

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
August 15, 2018**

**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-18-105 Add one additional Dwelling to an existing Apartment House (total of 26 Dwellings), existing without permits.

10620 - 105 Street NW
Project No.: 280807879-001

II 10:30 A.M. SDAB-D-18-120 Operate a Major Home Based Business (Make up, Esthetics and Hair Styling - IMH STUDIOS).

4136 - Cameron Heights Point NW
Project No.: 282112638-001

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-18-105

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 280807879-001

APPLICATION TO: Add one additional Dwelling to an existing Apartment House (total of 26 Dwellings), existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 15, 2018

DATE OF APPEAL: June 26, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10620 - 105 Street NW

LEGAL DESCRIPTION: Condo Common Area (Plan 0727388)

ZONE: (CB1) Low Intensity Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: Central McDougall / Queen Mary Park Area Redevelopment Plan

Grounds for Appeal

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

The application has been refused because of the zoning and that there has to be commercial in the main floor. The building never has commercial on the main floor. The space in the application for a new suite in legal and part of the adjacent suite. The previous owner built a wall and made an extra room. The space wasn't meant to be for amenities for the building. Most suites have balconies and extra storage for every suite. I have the drawing that will explain in more details.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on July 19, 2018:

"That SDAB-D-18-105 be TABLED to August 15 or 16, 2018."

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,

- (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, [...]

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.

Non-conforming use and non-conforming buildings

643(1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

(2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.

(4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.

(5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

- (a) to make it a conforming building,
- (b) for routine maintenance of the building, if the development authority considers it necessary, or
- (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75percent of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 330.3(1), **Apartment Housing** is a **Discretionary Use** in the (CB1) Low Intensity Business Zone.

Under section 7.2(1), **Apartment Housing** means:

development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use.

Under section 6, **Dwelling** means:

a self contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household.

Section 330.1 states that the **General Purpose** of the **(CB1) Low Intensity Business Zone** is:

to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

Section 819.1 states that 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.

Discretionary Use

Development Officer's Determination

1) Discretionary Use - Apartment House is refused as a Discretionary Use (Section 12.4 & 330.3.1). [unedited]

Additional Development Regulations for Discretionary Uses in the (CBI) Zone

Section 330.5(1) states the following regulations shall apply to Apartment Housing developments:

- a. Apartment Housing shall be permitted only in buildings where the first Storey is used for commercial purposes;
- b. the housing component shall have access at ground level, which is separate from the access for the commercial premises;
- c. Amenity Area shall be provided in accordance with Section 46 of this Bylaw;
- d. ...

Development Officer's Determination

**2) Use - Apartment Housing shall be permitted only in buildings where the first Storey is used for commercial purposes (Section 330.5.1.a).
- There is no Commercial Use on the first Storey of the existing Apartment House. [unedited]**

Non-conforming building

Development Officer’s Determination

3) Non-conforming Building - This Apartment House no longer conforms to current zoning rules, which may have changed since it was originally constructed (Section 11.2.2).

- This non-conforming building interferes with the amenities of the neighbourhood as the intent of the CB1 Zone is to provide for low intensity Commercial Uses on the first Storey of buildings that are located along arterial roadways. [unedited]

Amenity Area

Section 46.2 states “unless otherwise specified in this Bylaw, Amenity Area shall be provided in accordance with Table 46(2).”

Table 46(2) Amenity Area requirements:

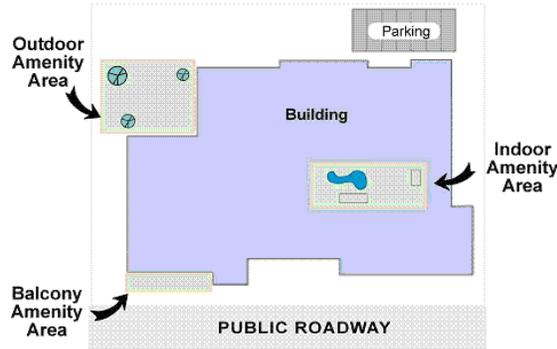
	Minimum Amenity Area provided on Site per Dwelling	Minimum percentage of total required Amenity Area provided on Site at ground level	Maximum percentage of total required Amenity Area provided on Site in a Yard abutting a public roadway other than a Lane at ground level
d. Apartment Housing	7.5 m2	0%	50%

