SUBDIVISION

AND

DEVELOPMENT APPEAL BOARD

AGENDA

Wednesday, 9:00 A.M. August 7, 2019

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

SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING ROOM NO. 2

Ι	9:00 A.M.	SDAB-D-19-118	Operate a Major Home Based Business (Administration Office for Lawn Care Services LAWN TECH INC) expires June 27, 2024
			11931 - 140 Avenue NW Project No.: 153667830-003
II	10:30 A.M.	SDAB-S-19-005	Create two (2) additional Single Detached Residential Lots
			9739 - 155 Street NW Project No.: 301232305-001

APPELLANT:

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-118

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

APPLICATION NO.:	153667830-003
APPLICATION TO:	Operate a Major Home Based Business (Administration Office for Lawn Care Services - LAWN TECH INC) expires June 27, 2024
DECISION OF THE DEVELOPMENT AUTHORITY:	Approved with conditions
DECISION DATE:	June 27, 2019
DATE OF APPEAL:	July 12, 2019
NOTIFICATION PERIOD:	July 4, 2019 through July 25, 2019
RESPONDENT:	
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	11931 - 140 Avenue NW
LEGAL DESCRIPTION:	Plan 7823434 Blk 31 Lot 2
ZONE:	(RF1) Single Detached Residential Zone
OVERLAY:	N/A
STATUTORY PLAN:	N/A

Grounds for Appeal

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

City File #153667830-00 Location 11931 140 Avenue NW,

I am writing to appeal the development permit for subject location near my property at 11936 139Ave.

The traffic associated with the commercial trailers is not compatible for a residential back alley.

The trailers are picked up in the morning by sub-contractors or employees. The sub-contractors manoeuver their large pick-up trucks in the back alley and latch on to a trailer. They proceed out of the back alley to presumably do work elsewhere.

In the evening the subcontractors return down the back alley with their trailers in tow. They unlatch and proceed out of the back ally.

Please note the permit request is to allow the use of up to 4 trailers. Last year I have notice the storage of 4 or more trailers already on this property.

The following is the impact when the trucks are in the back alley latching onto their trailer

-Through traffic is impeded.

-The manoeuvering of my vehicles in and out of our garage has to be done extra carefully because of the space limitation caused by the trailer hook ups.

-Parents and grandparents have to extra cautious of their kids who may wander into the back alley

The back alley is being used as a commercial muster point. This is not appropriate for a residential area.

I recommend that the permit be rescinded.

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

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- (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 clauses (a.4) and (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 110.3(4), a Major Home Based Business is a Discretionary Use in the (RF1) Single Detached Residential Zone.

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

a 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 nonresident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution. Section 110.1 states that the **General Purpose** of **(RF1) Single Detached Residential Zone** is:

to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.

Discretionary Use

Development Officer's Determination

1. Discretionary Use - Major Home Based Business is approved as a Discretionary Use in the RF1 Zone (Section 110.3.4). [unedited]

Section 75 – Major Home Based Business Regulations

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 onsite 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 <u>Dwelling</u> or <u>Accessory</u> 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.

Development Officer's Determination

2. Outdoor storage - Allow the storage of up to 4 small trailers associated with the business on the rear driveway (Section 75.5). [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.

	Project Number: 153667830 -(Application Date: MAR 27, Printed: June 27, 2019 at 11:51 Page: 1
Home O	ocupation
This document is a record of a Development Permit application, and the limitations and conditions of this permit, of the Edmonton Zoning	a record of the decision for the undertaking described below, subject t g Bylaw 12800 as amended.
Applicant	Property Address(es) and Legal Description(s) 11931 - 140 AVENUE NW
	Plan 7823434 Blk 31 Lot 2
	Specific Address(es)
	Entryway: 11931 - 140 AVENUE NW
	Building: 11931 - 140 AVENUE NW
Scope of Permit	•
To operate a Major Home Based Business (Administration Offi 2024.	ce for Lawn Care Services - LAWN TECH INC). Expires June 27,
Permit Details	
# of businesss related visits/day: 1	# of vehicles at one time: 1
Administration Office Only?: N	Business has Trailers or Equipment?: Y
Class of Permit: Class B	Description of Business: Administration office for a Lawn Care Services, 1 employee, business related storage in rear detached garage and driveway up to 4 small trailers. Hours of Operation, Monday to Friday 9 am to 5 pm.
Do you live at the property?: Y Outdoor storage on site?: Y	Expiry Date: 2024-06-27 00:00:00
I/We certify that the above noted details are correct.	
Applicant signature:	
Development Permit Decision Approved Issue Date: Jun 27, 2019 Development Authority: FOLKM	AN, JEREMY

