

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
December 8, 2016**

**Hearing Room No. 3  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 3**

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I	9:00 A.M.	SDAB-D-16-263	Erect a fence higher than 1.2m in a Side Yard abutting a public roadway other than a lane.  10336 - 80 Street NW Project No.: 188934610-001
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II	10:30 A.M.	SDAB-D-16-319	Change the use of a Warehouse Sales business to a Restaurant with an outdoor patio and maximum seating of 122, and to construct interior alterations. (Impero)  11807 - 105 Avenue NW Project No.: 224601991-003
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III	1:30 P.M.	SDAB-D-16-320	Construct and operate a Temporary Shelter Service (51 beds temporary trailer for 2 years)  10006 - 105A Avenue NW Project No.: 229347797-001
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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-16-263

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 188934610-001

APPLICATION TO: Erect a Fence higher than 1.2 metres in a Side Yard abutting a public roadway other than a lane.

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 12, 2016

DATE OF APPEAL: September 28, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10336 - 80 Street NW

LEGAL DESCRIPTION: Plan 3922HW Blk 36 Lot 19

ZONE: RF3 Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

***Grounds for Appeal***

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

I have had a turbulent relationship with my neighbour, since I have moved into my house. She first started killing plants that were growing on my side against the chain link fence, and snapping flowers. My plants have been affected by weed killer that she sprays along the fence line. There had been many instances of garbage being thrown into my garden from her, which has been witnessed by some of my neighbours, who will also testify to this fact. The issue culminated in the neighbour throwing animal intestines in to my garden. I was alerted to this by the presence of numerous flies. I am a strict vegetarian and I consider this to be a hate crime. I have had the police investigate, and a file is present reflecting this crime. I was advised the fence hinders a view for a car. She does not drive, and has a back alley garage, for when she did drive.

Even if the decorative screen was reduced to the height of the chain link fence a car driving from the house the driver would still not be able to see over it. Since the erection of the fence things had improved between us, and it is a testament to the saying "good fences make good neighbours". Thank you for your consideration into this matter.  
[unedited]

**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.

**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 within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
  - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

The decision of the Development Officer is dated September 12, 2016. The Notice of Appeal was filed on September 28, 2016. The Canada Post registered mail receipt confirms delivery on September 15, 2016, signed by "A. Tillay".

**Determining an Appeal**

**Hearing and decision**

**687(3)** In determining an appeal, the subdivision and development appeal board

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the 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*:**

Section 140.1 states that the **General Purpose** of the **RF3 Small Scale Infill Development Zone** is:

... to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four Dwellings, and including Secondary Suites under certain conditions.

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

...to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

Under Section 140.2(9), **Single Detached Housing** is a **Permitted Use** in the RF3 Small Scale Infill Development Zone.

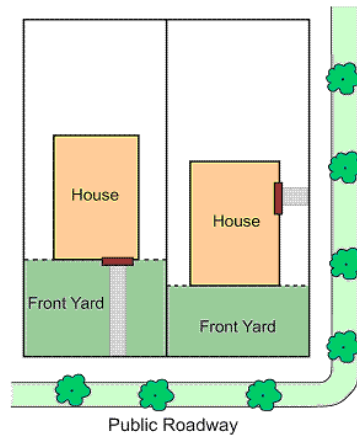
Section 6.1(2) states:

**Accessory** means, when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.

Section 6.1(34) defines **Fence** as “a structure constructed at ground level, used to prevent or restrict passage, provide visual screening, noise attenuation, Landscaping, or to mark a boundary.”

Section 6.1(41) provides as follows:

**Front Yard** means “the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



***Fences, Walls, Gates, and Privacy Screening in Residential Zones***

Section 49(1)(d) states:

On an Interior Site, the Height of a Fence, wall, or gate shall not exceed:

- i. 1.2 m for the portion of the Fence, wall, or gate constructed in the Front Yard, and
- ii. 1.85 m in all other Yards.

**Development Officer’s Determination:**

Section 49(4)(a) - A fence on a Site in a Residential Zone shall be less than or equal to 1.2 m in Height for the portion of the fence that extends beyond the foremost portion or portions of the principal building on the Site, into the Front Yard.


Proposed Fence Height in Front Yard: 1.83 m  
Exceeds by: 0.63 m [unedited].