Under section 6, **Amenity Area** means:

- a. with respect to Residential Uses, space outside a Dwelling or Sleeping Unit provided for the active or passive recreation and enjoyment of the occupants of a residential development, which may be for private or communal use and owned individually or in common, subject to the regulations of this Bylaw;
- b. with respect to non-Residential Uses, space provided for the active or passive recreation and enjoyment of the public, during the hours which the development is open to the public, which shall be owned and maintained by the owners of the development, subject to the regulations of this Bylaw; and

- c. with respect to both Residential and non-Residential Uses, may include indoor or outdoor space, Platform Structures, Rooftop Terraces, and Accessory structures.

The following is an example provided for illustrative purposes only:



Development Officer’s Determination

- 4) Amenity Area - 7.5m² of Amenity Area is required on Site per Dwelling**
- Number of Dwellings: 26**
- Required: 195m²**
- Proposed: Nil [unedited]**

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.



Application for Major Development Permit

Project Number: **280807879-001**
 Application Date: APR 30, 2018
 Printed: June 15, 2018 at 11:53 AM
 Page: 1 of 2

This document is a Development Permit Decision for the development application described below.

Applicant	Property Address(es) and Legal Description(s) 10620 - 105 STREET NW Condo Common Area (Plan 0727388)
	Specific Address(es) Entryway: 10620 - 105 STREET NW Building: 10620 - 105 STREET NW

Scope of Application
 To add one additional Dwelling to an existing Apartment House (total of 26 Dwellings), existing without permits.

Permit Details Class of Permit: Gross Floor Area (sq.m.): 27.1 New Sewer Service Required: Y Site Area (sq. m.): 1627.09	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 9 Stat. Plan Overlay/Annex Area: Main Street Overlay
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision
 Refused

Reason for Refusal

Development Permit application to add one additional Dwelling to an existing Apartment House (total of 26 Dwellings), existing without permits, is refused for the following reasons:

- 1) Discretionary Use - Apartment House is refused as a Discretionary Use (Section 12.4 & 330.3.1).
- 2) Use - Apartment Housing shall be permitted only in buildings where the first Storey is used for commercial purposes (Section 330.5.1.a).
 - There is no Commercial Use on the first Storey of the existing Apartment House.
- 3) Non-conforming Building - This Apartment House no longer conforms to current zoning rules, which may have changed since it was originally constructed (Section 11.2.2).
 - This non-conforming building interferes with the amenities of the neighbourhood as the intent of the CB1 Zone is to provide for low intensity Commercial Uses on the first Storey of buildings that are located along arterial roadways.
- 4) Amenity Area - 7.5m2 of Amenity Area is required on Site per Dwelling
 - Number of Dwellings: 26
 - Required: 195m2
 - Proposed: Nil

Rights of Appeal

The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.

