeding 4 500 kg;

75. Major Home Based Business

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.

APPELLANT'S SUBMISSION

I had a business operating from this location with a license, for 5 years. The business has been here for 8 years.

Aside from 1 neighbour 5 houses down there hasn't been anyone taking issue with the business.

I have a 38 signature petition in support of my business (from neighbours) & 6 letters of support.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This application is to operate a Major Home Based Business. (administration office for waste removal and hauling business).

The site is located on the southeast corner of 109 Street and 75 Avenue, and is zoned RF6 Medium Density Multiple Family Zone, Section 170 of the Edmonton Zoning Bylaw 12800. The site is within the Medium Scale Residential Infill Overlay, Section 823. The site is also within the 109 Street Corridor Area Redevelopment Plan, under Bylaw 16242 (as amended), approved by City Council on August 28, 2013.

A **Major Home Based Business** is a Discretionary Use in the RF6 Medium Density Multiple Family Zone, Section 170.3(7).

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

Section 45(1)(a) states that no person shall keep in any part of a Site in any Residential Zone any commercial vehicle, loaded or unloaded, having a maximum gross vehicle weight (G.V.W.) exceeding 4500 kilograms.

The Development Officer determined that the proposed development does not comply with Section 45(1)(a).

Section 75(9) states that 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.

The Development Officer determined that the proposed development 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.

Section 75 states that 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 centimetres by 30.5 centimetres 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 of Accessory buildings;
7. ...
8. in addition to the information requirements of subsection 13.2 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. ...

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.

Section 823.1 states that that the general purpose of the Medium Scale Residential Infill Overlay is to accommodate the development of medium-scale infill housing in Edmonton’s mature residential neighbourhoods in a manner that ensures compatibility with adjacent properties while maintaining or enhancing a pedestrian-friendly streetscape.

Section 170.1 states the purpose of this Zone is to provide for medium density housing, where some units may not be at grade.

The following permit applications are listed in the Sustainable Development Department POSSE system:

Application Number	Description	Decision
81439690-010 SDAB-D-15-004	Stop Order: CEASE the Use (General Industrial – Waste Removal Business) and removal of ALL business related materials from the site.	January 23, 2015; that the appeal be DENIED and the Stop Order UPHELD
160145712-001	Violation Notice	<p>November 3, 2014; An inspection of the above noted property by this Department revealed that a four-Unit Lodging House use has been operating from this location without a valid Development Permit.</p> <p>In accordance with Section 5.1 of the City of Edmonton Zoning Bylaw 12800, the Change-of-Use of a Single Detached Dwelling to a Lodging House constitutes Development requiring a Development Permit.</p> <p>You must obtain a Development Permit for a Lodging House use or revert the property back to a Single Detached Dwelling by decommissioning the Lodging House use. To decommission the Lodging House use, you must reduce the number of unrelated persons residing on the property to a maximum of three.</p> <p>If you fail to comply with this</p>

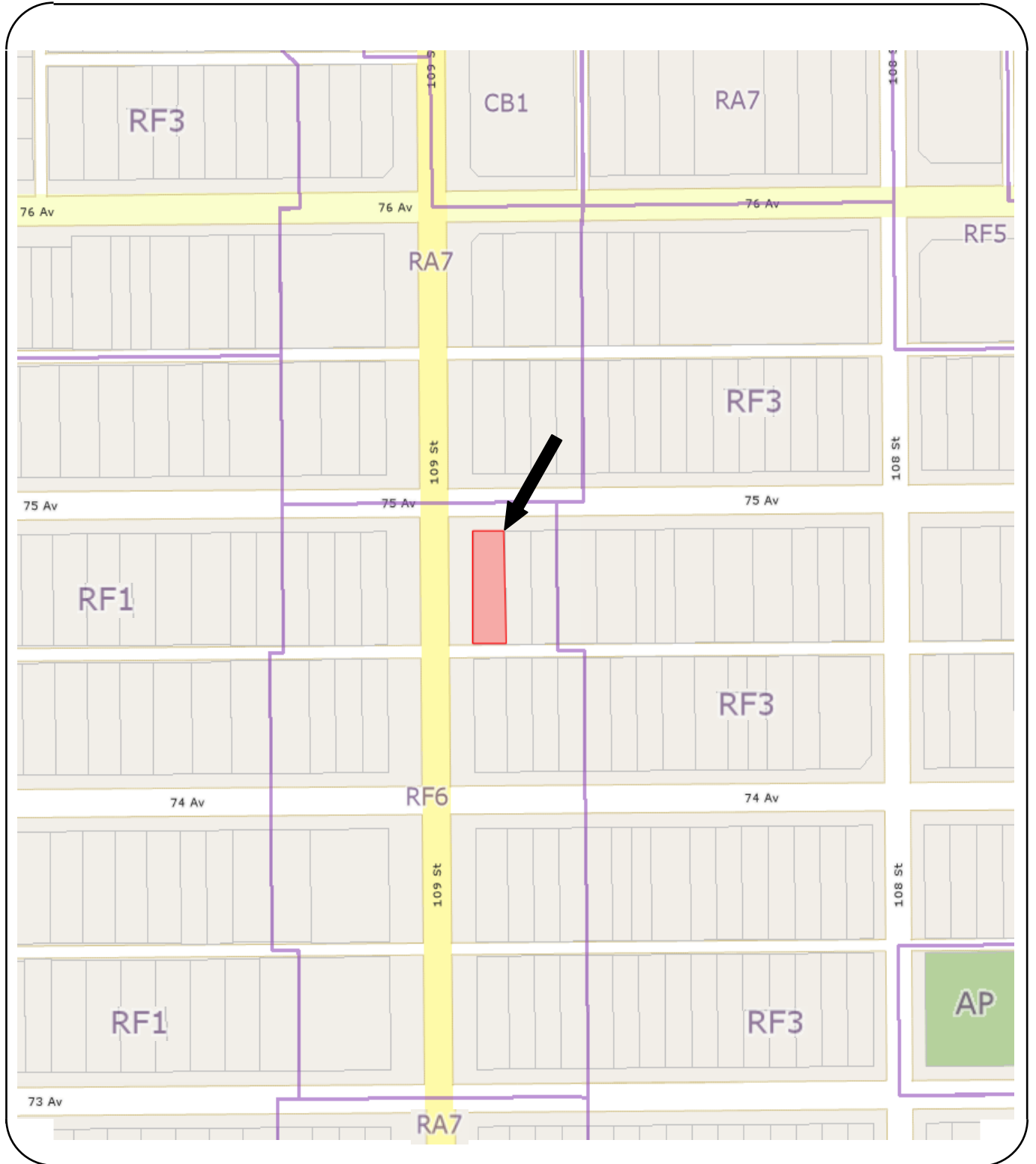
		<p>violation notice by December 18, 2014, the City of Edmonton will issue fines and/or pursue enforcement under the provisions of the Municipal Government Act, R.S.A. 2000.</p> <p>[...]</p>
<p>81439690-007</p>	<p>Violation Notice</p>	<p>May 1, 2014; An inspection of the above noted property by this Department revealed the Use (General Contractor Service) is operating, for which, according to our records, no development permit has been issued.</p> <p>Edmonton Zoning Bylaw 12800</p> <p>5. Approval Required For Development</p> <p>5.1 No Person:</p> <p>Shall commence, or cause or allow to be commenced, a Development without a development Permit therefor issued under the provisions of Section 12 of this Bylaw; or</p> <p>Shall carry on, or cause or allow to be carried on a development without a Development Permit therefor issued under Section 12 of this Bylaw.</p> <p>5.2 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.</p> <p>You must cease the use and remove all business related materials from site. If some action has not been taken to rectify the situation by June 1, 2014, the City of Edmonton will issue fines and/or pursue enforcement under the</p>

