

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
February 6, 2019**

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

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

I 9:00 A.M. SDAB-D-19-015

Construct two General Industrial Use buildings and to construct exterior alterations (vehicular access and retention pond) and to operate a General Industrial Use (temporary seacan storage)

10831 - 231 Street NW
Project No.: 286337282-001

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-19-015

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

APPELLANT 1:

APPELLANT 2:

APPLICATION NO.: 286337282-001

APPLICATION TO: Construct two General Industrial Use buildings and to construct exterior alterations (vehicular access and retention pond) and to operate a General Industrial Use (temporary seacan storage)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: December 13, 2018

DATE OF APPEAL (APPELLANT 1): January 9, 2019

DATE OF APPEAL (APPELLANT 2): January 10, 2019

RESPONDENT:

ADDRESS OF RESPONDENT: 10831 - 231 Street NW

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10831 - 231 Street NW

LEGAL DESCRIPTION: Plan 0627961 Blk 1 Lot 6

ZONE: IM Medium Industrial Zone

OVERLAY: N/A

STATUTORY PLAN: Winterburn Industrial ASP

Grounds for Appeal

APPELLANT 1, Owen Van Every, provided the following reasons for appealing the decision of the Development Authority:

I do not want containers in my back yard. They stack anywhere from 4 to 5 high. They operate 7 days a week. Listening to banging and clanging and beeping from the equipment sounding area from 6 in the morning till night time 7 days a week and we the people that live there in the mobile home park do not want it.

APPELLANT 2, 564573 Albert Ltd, o/a Westview Village MHC, provided the following reasons for appealing the decision of the Development Authority:

We are retained by the 564573 Alberta Ltd. operating as Westview Village MHC to appeal the Development Permit granted for City File # 286337282-001 to the Edmonton Subdivision and Development Appeal Board, which Class B Development Permit was approved by the City of Edmonton to the Applicant for the lands located at 10831-231 Street, Edmonton on December 14, 2018.

The legal description of the subject lands are as follows:

Plan 0627961
Block 1
Lot 6

(the "Lands")

The reasons for the appeal are as follows:

1. The development authority varied the requirements of the Land Use Bylaw in issuing the Development Permit for the permitted use of a temporary storage facility is a permitted use in accordance with Edmonton Zoning Bylaw 12800 for Medium Industrial Zone (the "IM zoning"). The Development Authority erred in approving the Development Permit as the proposed development unduly and materially impacts the residential use and is not in compliance with the Winterburn Industrial Area Structure Plan (the "Winterburn ASP").
2. Westview Village Manufactured Homes Community (the "Westview Village") is a 1061 unit manufactured home community located adjacent to the Lands. According to the 2009 Municipal Census, Westview Village had a population of approximately 2,331.
3. The Winterburn ASP contains Policy 3.3.3 for properties adjacent to Westview Village. Policy 3.3.3. addresses the visual impact of medium industrial lands adjacent to Westview village. Policy 3.3.3 was specifically amended by bylaw 17427 to provide as follows:

A 6 m wide landscaped buffer will be established at the Development Permit stage through the use of a 2.4 m high coniferous tree planting at 4.5 m spacing and a 1.8 m high chain link fence with visual screening vinyl strips.

3. The Development Authority erred in approving the Development Permit and erred in granting the variance as both are inconsistent with the objective of Policy 3.3.3 of the Winterburn ASP, which is to:

To limit impacts on the existing Westview Village residential from surrounding industrial and commercial land uses.

4. The approval allows for tree planting in the buffer zone along the west edge of Westview Village at a density below what is required by Policy 3.3.3. of the Winterburn ASP; ultimately allowing a development that is incompatible with the neighboring residential use of Westview Village.
5. The granting of a development permit for temporary storage should be accompanied by a restriction as to the maximum height of the items stored on the Lands.
6. Alternatively, if the maximum height of the stored items is to be set by the IM zoning, the one hundred and eighty (180) meters approved buffer area is inconsistent and offends the neighboring use of Westview Village. A greater buffer zone is necessary, if the Development Permit does not provide for a maximum height of the stored items.
7. There are currently sea containers being stacked and stored on the lands. Some of the stacks are five to six (5-6) sea containers in height.
9. The requirements of Policy 3.3.3 of the Winterburn ASP have not been abided by, as there has not been a six (6) meter landscape buffer established on the Lands and there have been no coniferous trees planted on the Lands.
10. Alternatively, if there have been trees planted on the Lands, the trees have been planted in a manner that is insufficient to satisfy the requirements of Policy 3.3.3 of the Winterburn ASP.
11. Furthermore, there has not been a 1.8 meter high chain link fence with visual screening strips constructed, installed, or placed on the Lands as required by the Winterburn ASP. At the current time there is no fence around the Lands.
12. The Development Authority erred in approving the Development Permit with a variance without requiring additional landscaping regulations pursuant to Section 55.6 of the IM zoning bylaw. Section 55.7(a) allows for the Development Officer to require additional landscaping to what is specified in Section 55 of the IM zoning bylaw. As Westview Village is an adjacent property, approval of the proposed use would result in an undesirable impact to Westview