Issue Date: Jun 15, 2018 **Development Authority:** YEUNG, KENNETH

Fees

THIS IS NOT A PERMIT



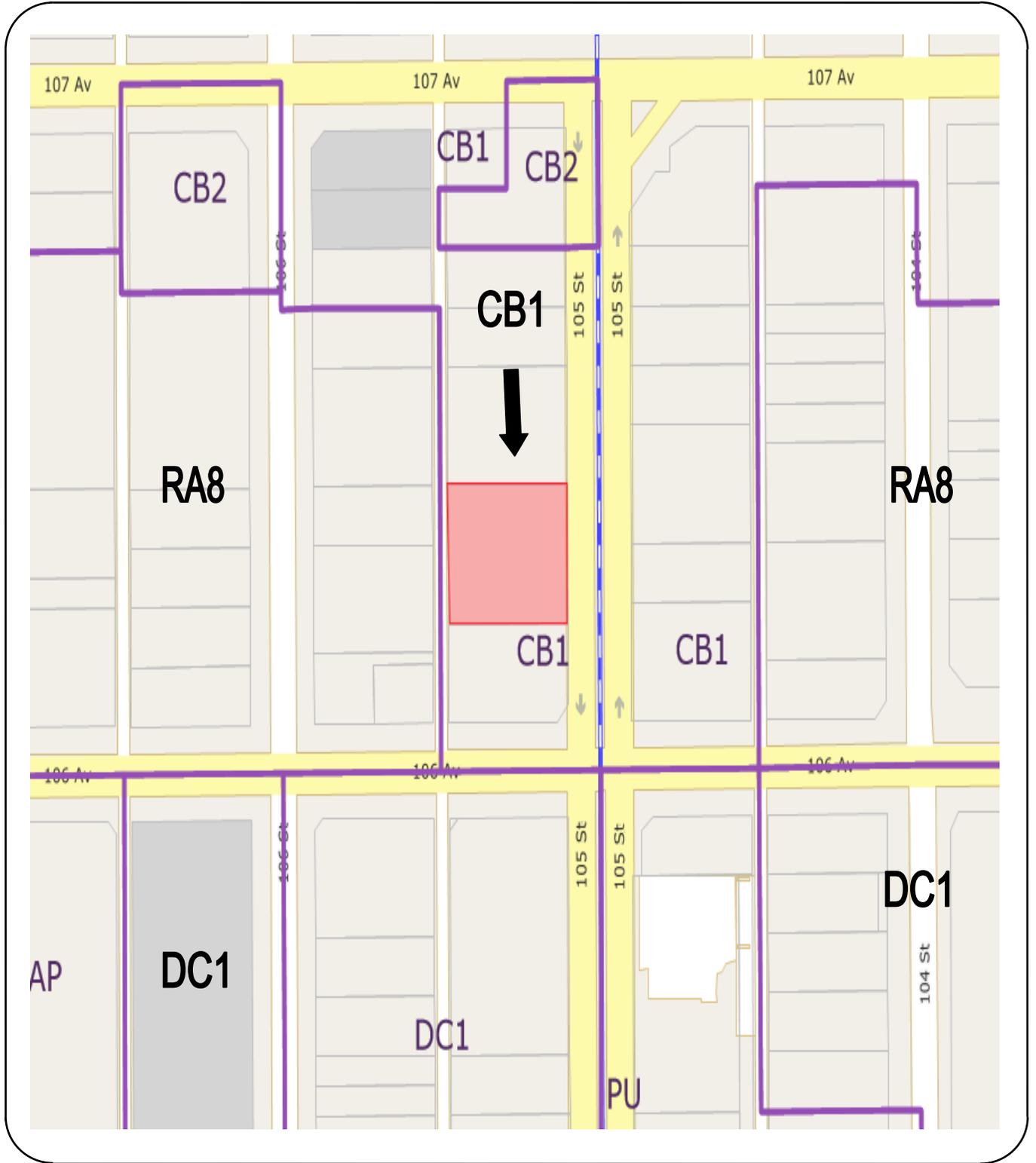
Application for Major Development Permit

Project Number: **280807879-001**
Application Date: APR 30, 2018
Printed: June 15, 2018 at 11:53 AM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$835.00	\$835.00	04979602	Apr 30, 2018
Sanitary Sewer Trunk Fund 2012+	\$1,629.00			
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$2,464.00</u>	<u>\$835.00</u>		
(\$1,629.00 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-105



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-120

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

APPELLANT:

APPLICATION NO.: 282112638-001

APPLICATION TO: Operate a Major Home Based Business (Make up, Esthetics and Hair Styling - IMH STUDIOS)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: June 6, 2018

DATE OF APPEAL: June 29, 2018

NOTIFICATION PERIOD: June 12, 2018 through July 3, 2018

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4136 - Cameron Heights Point NW

LEGAL DESCRIPTION: Plan 1424124 Blk 16 Lot 31

ZONE: (RSL) Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: Cameron Heights Neighbourhood Area Structure Plan

Grounds for Appeal

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

The main reason for our opposition is because we believe the business is situated too close to other residents in the area, and as a result will cause both traffic and safety concerns.

