

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Wednesday, 9:00 A.M.
August 26, 2020

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I	9:00 A.M.	SDAB-D-20-110	Siana Spaces Ik Ltd. and Condominium Corporation No. 1124711 VS. Mikitecture
			To operate a Personal Service Shop (Body Rub Centre)
			13119 & 13103 - 156 Street NW Project No.: 365158326-002

NOTE: *Unless otherwise stated, all references to "Section numbers" in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-20-110

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANTS: No. 1: Siana Spaces Ik Ltd.
No. 2: Condominium Corporation No. 1124711

APPLICATION NO.: 365158326-002

APPLICATION TO: Operate a Personal Service Shop (Body Rub Centre)

DECISION OF THE
DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: July 15, 2020

DATE OF APPEALS: July 28, 2020 and August 11, 2020

NOTIFICATION PERIOD: July 21, 2020 through August 11, 2020

RESPONDENT: Mikitecture

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 13103 & 13119 - 156 Street NW

LEGAL DESCRIPTION: Plan 0827223 Unit 5, Condo Common Area (Plan
0827223)

ZONE: (IB) Industrial Business Zone

OVERLAY: N/A

STATUTORY PLAN: Mistatim Area Structure Plan

Grounds for Appeal

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

Appellant No. 1:

The nature of this new business is going to significantly impact my tenants and existing clientele. My tenants signed leases based on existing business environment in the building and this business deviates significantly from the existing business environment. My tenants cannot handle any reduction in clientele, especially during COVID and the associated economic impact.

Appellant No. 2:

Please be advised that we are counsel for Condominium Corporation No. 1124711 (the "Corporation"). We are writing this letter to provide notice of the Corporation's appeal of the Development Officer's decision to approve the development permit in relation to project number 365158326-002 (the "Permit").

The Corporation is the owner of condominium property consisting of two separate buildings located at 13135 - 13183 156 street (odd numbers only) (the "Corporation Buildings"). The Corporation Buildings are located directly north of the building to which the Permit applies (the "Permit Building"). The parking lot of and roadway access to the Corporation Buildings is shared or joined with the parking lot and roadway access to the Permit Building.

The fundamental basis for the Corporation's appeal is that the proposed development is incompatible with or impedes the operation of neighbouring uses. Prior to the written submission deadline of August 19, 2020, the Corporation will upload documents outlining further reasons and submissions.

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 clause (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*:

Under section 400.3(23), **Personal Service Shop** is a **Discretionary Use** in the **(IB) Industrial Business Zone**.

Under section 7.4(41), **Personal Service Shop** means:

development used for the provision of personal services to an individual which are related to the care and appearance of the body, or the cleaning and repair of personal effects. This Use includes barbershops, hairdressers, beauty salons, tailors, dressmakers, shoe repair shops, and dry cleaning establishments and laundromats. This Use does not include Health Services.

Under section 6.1, **Body Rub Centre** means:

a Personal Service Shop development where services are provided that involve the physical external manipulation of the soft tissues of the

human body that are performed, offered or solicited for a fee in a manner that appeals to or is designed to appeal to erotic or sexual appetites or inclinations. This includes but is not limited to a body rub advertised by any means as “sensual”, “sexy” or by any other word or any depiction having like meaning or implication.

Section 400.1 states that the **General Purpose** of the **(IB) Industrial Business Zone** is:

to provide for industrial businesses that carry out their operations such that no nuisance is created or apparent outside an enclosed building and such that the Zone is compatible with any adjacent non-industrial Zone, and to accommodate limited, compatible non-industrial businesses. This Zone should normally be located on the periphery of industrial areas and adjacent to arterial or major collector roadways.

Discretionary Use

Development Officers Determination

1. A Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.

[unedited]

Section 97 - Body Rub Centres

A Personal Service Shop that is operating as a Body Rub Centre shall comply with the following regulations:

1. At the time a Development Permit application is made for a Body Rub Centre, the proposed location of the Body Rub Centre shall not be closer than 100.0 metres from any Site having a valid development permit for Public Education Services, Private Education Services, Public Park sites, Child Care Services, Temporary Shelter Services, and/or Extended Medical Treatment Services.