Village due to, but not limited to, poor appearance, excessive noise, light, and dust. The residential use of the adjacent Westview Village should have warranted the Development Officer to require additional and extensive landscaping of the Lands being used as a medium industrial use. Furthermore, it would be unreasonable and inappropriate to grant the approval of a proposed development without consultation with a qualified landscape professional.

13. The IM zoning bylaw clearly contemplates the potential concerns medium industrial use will have on neighboring properties. The current situation is the extreme end of the spectrum with medium industrial use occurring adjacent to an established residential use.
14. The approved proposed development does not accord with the policy considerations. Setting a maximum height of the items being stored and requiring a buffer area in excess of the one hundred and eighty (180) meters would be necessary to achieve the objective of Policy 3.3.3 in the Winterburn ASP.
15. We also seek to appeal based on any other issues, including but not limited to, variances, requirements or non-compliance that we identify once we have had an opportunity to review the Development Permit and accompanying documentation.
16. In approving the proposed development, the Development Authority did not comply with the purpose and objectives of the Winterburn ASP and the policy considerations established in the IM zoning, including limiting the impacts on Westview Village from the surrounding industrial and commercial land uses.
17. The Subdivision and Appeal Board is required to comply with the Winterburn ASP.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

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,

...

- (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 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*:

Section 420.1 states that the **General Purpose** of the **IM Medium Industrial Zone** is:

to provide for manufacturing, processing, assembly, distribution, service and repair Uses that carry out a portion of their operation outdoors or require outdoor storage areas. Any nuisance associated with such Uses should not generally extend beyond the boundaries of the Site. This Zone should normally be applied on the interior of industrial areas adjacent to collector and local industrial public roadways such that Uses are separated from any adjacent residential areas by a higher quality Industrial or Commercial Zone.

Under section 420.2(6), **General Industrial Uses** is a **Permitted Use** in the IM Medium Industrial Zone.

Section 7.5(3) states:

General Industrial Uses means development used principally for one or more of the following activities:

- a. the processing of raw materials;
- b. the making, manufacturing or assembling of semi-finished or finished goods, products or equipment;
- c. the cleaning, servicing, repairing or testing of materials, goods and equipment normally associated with industrial or commercial businesses or cleaning, servicing and repair operations to goods and equipment associated with personal or household use, where such operations have impacts that would make them incompatible in Non-industrial Zones;
- d. the storage or transshipping of materials, goods and equipment;
- e. the distribution and sale of materials, goods and equipment to institutions or industrial and commercial businesses for their direct use or to General Retail Stores or other sales Uses defined in this Bylaw for resale to individual customers; or
- f. the training of personnel in general industrial operations.

This Use includes vehicle body repair and paint shops and Cannabis Production and Distribution licensed and operating pursuant to provincial or federal legislation. This Use does not include Major Impact Utility Services and Minor Impact Utility Services or the preparation of food and beverages for direct sale to the public.

Landscaping

Section 55.3(c) provides as follows:

55.3 General Planting Requirements

1. Unless otherwise specified in this Bylaw, Landscaping shall be provided in accordance with the following:

...

c. new trees and shrubs shall be provided on the following basis:

- i. the proportion of deciduous to coniferous trees and shrubs shall be approximately 50:50;
- ii. approximately 50% of required deciduous trees shall be minimum of 50 mm Caliper and approximately 50% shall be a minimum 70 mm Caliper;
- iii. approximately 75% of required coniferous trees shall be a minimum of 2.5 m in Height and approximately 25% shall be a minimum of 3.5 m in Height; and
- iv. minimum shrub size shall be 300 mm in Height for deciduous and a spread of 450 mm for coniferous;

Development Officer's Determination

Landscaping - The proportion of deciduous to coniferous trees and shrubs is 0:100, instead of 50:50 (Section 55.3(c))

Notice to Applicant/Appellant


Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within 15 days of the conclusion of the hearing.