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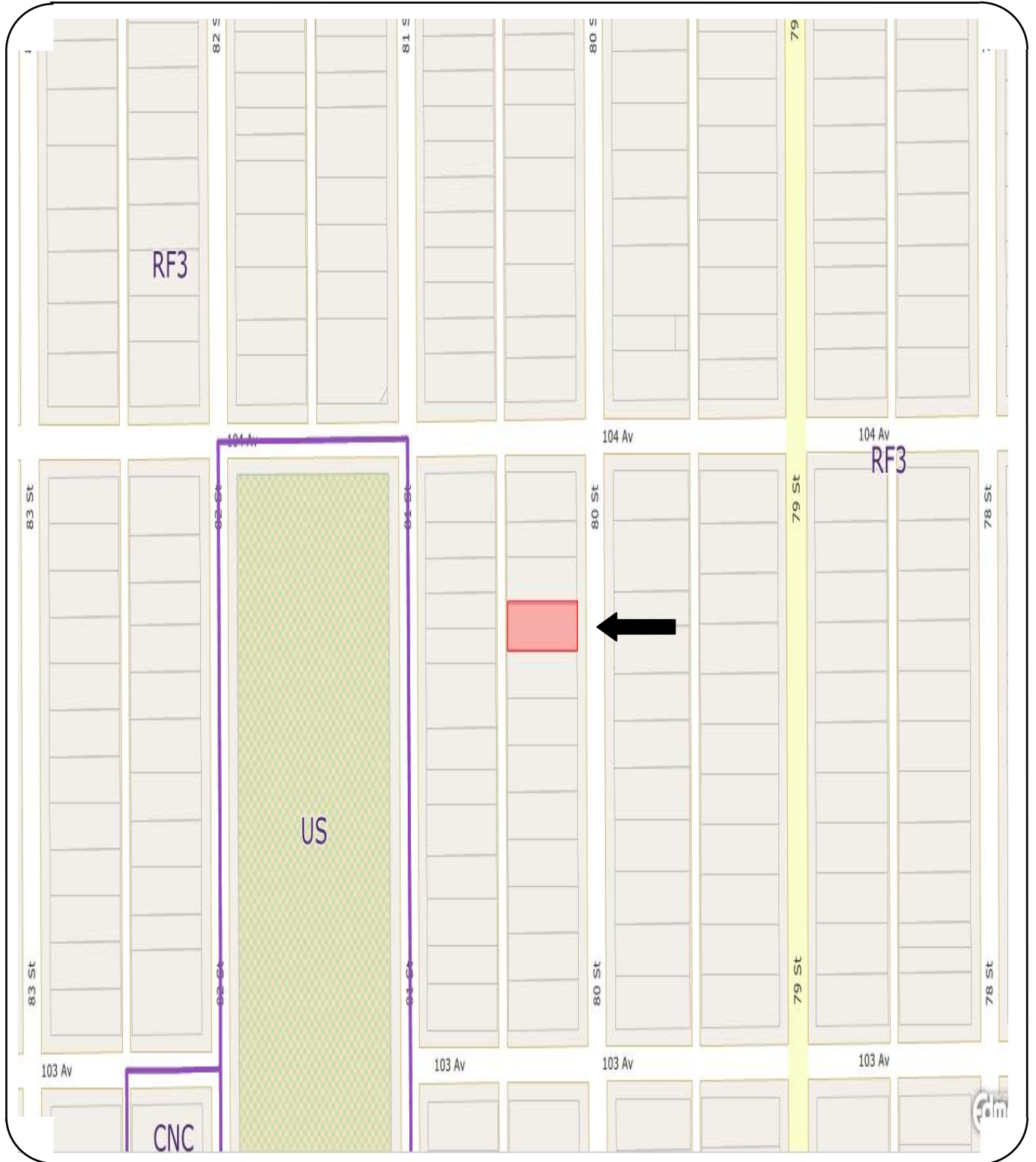
Notice to Applicant/Appellant

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. 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*.

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	Project Number: <b>188934610-001</b> Application Date: MAR 21, 2016 Printed: September 12, 2016 at 3:32 PM Page: 1 of 1																									
<h2 style="margin: 0;">Application for Minor Development Permit</h2>																										
This document is a Development Permit Decision for the development application described below.																										
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 10336 - 80 STREET NW Plan 3922HW Blk 36 Lot 19  <b>Specific Address(es)</b> Suite: 10336 - 80 STREET NW Suite: BSMT, 10336 - 80 STREET NW Entryway: 10336 - 80 STREET NW Building: 10336 - 80 STREET NW																									
<b>Scope of Application</b> To erect a fence higher than 1.2m in a Side Yard abutting a public roadway other than a lane.																										
<b>Permit Details</b>  <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">                     # of Dwelling Units Add/Remove: 0                      Client File Reference Number:                      Minor Dev. Application Fee: Fence                      Secondary Suite Included?: N                 </td> <td style="width: 50%; border: none;">                     Class of Permit: Class B                      Lot Grading Needed?: N                      New Sewer Service Required: N                      Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay                 </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Fence Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay																							
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I/We certify that the above noted details are correct.  Applicant signature: _____																										
<b>Development Application Decision</b> Refused  <b>Reason for Refusal</b> Section 49(4)(a) - A fence on a Site in a Residential Zone shall be less than or equal to 1.2 m in Height for the portion of the fence that extends beyond the foremost portion or portions of the principal building on the Site, into the Front Yard.  Proposed Fence Height in Front Yard: 1.83 m Exceeds by: 0.63 m  <b>Rights of Appeal</b> 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: Sep 12, 2016    Development Authority: WATTS, STACY    Signature: _____																										
<b>Fees</b> <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 30%;"></th> <th style="width: 15%; text-align: right;">Fee Amount</th> <th style="width: 15%; text-align: right;">Amount Paid</th> <th style="width: 15%; text-align: right;">Receipt #</th> <th style="width: 25%; text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$165.00</td> <td style="text-align: right;">\$165.00</td> <td style="text-align: right;">03143342</td> <td style="text-align: right;">Mar 21, 2016</td> </tr> <tr> <td>DP Notification Fee</td> <td style="text-align: right;">\$41.00</td> <td style="text-align: right;">\$41.00</td> <td style="text-align: right;">03143342</td> <td style="text-align: right;">Mar 21, 2016</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$206.00</td> <td style="text-align: right; border-top: 1px solid black;">\$206.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$165.00	\$165.00	03143342	Mar 21, 2016	DP Notification Fee	\$41.00	\$41.00	03143342	Mar 21, 2016	Total GST Amount:	\$0.00				Totals for Permit:	\$206.00	\$206.00		
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<b>THIS IS NOT A PERMIT</b>																										