		<p>provisions of the Municipal Government Act, R.S.A. 2000.</p> <p>[...]</p>
<p>81439690-008 SDAB-D-14-070</p>	<p>Operate a Major Home Based Business (Administration office for Junk Removal / Hauling business)</p>	<p>April 4, 2014; Appeal DENIED and the decision of refusal by the Development Authority CONFIRMED.</p>
<p>81439690-007</p>	<p>Violation Notice</p>	<p>January 9, 2014; Issued</p> <p>An inspection of the above noted property by this Department revealed the Use (General Contractor Service) is operating, for which, according to our records, no development permit has been issued.</p> <p>Edmonton Zoning Bylaw 12800</p> <p>5. Approval Required For Development</p> <p>5.1 No Person: Shall commence, or cause or allow to be commenced, a Development without a development Permit therefor issued under the provisions of Section 12 of this Bylaw; or Shall carry on, or cause or allow to be carried on a development without a Development Permit therefor issued under Section 12 of this Bylaw.</p> <p>5.2 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.</p> <p>You must cease the use and remove all business related materials from site. If some action has not been taken to rectify the situation by January 30, 2014, the City of Edmonton will issue fines and/or pursue enforcement under</p>

		the provisions of the Municipal Government Act, R.S.A. 2000. Fines for failure to comply with this Violation Notice start at \$400.00. [...]
81439690-006 SDAB-D-11-222	Stop Order: Residential Use Not in Compliance with Development Permit Storage of materials in the back yard.	October 27, 2011; that the appeal be DENIED and the Stop Order UPHELD
81439690-002 SDAB-D-08-282	Operate a Major Home Based Business (hauling items to the dump) on Lot 1, Block 4, Plan 5765Q was refused as it was deemed that the proposed development does not qualify as a Major Home Based Business.	December 5, 2008; Appeal ALLOWED and the DEVELOPMENT GRANTED.

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-15-068



BUSINESS LAID OVER

SDAB-D-15-063	An appeal to demolish an existing Religious Assembly building and to construct a new Religious Assembly building - 86 seats (Salvation Army) <i>April 9, 2015</i>
SDAB-D-15-073	An appeal to construct a Single Detached House with a front attached Garage, front balcony, front veranda, fireplace, Secondary Suite development in the Basement, rear partially covered balcony and rear uncovered deck (3.05 metres by 7.62 metres) <i>April 9, 2015</i>

APPEAL HEARINGS TO BE SCHEDULED

168199400-001	An appeal to construct a Semi-detached House with a fireplace, rear balcony and rear uncovered deck (1.83m x 12.19m) and to demolish an existing Single Detached House and rear Detached Garage <i>April 15 or 16, 2015</i>
164242106-004	An to construct a Single Detached House with rear attached Garage, front veranda (3.35m x 1.47m), front balcony above (irregular shape 4.57m x 3.15m) side covered deck (5.03m x 3.66m), and Basement development (not to be used as an additional Dwelling) <i>April 16, 2015</i>