Project Number: **286337282-001**
Application Date: JUN 29, 2018
Printed: January 10, 2019 at 9:23 AM
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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.

Applicant 	Property Address(es) and Legal Description(s) 10831 - 231 STREET NW Plan 0627961 Blk 1 Lot 6
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Scope of Permit
 To construct two General Industrial Use buildings and to construct exterior alterations (vehicular access and retention pond) and to operate a General Industrial Use (temporary seacan storage).

Permit Details	
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: Y Site Area (sq. m.): 97703	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)

I/We certify that the above noted details are correct.
 Applicant signature: _____

Development Permit Decision
 Approved
Issue Date: Dec 13, 2018 **Development Authority:** KIM, JENNIFER



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Major Development Permit

Subject to the Following Conditions

NOTE: This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Section 17.1)

1) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant/owner must enter into a servicing agreement to pay the development assessments listed below. The applicant/owner should contact Steve Jensen at 780-944-7673, upon issuance of the Development Permit, and when he/she is ready to initiate the servicing agreement and make payment. The following is for information purposes, and the rates shown are for the year 2018. The final payment amounts will be based on the prevailing rates at the time the applicant/owner pays and enters into a servicing agreement.

For the current DP#286337282-001 the assessment area is 2.618 ha. The assessment area is obtained from the drawings submitted with Application for Mayor Development Permit. The remaining area of 7.1523 ha (9.7703 ha – 2.618 ha) will be assessed at future application of subdivision, development permit or servicing connection application.

2) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Lot Grading Fee of \$2,266.71

3) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay an SSTC Fee of \$21,331.46

4) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Development Permit Inspection Fee of \$510.00

5) The development shall be constructed in accordance with the stamped and approved drawings.

6) All access locations and curb crossings shall have the approval of Transportation Services. Reference Section 53(1):

7) All required parking and loading facilities shall only be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the building or Use for which the parking and loading facilities are provided, and the parking and loading facilities shall not be used for driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind. (Reference Section 54.1.c)

8) Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51)

9) Landscaping shall be in accordance with the approved landscaping plan and Section 55 of the Zoning Bylaw, to the satisfaction of the Development Officer. Any changes to an approved Landscape Plan require the approval of the Development Officer prior to the Landscaping being installed. Landscaping shall be maintained in a healthy condition for a minimum of 24 months after the landscaping has been installed, to the satisfaction of the Development Officer. A Guaranteed Landscaping Security shall be provided to the City of Edmonton at the time of Development Permit Inspection, to the satisfaction of the Development Officer.

ADVISEMENTS:

a) 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.

b) This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.

c) Signs require separate Development Applications.

d) The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or



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Major Development Permit

as to the presence or absence of any environmental contaminants on the property.

e) An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site (Reference Section 5.2).

f) Upon the first Development Permit Inspection and determination that landscape construction has been completed in compliance with the approved Landscape Plan, 20% of the approved Guaranteed Landscape Security shall be collected and retained for a period of 24 months from the date of first Development Permit Inspection. Sites that are not completed or are not compliant with approved Landscape Plans at the first Development Permit Inspection, shall be required to submit a Security for incomplete work, up to and including the full value of the approved Guaranteed Landscape Security value.

SUBDIVISION PLANNING - TRANSPORTATION

CONDITIONS:

1. Access to the site from to 231 Street exists, as shown on Enclosure I and II. Any modification to the existing culvert crossing access requires the review and approval of Subdivision Planning.
2. 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) 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.
3. 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:

https://www.edmonton.ca/business_economy/licences_permits/oscam-permit-request.aspx and
<https://www.edmonton.ca/documents/ConstructionSafety.pdf>

4. Any boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Development Inspections, as per Section 15.5(f) of the Zoning Bylaw. All expenses incurred for repair are to be borne by the owner.

ADVISEMENTS:

1. With future development of the site, Subdivision Planning may require the reconstruction of the existing access to the site. The owner would be responsible for all costs associated with the construction.
2. An approved Concept drawing for the widening of 231 Street from Whitemud Drive to Yellowhead Trail (Enclosure II) was completed in 2012, however this project is unfunded therefore the timing of construction is unknown at this time. A portion of land is required from this parcel to accommodate the future widening the arterial road. It should also be noted that the design and location of the site access may be reviewed upon reconstruction or widening of 231 Street.
3. With all future subdivision and development of the site, Subdivision Planning asks that the applicant/owner respect the portion of land required for the future widening of 231 Street when developing or subdividing the site.