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-16-263



ITEM II: 10:30 A.M.

FILE: SDAB-D-16-319

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

APPELLANT:

APPLICATION NO.: 224601991-003

ADDRESS OF APPELLANT: 11729 - 105 Avenue NW

APPLICATION TO: Change the use of a Warehouse Sales business to a Restaurant with an outdoor patio and maximum seating of 122, and to construct interior alterations. (Impero)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: November 3, 2016

DATE OF APPEAL: November 16, 2016

RESPONDENT:

ADDRESS OF RESPONDENT: 11807 - 105 Avenue NW

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11807 - 105 Avenue NW

LEGAL DESCRIPTION: Plan 9220996 Blk B Lot 9C

ZONE: Direct Control District DC2.743

OVERLAY: N/A

STATUTORY PLAN: - 104 Avenue Corridor Area  
Redevelopment 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:

Parking in the area is already in short supply. The subject building has inadequate on-site parking. Existing businesses already find parking to be in short supply. Nearby condos use street parking.

I received a notice of Development Permit for the above file number, 11817 105 Avenue, a restaurant with 122 seats. According to the Notice, the site is deficient by 58 parking stalls. The 34 parking stalls on the property serve the entire multi-tenant property, which consists of a fitness gym, a coffee house/eatery, a retail fabric store, and 2 vacant bays (one of which is the proposed restaurant location).

The building was originally built as one large warehouse, with the railroad tracks on the south side of the building. There is no alley or other access to the building except on the north side, which is 105 Ave. The south side now has the Oliver Square shopping development, which is private property. Sun Life, owner of Oliver Square, has graciously allowed emergency exit from the subject building but does not allow access or parking.

Street parking is limited to one side of the street only. Nearby residents in condos that have one parking space per unit (but who have more than one car) utilize street parking, as do customers and employees of the businesses located in the subject building. At times, street parking is also used by the nearby restaurant equipment auction house, as well as overflow from the funeral home and Greek Community Centre. Historically, parking has been a problem due to insufficient on site parking for the gym customers and coffee shop patrons. The on site parking is often utilized at capacity.

I do not know how many parking stalls the City requires for a fitness gym with employees and customers,, nor a coffee shop with inside and outside seating, nor a retail fabric store. In practice, however, the number needed exceeds the number available. Add to this the two empty bays in the building whatever goes in there will require parking as well.

A restaurant with 122 seats, if it were 2/3 full, that would be 80 customers or 40 couples, plus employees (let's say 6 employees drive). 46 parking stalls exceeds the amount present for the whole building by almost 1/4!

We own the building next door, at 11729 105 Ave, an office/warehouse building with 8 tenancies. We have an adjacent parking lot that is sufficient for the needs of our tenants and their customers, as well as space for truck deliveries. We do not allow the general public to park in our lot, only tenants and their customers, and historically we have had problems with the gym and coffee shop patrons parking in our lot. We have had to have offending cars ticketed and on a couple of occasions towed. This causes bad feelings between the customers, the owners of the businesses, and us.

Please reconsider granting of this permit. [unedited]

***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.

**685(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 within 14 days,

...