	Project Number: 153667830-003 Application Date: MAR 27, 2019 Printed: June 27, 2019 at 11:51 AM Page: 2 of 3				
Home Occupation					
Subject to the Following Conditions This Development Permit is NOT valid until the Notification Period expires in accordance	e to Section 21. (Reference Section 17.1)				
Unless otherwise stated, all references to "section numbers" refer to the authority under th amended.	he Edmonton Zoning Bylaw #12800, as				
1. The business use must be secondary to the residential use of the building and no aspect detectable from outside the property (Section 7.3(8)).	ts of the business operation shall be				
2. There shall be no exterior signage, display or advertisement other than a business ident in size located on the Dwelling (Section 74.1).	tification plaque or Sign 10.0 cm x 30.5 cm				
3. There shall be no mechanical or electrical equipment used that creates external noise, o home electronics equipment in adjacent Dwellings (Section 74.2).	or visible and audible interference with				
4. The Minor Home Based Business shall not employ any person on-site other than a resi	ident of the Dwelling (Section 74.3).				
5. There shall be no outdoor business activity, or outdoor storage of materials or equipme the site. Indoor storage shall only be allowed inside the Dwelling (Section 74.4)	ent associated with the business allowed on				
6. The Minor Home Based Business shall not change the principal character or external a	ppearance of the Dwelling (Section 74.5).				
7. This Development Permit may be cancelled at any time if the Home Based Business as (Section 17.2).	s stated in the Permit Details changes				
8. The Minor Home Based Business shall not require more than one business associated v	visit per day (Section 7.3(8)).				
9. Any commercial vehicle, loaded or unloaded, having a maximum gross vehicle weight a Residential Zone (Section 45.1).	t (G.V.W.) exceed 4500 kg is prohibited in				
Notes:					
 An approved Development Permit means that the proposed development has been rever It does not remove obligations to conform with other legislation, bylaws or land title instr Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or ease (Section 5.2). 	ruments such as the Municipal				
2. This Development Permit is not a Business License.					
3. This Development Permit is for an Administration Office only.					
4. The site shall not be used as a daily rendezvous for employees or business partners.					
5. The site shall not be used by employees or business partners as a parking or storage loc	cation.				
6. All commercial, industrial and overweight vehicles shall be parked at an approved stor be revoked if any commercial, industrial and overweight vehicles are parked or stored at					
7. All commercial and industrial equipment, including but not limited to Bobcat and Sea- equipment shall be stored at an approved storage facility.	-can, are not permitted at the site. The				

				Project Number: 153667830 - Application Date: MAR 27, Printed: June 27, 2019 at 11:5 Page:
]	Home Occup	ation	
Variances 1. Discretionary Use	- Major Home Based B	usiness is approved as a	Discretionary Use	in the RF1 Zone (Section 110.3.4).
2. Outdoor storage - A	Allow the storage of up	to 4 small trailers assoc	ciated with the busin	ess on the rear driveway (Section 75.5).
Rights of Appeal This approval is subje Amendment Act.	ct to the right of appeal	l as outlined in Chapter	24, Section 683 thro	ugh 689 of the Municipal Government
Notice Period Begin	s:Jul 04, 2019	Ends: Jul 25, 2019		
'S	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee Total GST Amount:	\$321.00 \$0.00	\$321.00	05740513	Mar 27, 2019
Totals for Permit:	\$321.00	\$321.00		



ITEM II: 10:30	<u>A.M.</u>	FILE: SDAB-S-19-005	
	AN APPEAL FROM THE DECISION OF T	HE SUBDIVISION AUTHORITY	
	APPELLANT:		
	APPLICATION NO.:	301232305-001	
	APPLICATION TO:	Create two (2) additional Single Detached Residential Lots	
	DECISION OF THE SUBDIVISION AUTHORITY:	Refused	
	DECISION DATE:	June 27, 2019	
	DATE OF APPEAL:	July 9, 2019	
	MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	9739 - 155 Street NW	
	LEGAL DESCRIPTION:	Plan 5058ET Blk 16 Lot 3	
	ZONE:	(RF1) Single Detached Residential Zone	
	OVERLAY:	Mature Neighbourhood Overlay	
	STATUTORY PLAN:	Jasper Place Area Redevelopment Plan	

Grounds for Appeal

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

Disagreement with decision of Subdivision Authority.