For the purpose of this subsection only:

- a. the 100.0 metre separation distance shall be measured from the closest point of the Body Rub Centre Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;

- b. Public Education Services and Private Education Services are limited to primary and secondary schools inclusive that have a valid Development Permit; and
 - c. the term “Public Park sites” is limited to park Sites zoned as AP Zone, and areas in the river valley that are zoned as the A Zone.
 2. Personal Service Shop Use operating as a Body Rub Centre shall not be located on a Site having a valid Development Permit for Residential Use Classes, Residential Related Use Classes, or Bars and Neighbourhood Pubs at the time of the application for the Development Permit.
 3. The Development Officer shall consider Crime Prevention Through Environmental Design Criteria (CPTED) when reviewing applications for Personal Service Shop Use Class operating as a Body Rub Centre.
 - a. The Development Officer shall determine whether a CPTED Audit of the business premises is required, and may confer with the Edmonton Police Service for their recommendation;
 - b. If the Development Officer deems that a CPTED Audit is necessary, the Development Officer may include recommendations of the CPTED Audit that, in the Development Officer’s opinion, have implications for land use impacts including, but not limited to, exterior illumination, landscaping, screening, signs, and access, as condition(s) of the Development Permit;
 - c. Where a Body Rub Centre is proposed to be located on the First Storey, all glazed surfaces within the Façade shall be transparent, non-reflective and maintain unobstructed visibility into and out of the Public Space of the business.
 4. Signs placed on or within a Personal Service Shop Use operating as a Body Rub Centre shall comply with the applicable Sign Regulations contained in Section 59 of this Bylaw and the applicable Sign Schedule for the Land Use Zone governing the Site on which the Body Rub Centre is located, except that Fascia Signs shall not:
 - a. obstruct clear glazing required in subsection 97(3)(c) of this Bylaw; and
 - b. obstruct clear glazing as required by the Land Use Zone governing the Site on which the Body Rub Centre is located.
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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: 365158326-002 Application Date: JUN 16, 2020 Printed: July 15, 2020 at 3:55 PM Page: 1 of 2		
<h2>Major 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	<table border="1"> <tr> <td data-bbox="812 449 1388 600"> Property Address(es) and Legal Description(s) 13103 - 156 STREET NW Condo Common Area (Plan 0827223) 13119 - 156 STREET NW Plan 0827223 Unit 5 </td> </tr> <tr> <td data-bbox="812 604 1388 730"> Specific Address(es) Suite: 13119 - 156 STREET NW Entryway: 13119 - 156 STREET NW Building: 13103 - 156 STREET NW </td> </tr> </table>	Property Address(es) and Legal Description(s) 13103 - 156 STREET NW Condo Common Area (Plan 0827223) 13119 - 156 STREET NW Plan 0827223 Unit 5	Specific Address(es) Suite: 13119 - 156 STREET NW Entryway: 13119 - 156 STREET NW Building: 13103 - 156 STREET NW
Property Address(es) and Legal Description(s) 13103 - 156 STREET NW Condo Common Area (Plan 0827223) 13119 - 156 STREET NW Plan 0827223 Unit 5			
Specific Address(es) Suite: 13119 - 156 STREET NW Entryway: 13119 - 156 STREET NW Building: 13103 - 156 STREET NW			
Scope of Permit To Operate a Personal Service Shop (Body Rub Centre)			
Permit Details <table border="1" style="width: 100%;"> <tr> <td data-bbox="264 863 808 972"> Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: Site Area (sq. m.): </td> <td data-bbox="812 863 1388 972"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)		
Development Permit Decision Approved Issue Date: Jul 15, 2020 Development Authority: XU, HAILEE Subject to the Following Conditions NOTE: This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1) Zoning Conditions: 1. The development shall be constructed in accordance with the stamped and approved drawings. 2. All provided Vehicle Parking and loading facilities shall be ensured a safe physical environment, and shall include adequate, safe and convenient entrances, exists, aisles and ramps. (Reference Section 54.1.2) 3. Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51) 4. Video surveillance shall be installed on the exterior building in addition to the interior cameras required by the City of Edmonton control plan for Body Rub Centres. Video surveillance could be extended to include the parking lot as well as entrance door to the business to help support the complaints and investigations that may occur on the property. 5. Signs require separate Development Applications. More information about Signs can be found on the City of Edmonton's website: https://www.edmonton.ca/business_economy/signs.aspx			



Project Number: **365158326-002**
 Application Date: JUN 16, 2020
 Printed: July 15, 2020 at 3:55 PM
 Page: 2 of 2

Major Development Permit

Subject to the Following Advisements

Zoning Advisements:

1. A Building Permit is Required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.
2. This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.
3. The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.
4. 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).
5. Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800 as amended.