- (b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given *in accordance with the land use bylaw*. [emphasis added]

The *Edmonton Zoning Bylaw 12800* provides as follows:

**20. Notification of Issuance of Development Permits**

**20.2 Class B Development**

1. Within seven days of the issuance of a Development Permit for a Class B Discretionary Development, the Development Officer shall dispatch a written notice by ordinary mail to all relevant parties listed below that are wholly or partially within 60.0 m of the boundaries of the Site which is the subject of the Development Permit:

- a. each assessed owner of the Site or a part of the Site of the development;
  - b. each assessed owner of land;
  - c. the President of each Community League; and
  - d. the President of each Business Revitalization Zone.
2. The notice shall describe the development and state the decision of the Development Officer, and the right of appeal therefrom.
  3. Within 10 days of the issuance of a Development Permit for Class B Discretionary Development, the Development Officer shall cause to be published in a daily newspaper circulating within the City, a notice describing the development and stating their decision, and the right to appeal therefrom.
  4. Where, in the opinion of the Development Officer, a proposed development is likely to affect other owners of land beyond 60.0 m, the Development Officer shall notify owners of land at such additional distance and direction from the Site as, in the opinion of the Development Officer, may experience any impact attributable to the development.

The decision of the Development Officer is dated November 3, 2016. Notice of the development was published in the Edmonton Journal on November 10, 2016. The Notice of Appeal was filed on November 16, 2016.

### **Direct Control Districts**

The *Municipal Government Act* states:

#### **Designation of direct control districts**

**641(1)** The council of a municipality that has adopted a municipal development plan, if it wishes to exercise particular control over the use and development of land or buildings within an area of the municipality, may in its land use bylaw designate that area as a direct control district.

**(2)** If a direct control district is designated in a land use bylaw, the council may, subject to any applicable statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary.

**(3)** In respect of a direct control district, the council may decide on a development permit application or may delegate the decision to a development authority with directions that it considers appropriate.

**(4)** Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority’s decision.

**General Provisions from the *Edmonton Zoning Bylaw*:**

Section DC2.743.1 states that the **General Purpose** of this Site Specific Direct Control District is:

To establish a district that will allow for the continuation and upgrading of general industrial uses while allowing for conversion and redevelopment of obsolete industrial uses to commercial office and general business uses.

Under Section DC2.743.3(bb), **Restaurants** are a **Listed Use** in this Direct Control District.

Section 7.4(45) states:

**Restaurants** mean development where the primary purpose of the facility is the sale of prepared foods and beverages to the public, for consumption within the premises or off the Site. Minors are never prohibited from any portion of the establishment at any time during the hours of operation. This Use Class typically has a varied menu, with a fully equipped kitchen and preparation area, and includes fast food and family restaurants.

***Parking***

Section DC2.743.4(j) states: “Developments in this district shall be evaluated with respect to compliance with the General Development Regulations of Sections 50 to 79, inclusive, of the Land Use Bylaw.”

Under the current *Edmonton Zoning Bylaw 12800*, the General Development Regulations are contained in Sections 40 to 61. Schedule 1 of Section 54.2 deals with vehicular parking requirements as follows:

<b>Schedule 1(A) Areas outside of the Downtown Special Area</b>	
<b>Use of Building or Site</b>	<b>Minimum Number of Parking Spaces or Garage Spaces Required</b>

<b>Non-residential Use Classes</b>	
<b>Commercial Use Classes</b>	
24. Restaurants	<p>Bylaw 17600 April 4, 2016</p> <p>1 parking space per 3.6 m<sup>2</sup> of Public Space except where the proposed development is on a Lot within the boundaries described in Section 54.2 Appendix II - Boundaries for Reduced Parking Requirement:</p> <p>a) 1 parking space per 24.0 m<sup>2</sup> of Public Space in the 124 Street and Area boundary;</p> <p>b) 1 parking space per 28.0 m<sup>2</sup> of Public Space in the Jasper Avenue and Area boundary;</p> <p>c) 1 parking space per 33.0 m<sup>2</sup> of Public Space in the Whyte Avenue and Area boundary.</p> <p>Notwithstanding the above, if the development permit application is for up to 50 occupants or 60.0 m<sup>2</sup> of Public Space and is located within one of the Boundaries for Reduced Parking Requirement, no parking is required.</p>

Under the old *Land Use Bylaw 5996*, the General Development Regulations are contained in Sections 50 to 79. Schedule 66A deals with vehicular parking requirements as follows:

Schedule 66A Vehicular Parking Spaces	
USE OF BUILDING OR SITE	MINIMUM NUMBER OF PARKING SPACES OR GARAGE SPACES REQUIRED
<b>Non-residential Use Classes (Outside the Boundaries of the Downtown Area Redevelopment Plan)</b>	
10) Eating and Drinking Establishments	1 per 4 seats.

**Development Officer’s Determination**

1. Parking - The Site has 34 parking spaces, instead of 92 (Schedule 66A, City of Edmonton Land Use Bylaw 5996)

**Board Officer's Comments**

DC2 (743) was passed by City Council on February 23, 2009, under Bylaw 15126. At that time, the old Land Use Bylaw 5996 was no longer in effect.

Section 2.7 of the *Edmonton Zoning Bylaw* states:

Unless there is an explicit statement to the contrary in a Direct Control District or Provision, any reference in a Direct Control District or Direct Control Provision to a land use bylaw shall be deemed to be a reference to the land use bylaw that was in effect at the time of the creation of the Direct Control District or Provision.