General Matters

Appeal Information:

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

Appeals

678(1) The decision of a subdivision authority on an application for subdivision approval may be appealed

- (a) by the applicant for the approval,
- (b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- (c) by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the municipal planning commission of the municipality is not the subdivision authority, or
- (d) by a school board with respect to
 - (i) the allocation of municipal reserve and school reserve or money in place of the reserve,
 - (ii) the location of school reserve allocated to it, or
 - (iii) the amount of school reserve or money in place of the reserve.

(2) An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681

- (a) with the Municipal Government Board
 - (i) if the land that is the subject of the application is within the Green Area as classified by the Minister responsible for the Public Lands Act,
 - (ii) if the land that is the subject of the application contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site, or
 - (iii) in any other circumstances described in the regulations under section 694(1)(h.2),

or

(b) in all other cases, with the subdivision and development appeal board.

(2.1) Despite subsection (2)(a), if the land that is the subject-matter of the appeal would have been in an area described in subsection (2)(a) except that the affected Government department agreed, in writing, to vary the distance under the subdivision and development regulations, the notice of appeal must be filed with the subdivision and development appeal board.

(3) For the purpose of subsection (2), the date of receipt of the decision is deemed to be 7 days from the date the decision is mailed.

(4) A notice of appeal under this section must contain

- (a) the legal description and municipal location, if applicable, of the land proposed to be subdivided, and
- (b) the reasons for appeal, including the issues in the decision or the conditions imposed in the approval that are the subject of the appeal.

(5) If the applicant files a notice of appeal within 14 days after receipt of the written decision or the deemed refusal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board.

Hearing and decision

680(1) The board hearing an appeal under section 678 is not required to hear from any person or entity other than

- (a) a person or entity that was notified pursuant to section 679(1), and
- (b) each owner of adjacent land to the land that is the subject of the appeal,

or a person acting on any of those persons' behalf.

(1.1) For the purposes of subsection (1), "adjacent land" and "owner" have the same meanings as in section 653.

(2) In determining an appeal, the board hearing the appeal

- (a) must act in accordance with any applicable ALSA regional plan;
- (a.1) must have regard to any statutory plan;
- (b) must conform with the uses of land referred to in a land use bylaw;
- (c) must be consistent with the land use policies;
- (d) must have regard to but is not bound by the subdivision and development regulations;

- (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;
- (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

Approval of application

654(1) A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any growth plan under Part 17.1, any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,
- (c) the proposed subdivision complies with this Part and Part 17.1 and the regulations under those Parts, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.
- (**1.1**) Repealed 2018 c11 s13.

(1.2) If the subdivision authority is of the opinion that there may be a conflict or inconsistency between statutory plans, section 638 applies in respect of the conflict or inconsistency.

(2) A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,

- (a) the proposed subdivision would not
 - (i) unduly interfere with the amenities of the neighbourhood, or
 - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.
- (3) A subdivision authority may approve or refuse an application for subdivision approval.

General Provisions from the Edmonton Zoning Bylaw:

Section 110.2(1) states:

Site regulations for Single Detached Housing:

- a. the minimum Site area shall be 250.8 m^2
- b. the minimum Site Width shall be <u>7.5 m</u>; and
- c. the minimum Site depth shall be <u>30.0 m</u>.

Section 41.1(3) states the following with respect to Lot Dimensions and Areas:

The Subdivision Authority may not approve the subdivision of a Lot zoned RF1, as it existed on March 16, 2015 into more than two lots, notwithstanding the Site Width in the RF1 Zone. Subdivision into more than two Lots may only be approved where the proposed subdivision:

- a. is supported by one or more City Council approved Statutory Plans or City Council approved Policies; or
- b. has a Site Width deemed by the Subdivision Authority to be in character with Lots on the same block.

Under section 6.1, Site means "an area of land consisting of one or more abutting Lots."

Under section 6.1, **Site Depth** means "the distance between the mid-points of the Front Lot Line and the mid-points of the Rear Lot Line."

Section 110.1 states that the **General Purpose** of the **(RF1) Single Detached Residential Zone** is "to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing."

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.