Variances

1. A Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.

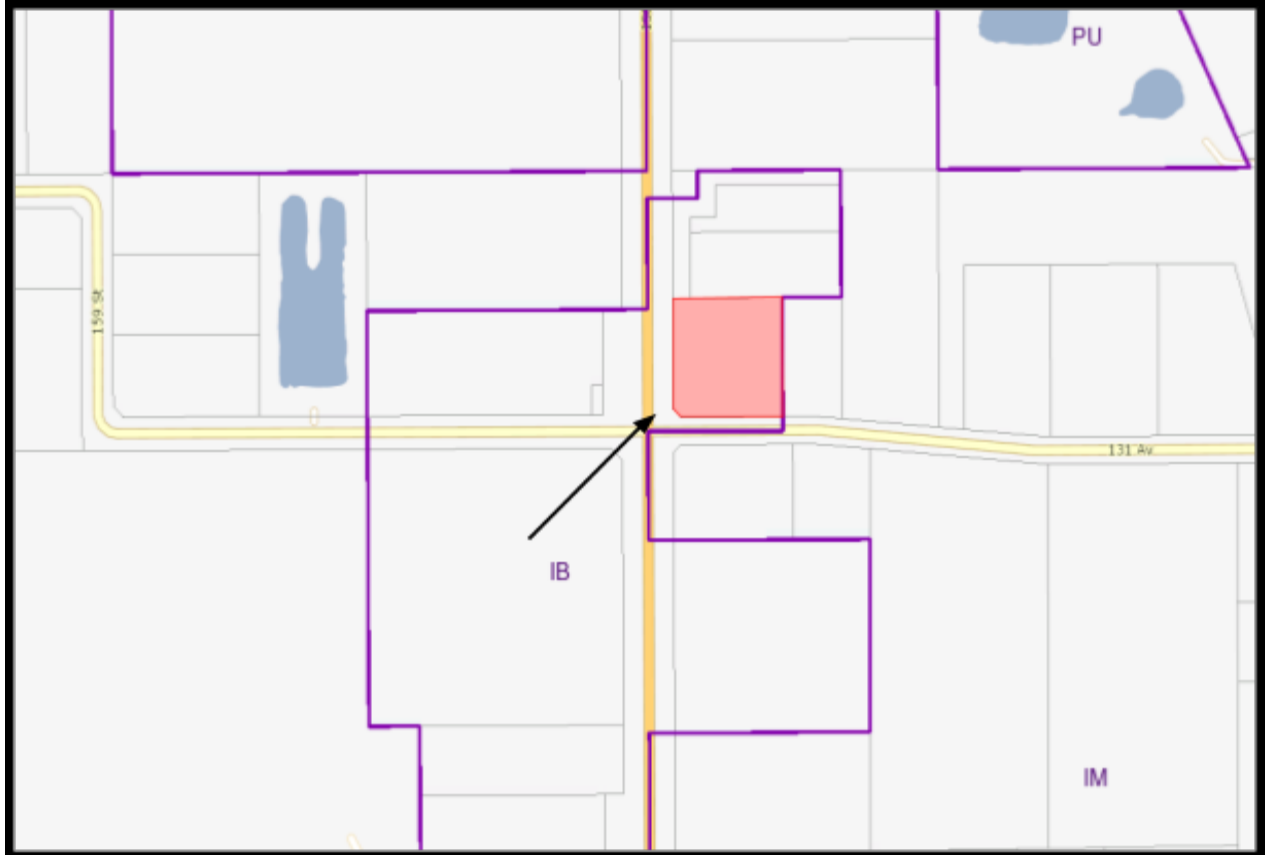
Rights of Appeal

This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Notice Period Begins: Jul 21, 2020 **Ends:** Aug 11, 2020

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$528.00	\$528.00	9691410319610010	Jun 19, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	\$528.00	\$528.00		



SURROUNDING LAND USE DISTRICTS

Site Location ← File: SDAB-D-20-110 ▲
N