In *Parkdale-Cromdale Community League Association v Edmonton (City)*, 2007 ABCA 309, the Court of Appeal of Alberta held that section 2.7 of the *Edmonton Zoning Bylaw* applies only if there is an express cross-reference in a Direct Control Bylaw passed before 2001 to a provision of the old Land Use Bylaw 5996. In the absence of an express reference in the Direct Control Bylaw to the old Land Use Bylaw 5996, section 2.7 does not prevail over section 2.4 of the *Edmonton Zoning Bylaw*.

Section 2.4 of the *Edmonton Zoning Bylaw* states:

Subject only to the provisions in the Municipal Government Act respecting legal non-conforming Uses and notwithstanding the effect it may have on rights, vested or otherwise, the provisions of this Bylaw govern from the Effective Date onward. In particular, no application for a Development Permit shall be evaluated under the procedural or substantive provisions of the previous Land Use Bylaw after the Effective Date, even if the application was received before the Effective Date.

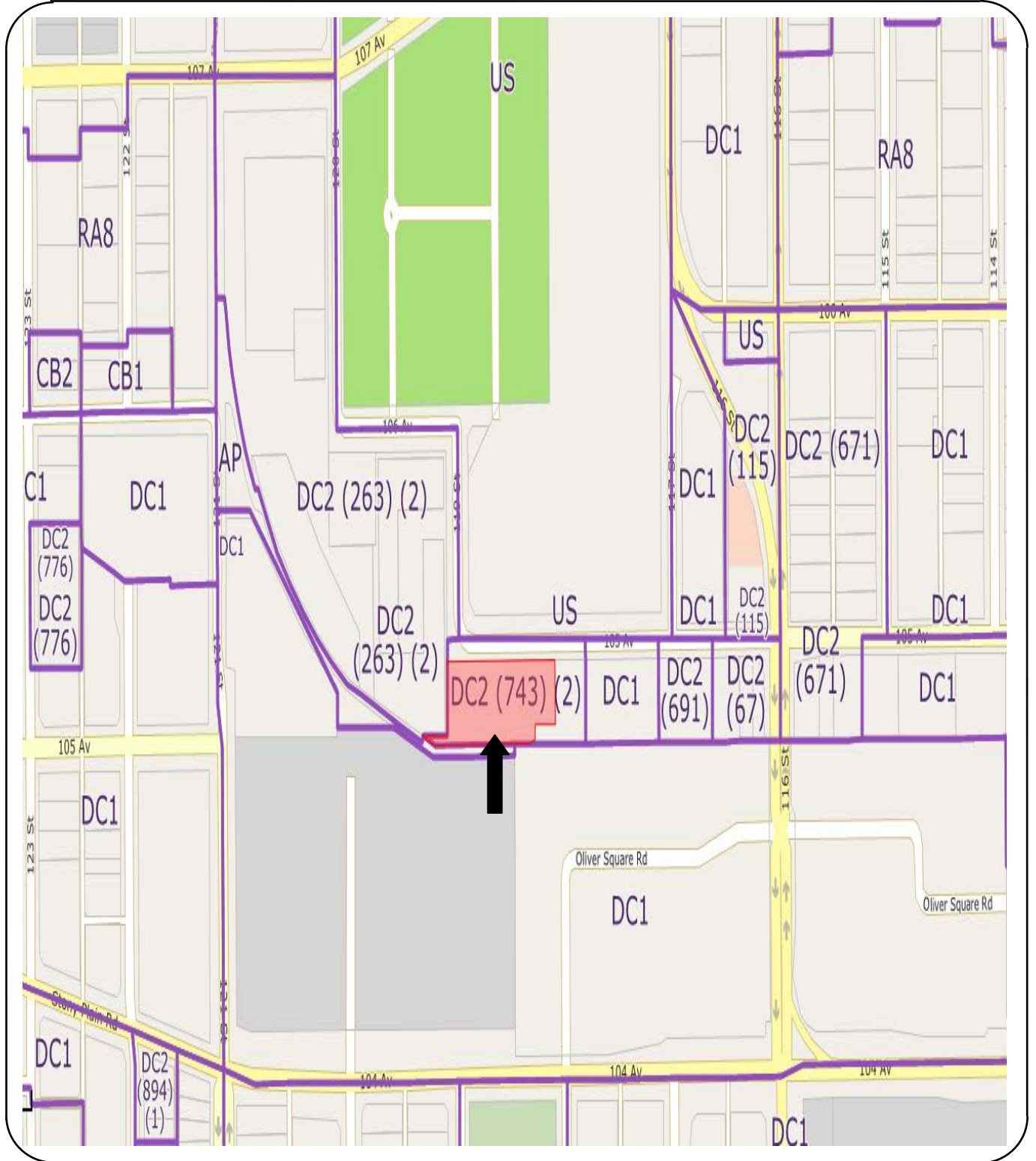
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**Notice to Applicant/Appellant**

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. 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*.