If this business is to be approved, traffic will become a huge issue for the inhabitants of the cul-de-sac. The cul-de-sac has a radius of approximately 35 feet, which is the smallest area possible for a

residential cul-de-sac, as well as limited space for parking and a tight exit. If this business is to open, the coming and going of noise and traffic that will be imposed upon the small area will be stressful and potentially dangerous for all residents located around the store. Especially because Cameron Heights is such a new neighbourhood with many young families and children, including mine, that may be harmed living in such a congested area. The business will also bring various people from outside into the community. If this business was a day-care or after school program, it would make sense to be located in a peaceful neighbourhood. However, it is a commercial business put in a residential area and the coming and going of strangers coming into this community does not benefit the neighbourhood or the families living here. A business should be run in a business area. People should be able to live in a residential area without all the encumbrances that belong in a business area. Overall, this business creates traffic concerns and the development of such a commercial business in a relatively quiet neighbourhood raises issues and problems that are bound to arise in the future.

We urge you to consider these points and thank you for your time.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on July 5, 2018:

"That the appeal hearing will be scheduled for August 15 or 16, 2018."

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;

...

- (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 115.3(4), 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:

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 states that 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 states 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: 282112638-001 Application Date: MAY 11, 2018 Printed: June 29, 2018 at 2:36 PM 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) 4136 - CAMERON HEIGHTS POINT NW Plan 1424124 Blk 16 Lot 31										
Scope of Permit To operate a Major Home Based Business (Make up, Aesthetics and hair styling - IMH STUDIOS)											
Permit Details <table border="1" data-bbox="266 800 1174 961"><tr><td># of business related visits/day: 2</td><td># of vehicles at one time: 2</td></tr><tr><td>Administration Office Only?: N</td><td>Business has Trailers or Equipment?: N</td></tr><tr><td>Class of Permit: Class A</td><td>Description of Business: makeup, aesthetics and hair styling business in the home.</td></tr><tr><td>Do you live at the property?: Y</td><td>Expiry Date: 2023-06-06 00:00:00</td></tr><tr><td>Outdoor storage on site?: N</td><td></td></tr></table>		# of business related visits/day: 2	# of vehicles at one time: 2	Administration Office Only?: N	Business has Trailers or Equipment?: N	Class of Permit: Class A	Description of Business: makeup, aesthetics and hair styling business in the home.	Do you live at the property?: Y	Expiry Date: 2023-06-06 00:00:00	Outdoor storage on site?: N	
# of business related visits/day: 2	# of vehicles at one time: 2										
Administration Office Only?: N	Business has Trailers or Equipment?: N										
Class of Permit: Class A	Description of Business: makeup, aesthetics and hair styling business in the home.										
Do you live at the property?: Y	Expiry Date: 2023-06-06 00:00:00										
Outdoor storage on site?: N											
I/We certify that the above noted details are correct. Applicant signature: _____											
Development Permit Decision Approved											



Project Number: **282112638-001**
 Application Date: MAY 11, 2018
 Printed: June 29, 2018 at 2:36 PM
 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. Clients visit must be by-appointment only and appointments shall not overlap.
7. There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
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 neighborhood.
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 ****06/06/2023****.

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.