June 27, 2019

Subdivision Authority

7th Floor, Edmonton Tower 10111 – 104 Avenue NW Edmonton, Alberta T5J 0J4

File No. LDA19-0017

RE: Tentative plan of subdivision to create two (2) additional single detached residential lots from Lot 3, Block 16, Plan 5058 ET located south of 98 Avenue NW and east of 155 Street NW; WEST JASPER PLACE

The Subdivision by Plan is REFUSED on June 27, 2019 for the following reasons:

 The proposed subdivision does not comply with the Development Regulations identified in Section 41.1(3) of the City of Edmonton Zoning Bylaw 12800:

"The Subdivision Authority may not approve the subdivision of a Lot zoned RF1, as it existed on March 16, 2015 into more than two lots, notwithstanding the Site Width in the RF1 Zone.

The application proposes to subdivide the subject lot, which is zoned (RF1) Single Detached Residential Zone, into two (2) additional single detached residential lots for a total of three (3) lots. This is one (1) lot more than is allowed in Section 41.1(3) of the City of Edmonton Zoning Bylaw 12800.

The proposal will also result in Site Depths and Site Areas that are uncharacteristically small when compared to adjacent properties. For example, with the exception of the lot immediately east of the subject lot, the depth of the properties on the block face are approximately 45 m. The proposed lot depth for Lots 3A, 3B, and 3C is 22.27 m which is 50.51% less than the lots on the block face.

With the exception of the lot immediately east of the subject lot and two lots southwest of the subject lot, site areas for surrounding properties are approximately 675 square meters. The proposed site area for Lots 3A, 3B and 3C is 226.26 square meters which is 66.48 % less than most of the lots on the block face and 33.84% less than the two smallest lots southwest of the subject lot. Therefore, the proposal is out of character with the existing block face and surrounding properties.

- The proposed subdivision does not comply with the minimum development regulations identified in Section 110.4(1)(c) of the City of Edmonton Zoning Bylaw 12800. The site is zoned (RF1) Single Detached Residential Zone. The minimum site depth identified in the RF1 Zone for single detached housing is 30.0 metres. The site depth of the proposed lots is 22.27 metres and is therefore deficient by 7.73 metres or 25.76%.
- The proposed subdivision does not comply with the minimum development regulations identified in Section 110.4(1)(a) of the City of Edmonton Zoning Bylaw 12800. The site is zoned (RF1) Single Detached Residential Zone. The minimum site area identified in the RF1 Zone for

single detached housing is 250.8 square metres. The site area of the proposed lots is 226.26 square metres and is therefore deficient by 24.54 square metres or 9.78%.

- 4. The proposed subdivision will create three (3) non-conforming lots that do not meet the site depth and site area development regulation in the Edmonton Zoning Bylaw 12800. This situation will create unnecessary hardship for existing and future landowners. Landowners wishing to further develop or redevelop their site will require a Development Permit variance.
- 5. Given the absence of a lane to provide access to the existing site, access to the proposed lots must be from 155 Street NW or 98 Avenue NW. This would not align with the general intent of the Residential Infill Guidelines, which "should respect the role of lanes not only as a primary vehicular access route but as a factor in maintaining the livability of neighbourhoods" (City of Edmonton Policy C551, General Principle #8). The creation of two (2) additional lots instead of one (1) additional lot exacerbates the situation by requiring two (2) additional front driveways instead of one (1) additional front driveway.

Front driveways have negative impacts on the neighbourhood, including:

- Compromising pedestrian walkability and safety in a mature neighbourhood by increasing the interaction between private vehicle space and public pedestrian space along the sidewalk;
- Breaking up the streetscape by expanding the amount of hard surface along the boulevard. Landscaped boulevards help to demarcate the pedestrian realm from vehicular traffic;
- c. Decreasing public landscaping by removing mature trees, their root systems, and/or turf on boulevards;
- d. Limiting front yard landscaping opportunities for the proposed lots; and
- e. Reducing the availability of on-street parking in a mature neighbourhood since vehicles cannot park in front of driveways.

Please be advised that an appeal may be lodged in accordance to Section 678 of the Municipal Government Act with the Subdivision and Development Appeal Board, 10019 – 103 Avenue NW, Edmonton Alberta, T5J 0G9, within 14 days from the date of the receipt of this decision. The date of receipt of the decision is deemed to be seven (7) days from the date the decision is mailed.

If you have further questions, please contact Gilbert Quashie-Sam at gilbert.quashie-sam@edmonton.ca or 780-496-6295.

Regards, Blair McDowell

Subdivision Authority

BM/gq/Posse #301232305-001 Enclosure

File No. LDA19-0017