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**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-16-319



ITEM III: 1:30 P.M.

FILE: SDAB-D-16-320

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

APPELLANT:

APPLICATION NO.: 229347797-001

ADDRESS OF APPELLANT: 9644 - 108A Avenue NW

APPLICATION TO: Construct and operate a Temporary Shelter Service (51 beds temporary trailer for 2 years)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: October 28, 2016

DATE OF APPEAL: November 17, 2016

RESPONDENT:

ADDRESS OF RESPONDENT: 10006 - 105A Avenue NW

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10006 - 105A Avenue NW

LEGAL DESCRIPTION: Plan EF Lot 139

ZONE: US Urban Services Zone

OVERLAY: N/A

STATUTORY PLAN: Boyle Street/McCauley Area Redevelopment Plan

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***Grounds for Appeal***

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

The Development Officer has approved the development permit application "to construct and operate a Temporary Shelter Service (51 beds temporary trailer for 2 years)". The subject Use for this permit application is a Discretionary Use in the Urban Service (US) zone and I understand that the approval is subject to the right of appeal.

As President of the McCauley Community League I am appealing this decision. While the League supports the intent of this permit, providing shelter to people who are homeless this winter, we are concerned about the negative impact in our community of adding additional shelter beds, even on a temporary basis.

For over 7 years the League has had discussions with the City of Edmonton about achieving a more equitable distribution of non-market housing to other neighbourhoods in the City. Although the funding for this development came from the province, the granting of this permit is inconsistent with the spirit of the moratorium on non-market housing which City Council recently extended. Consequently, we feel the proponent needed to have a discussion with the City and the affected community before proceeding with this development. This consultation did not occur.

As I just learned about this proposed development, I have not been able to discuss with the development officer the rationale for granting this discretionary use. Between now and the appeal hearing the League will provide a more thoughtful rationale for opposing this development.

Thank you. [unedited]

<i>General Matters</i>
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**Appeal Information:**

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**Grounds for Appeal**

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(b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given *in accordance with the land use bylaw*. [emphasis added]

The *Edmonton Zoning Bylaw 12800* provides as follows:

**20. Notification of Issuance of Development Permits**

**20.2 Class B Development**

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  - b. each assessed owner of land;
  - c. the President of each Community League; and
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2. The notice shall describe the development and state the decision of the Development Officer, and the right of appeal therefrom.
3. Within 10 days of the issuance of a Development Permit for Class B Discretionary Development, the Development Officer shall cause to be published in a daily newspaper circulating within the City, a notice describing the development and stating their decision, and the right to appeal therefrom.
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The decision of the Development Officer is dated October 28, 2016. Notice of the development was published in the Edmonton Journal on November 3, 2016. The Notice of Appeal was filed on November 17, 2016.

**General Provisions from the *Edmonton Zoning Bylaw*:**

Section 510.1 states that the **General Purpose** of the **US Urban Services Zone** is “The purpose of this Zone is to provide for publicly and privately owned facilities of an institutional or community service nature.”

Under Section 510.3(19) **Temporary Shelter Services** are a **Discretionary Use** in the US Urban Services Zone.

Section 7.3(10) states:

**Temporary Shelter Services** means development sponsored or supervised by a public authority or non-profit agency for the purpose of providing temporary accommodation for persons requiring immediate shelter and assistance for a short period of time. Typical Uses include hostels and overnight shelters.

***Landscaping***

Section 55.3(1)(b)(i) states:

**Landscaping Requirements for Commercial, Industrial and Residential Multi-unit Project Development** for new development consisting of Residential-Related Use Classes, Commercial Use Classes, Industrial Use Classes, Basic Services Use Classes, and Community, Educational, Recreational and Cultural Service Use Classes, the number of trees and shrubs provided shall be determined on the basis of the following:

- i. the proportion of deciduous to coniferous trees and shrubs shall be approximately 50:50;

**Development Officer’s Determination**

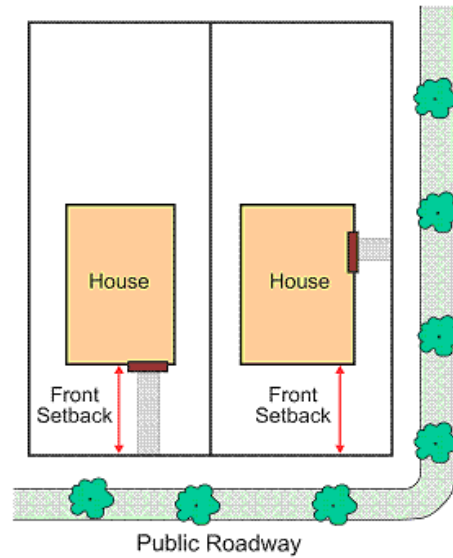
Landscaping - The site has zero trees and shrubs instead of 20 trees and 33 shrubs as required. (Section 55.3(1)(b)(i))

***Reduced Front Setback***

Section 510.4(1) states that “The minimum Front Setback shall be 6.0 m.”