Issue Date: Jun 06, 2018 **Development Authority:** ZIOBER, MELISSA



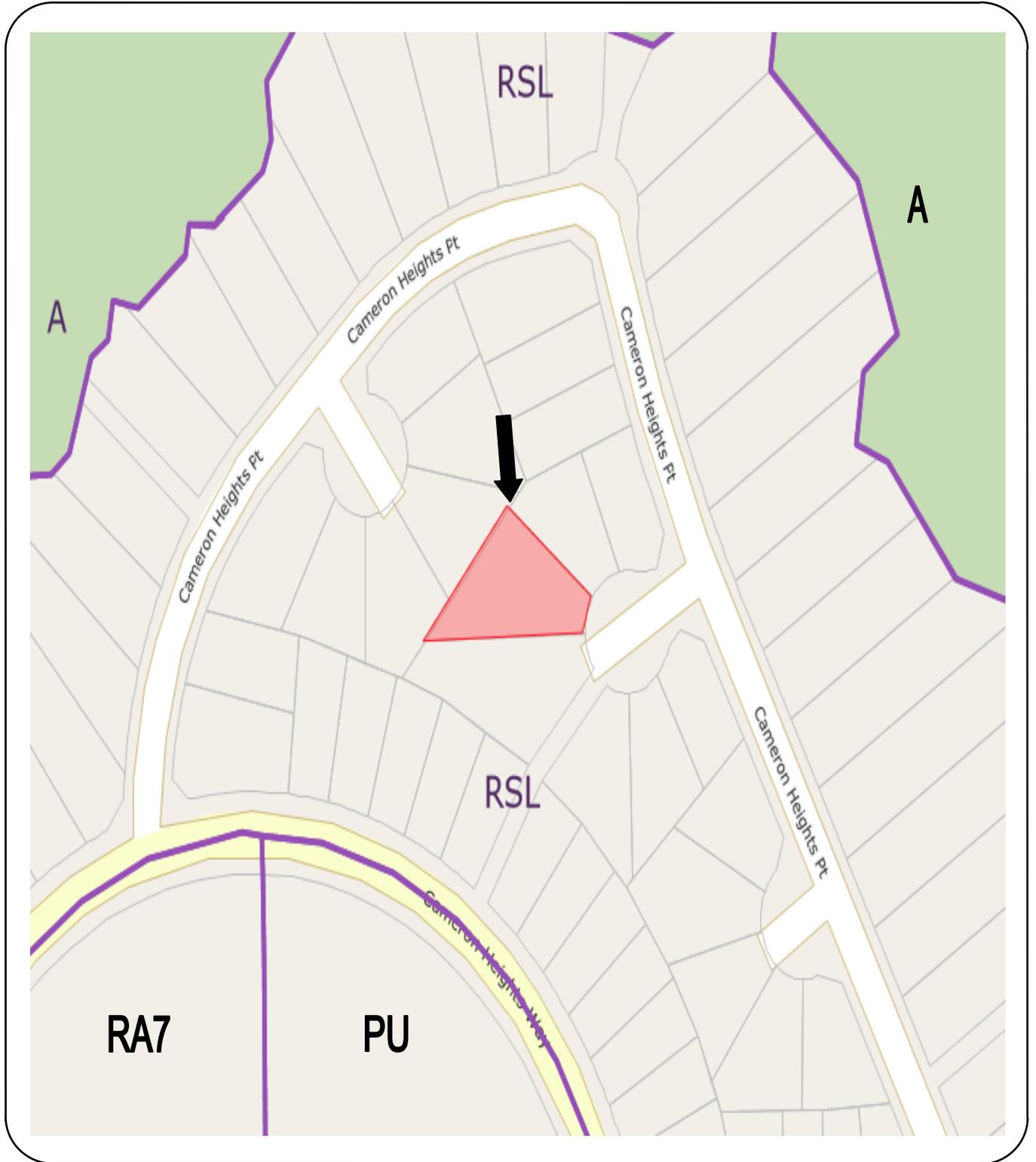
Project Number: **282112638-001**
Application Date: MAY 11, 2018
Printed: June 29, 2018 at 2:36 PM
Page: 3 of 3

Home Occupation

Notice Period Begins: Jun 12, 2018 Ends: Jul 03, 2018

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$316.00	\$316.00	05011147	May 11, 2018
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$316.00	<u>\$316.00</u>		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-120