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Major Development Permit

Variations

Landscaping - The proportion of deciduous to coniferous trees and shrubs is 0:100, instead of 50:50 (Section 55.3(c))

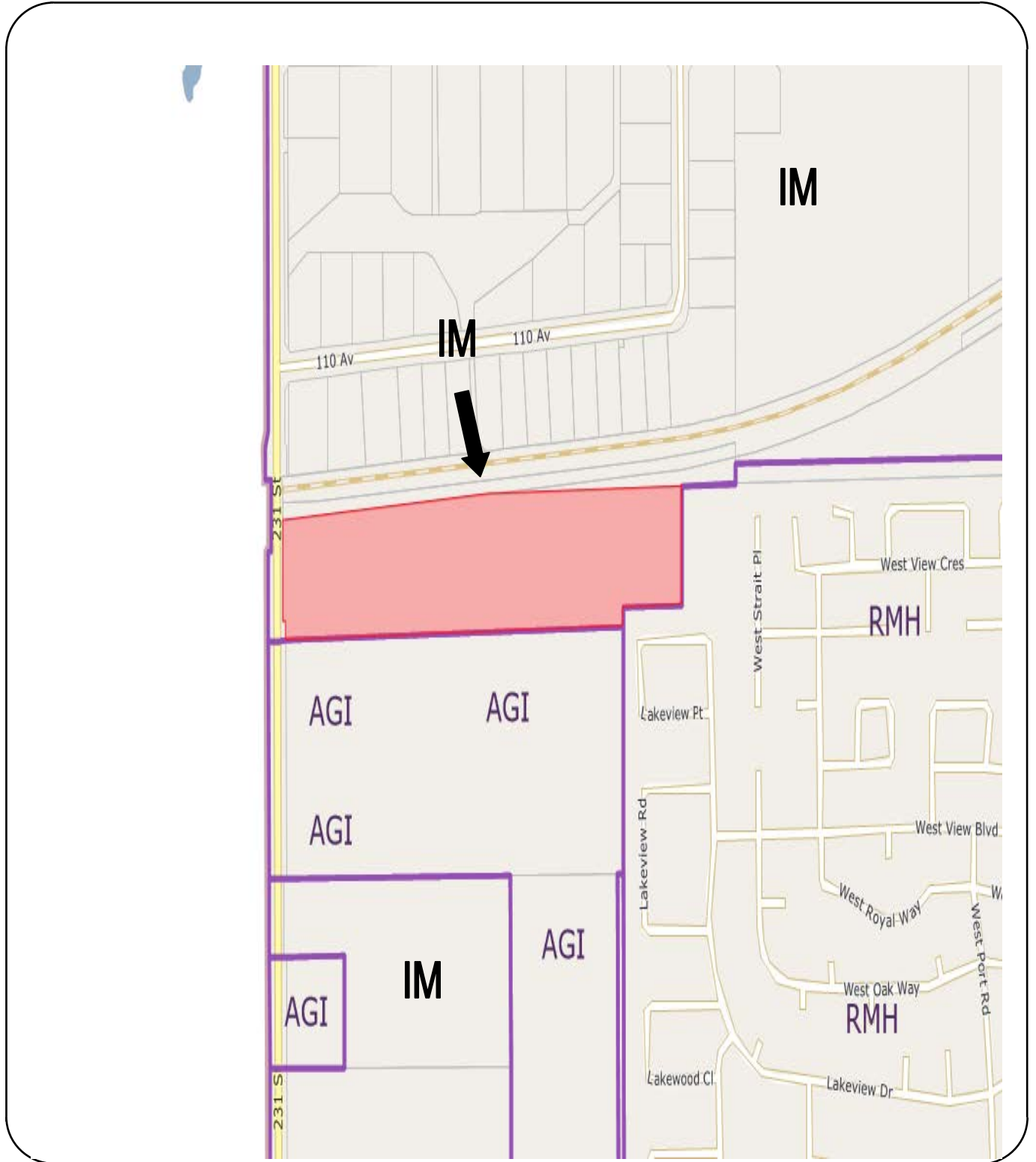
Rights of Appeal

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

Notice Period Begins: Dec 20, 2018 **Ends:** Jan 10, 2019

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$948.00	\$948.00	05163373	Jul 05, 2018
Development Permit Inspection Fee	\$510.00			
Lot Grading Fee	\$2,266.71			
Sanitary Sewer Trunk Fund 2012+	\$21,331.46			
Total GST Amount:	\$0.00			
Totals for Permit:	\$25,056.17	\$948.00		
(\$24,108.17 outstanding)				



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-015