Section 6.1(40) provides as follows:

**Front Setback** means the distance that a development or a specified portion of it, must be set back from a Front Lot Line. A Front Setback is not a Front Yard, Amenity Space or Separation Space.



**Development Officer’s Determination**

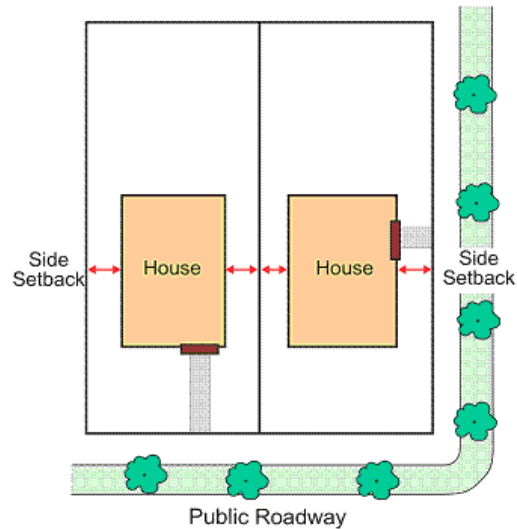
Reduced Front Setback - The distance from the temporary shelter trailers to the property line along 105A Avenue (front lot line) is 4.72 m instead of 6.0 m (Section 510.4.1).  
[unedited]

***Reduced Side Setback***

Section 510.4(3) states that “The minimum Side Setback shall be 4.5 m.”

Section 6.1(93) provides as follows:

**Side Setback** means the distance that a development or a specified portion of it, must be set back from a Side Lot Line. A Side Setback is not a Side Yard, Amenity Space or Separation Space.



**Development Officer's Determination**

Reduced Side Setback - The distance from the temporary shelter trailers to the property line shared with the abutting lot to the west and with 100 Street (side lot line) is 0.23 m instead of 4.5 m (Section 510.4.3). [unedited]

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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. 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*.


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Project Number: **229347797-001**  
Application Date: AUG 26, 2016  
Printed: December 1, 2016 at 1:22 PM  
Page: 1 of 3

### Major Development Permit

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.

<b>Applicant</b>  	<b>Property Address(es) and Legal Description(s)</b> 10006 - 105A AVENUE NW Plan EF Lot 139  <b>Specific Address(es)</b> Entryway: 10004 - 105A AVENUE NW Building: 10004 - 105A AVENUE NW
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**Scope of Permit**  
To construct and operate a Temporary Shelter Service (51 beds temporary trailer for 2 years).

<b>Permit Details</b>  Class of Permit: Class B Gross Floor Area (sq.m.): 370 New Sewer Service Required: N Site Area (sq. m.): 701.94	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
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I/We certify that the above noted details are correct.  
Applicant signature: \_\_\_\_\_

**Development Permit Decision**  
Appealed to SDAB

The permit holder is advised to read the reverse for important information concerning this decision.





Project Number: **229347797-001**  
 Application Date: AUG 26, 2016  
 Printed: December 1, 2016 at 1:22 PM  
 Page: 2 of 3

## Major Development Permit

### Subject to the Following Conditions

Subject to the following conditions:

1. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1) and is valid for only two years after that date. Any extension in duration shall require separate development approval. The temporary structures shall be removed from the subject property upon expiry of this development permit.
2. 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 and shall be developed to provide a safe lit environment and to the satisfaction of the Development Officer. (Reference Section 51 and 58 of the Edmonton Zoning Bylaw 12800.)
3. Bicycle parking shall be provided in accordance to Section 54.3 and to the satisfaction of the Development Officer.

Transportation Planning and Engineering Conditions of Approval:

1. The proposed gate must not swing out over road right-of-way. It must either swing into the property or slide along the fence. No objects (proposed temporary modular units, new fence) are permitted to encroach onto, over or under road right-of-way. The gate must be signed "No Vehicular Access", no vehicular access is permitted at this location. The gate must remain locked except to allow for the operation of the sewage pumper truck.
2. This development is proposed to be constructed up to the property line. The owner/applicant must enter into an Encroachment Agreement with the City for any pilings, shoring & tie-backs to remain within road right-of-way. The owner/applicant must email [sdencroachmentagreements@edmonton.ca](mailto:sdencroachmentagreements@edmonton.ca) for information on the agreement. The applicant is responsible to provide Development and Zoning Services with a plan identifying all existing utilities on road right-of-way within the affected area of the encroachment.
3. There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; [www.digshaw.ca](http://www.digshaw.ca)) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.
4. Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. OSCAM permit applications require Transportation Management Plan (TMP) information. The TMP must include:
  - the start/finish date of project;
  - accommodation of pedestrians and vehicles during construction;
  - confirmation of lay down area within legal road right of way if required;
  - and to confirm if crossing the sidewalk and/or boulevard is required to temporarily access the site.
 It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at:  
<http://www.edmonton.ca/transportation/onyourstreets/on-street-construction-maintenance-permit.aspx>
5. Any lane, sidewalk, or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Planning and Engineering, as per Section 15.5(f) of the Zoning Bylaw. The lane, sidewalks and boulevard will be inspected by Transportation Planning and Engineering prior to construction and again once construction is complete. All expenses incurred for repair are to be borne by the owner.

Notes:

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.

**The permit holder is advised to read the reverse for important information concerning this decision.**



Project Number: **229347797-001**  
 Application Date: AUG 26, 2016  
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## Major Development Permit

2. The proposed temporary Shelter Service units will result in the removal of 16 parking stalls in this lot adjacent to the Hope Mission. The parking that has been displaced on this site will be provided at other parking lots in the area, a letter from Alberta Infrastructure has confirmed this, as shown on Enclosure II.

3. The applicant is advised that upon completion of the 2 year term, Transportation Planning and Engineering will review the site. Access to the site will be reevaluated at that time. If the use is to be continued another Development Permit would be required to

**Variances**

Landscaping - The site has zero trees and shrubs instead of 20 trees and 33 shrubs as required. (Section 55.4.7)

Reduced Front Setback - The distance from the temporary shelter trailers to the property line along 105A Avenue (front lot line) is 4.72 m instead of 6.0 m (Section 510.4.1).

Reduced Side Setback - The distance from the temporary shelter trailers to the property line shared with the abutting lot to the west and with 100 Street (side lot line) is 0.23 m instead of 4.5 m (Section 510.4.3).

**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:** Oct 28, 2016    **Development Authority:** PRPICH, CYNDIE    **Signature:** \_\_\_\_\_  
**Notice Period Begins:** Nov 03, 2016    **Ends:** Nov 17, 2016

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$102.00	\$102.00	03588319	Sep 08, 2016
Major Dev. Application Fee	\$893.00	\$893.00	03555227	Aug 26, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$995.00	\$995.00		

**The permit holder is advised to read the reverse for important information concerning this decision.**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-16-320



***BUSINESS LAID OVER***

SDAB-D-16-293	An appeal by <u>Vishal Aggarwal</u> to change the Use of a General retail Store to a Major Alcohol Sales. <b><i>January 11, 2017</i></b>
SDAB-S-16-003	An appeal by <u>Stantec Consulting Ltd.</u> to create (1) additional rural residential lot <b><i>January 11, or 12, 2017</i></b>
SDAB-D-16-294	An appeal by <u>Wigalo Holdings Ltd.</u> to comply with a Stop Order to CEASE the Non-Accessory Parking, REMOVE all meters, signage, and material related to parking and REFRAIN from allowing Non-Accessory Parking. This Order is to be complied with on or before September 28, 2016. <b><i>January 18 or 19, 2017</i></b>
SDAB-D-16-295	An appeal by <u>Wigalo Holdings Ltd.</u> to comply with a Stop Order to CEASE the Non-Accessory Parking, REMOVE all meters, signage, and material related to parking and REFRAIN from allowing Non-Accessory Parking. This Order is to be complied with on or before September 28, 2016. <b><i>January 18 or 19, 2017</i></b>
SDAB-S-14-001	An appeal by <u>Stantec Consulting Ltd.</u> to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 <b><i>January 25, 2017</i></b>
SDAB-D-16-144	An appeal by <u>Kiewit Energy Canada Corp</u> construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <b><i>February 2017</i></b>

***APPEAL HEARINGS TO BE SCHEDULED***

231692613-001	An appeal by <u>Loan Star Jewellery &amp; Loans; and Inglewood Business Association VS Cash Canada</u> to change the use of a Restaurant to a Pawn Store, a Secondhand Store and a Professional, Financial and Office Support Service, and to construct interior alterations. (Cash Canada) <b><i>January 4 or 5, 2017</i></b>
230469969-001	An appeal by <u>Pattison Outdoor Advertising / Ogilvie LLP</u> to install (1) freestanding Minor Digital Off-premises Sign (14.6m x 4.3m digital panel facing South, and static panel facing North); and to remove an existing Freestanding Off-premises Sign on 2920-101 Street, existing Freestanding Off-premises Signs on 2303 Gateway Boulevard NW, and existing Freestanding Off-premises Sign on 2950 Calgary Trail NW as shown on plans submitted. (PATTISON - KBR CANADA LTD.) <b><i>January 26, 2017</i></b>
152674334-001	An appeal by <u>A&amp;E Architectural &amp; Engineering Group Inc.</u> to construct an Auctioneering Establishments building and operate an Auctioneering Establishment on the entire Site (including existing storage building and shed), and demolish an existing storage building (Osman Auction Inc.) <b><i>February 22, 2017</i></b>