

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
January 8, 2020**

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

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

TO BE RAISED

I 9:00 A.M. SDAB-D-19-213 Construct a Single Detached House with front attached Garage, fireplace and Unenclosed Front Porch

12421 - GRAND VIEW DRIVE NW
Project No.: 325119909-001

II 10:30 A.M. SDAB-D-20-001 Operate a Major Home Based Business.
(Massage therapy - 7DCEO)

14604 - 106 AVENUE NW
Project No.: 340114368-001

III 1:30 P.M. SDAB-D-20-002 Install (1) Freestanding Off-premises Sign
(TANG BISTRO | OUTFRONT MEDIA)
Requesting Hearing Date of January 29, 2020

8715 - 109 STREET NW
Project No.: 327217651-001

NOTE: *Unless otherwise stated, all references to “Section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

TO BE RAISED
ITEM I: 9:00 A.M.

FILE: SDAB-D-19-213

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 325119909-001

APPLICATION TO: Construct a Single Detached House with front attached Garage, fireplace and Unenclosed Front Porch

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 29, 2019

DATE OF APPEAL: November 15, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12421 – Grand View Drive NW

LEGAL DESCRIPTION: Plan 1920810 Blk 12 Lot 11B

ZONE: (RF1) Single Detached Residential 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:

We are solicitors for Ping Du and Xin Li whose application for a Development Permit at the above captioned address was refused on October 29, 2019. On behalf of our client, we hereby appeal the Development Officer's refusal of their Permit application on the grounds that:

- Single detached housing is a Permitted Use in the RF1 Single Detached Residential Zone;

- The proposed variances to the regulations found in the Mature Neighbourhood Overlay and the RF1 Zone will not have any adverse impact on the use, enjoyment and value of neighbouring properties or the amenities of the neighbourhood;
- The proposed development is appropriate at the subject site; and
- Such further and other grounds as may be presented at the hearing of the within appeal.

<i>General Matters</i>

On December 11, 2019, the Subdivision and Development Appeal Board tabled SDAB-D-19-213 to January 8 or 9, 2020.

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,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, [...]

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to 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 110.2(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.2(8), **Single Detached Housing** means “development consisting of a building containing one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.”

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.”

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

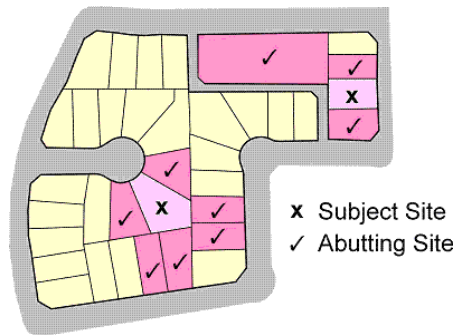
to regulate residential development in Edmonton’s mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Driveway

Section 814.3(17) states “Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue.”

Under section 6.1 **Abut** or **abutting** means:

immediately contiguous to or physically touching, and when used with respect to a lot or Site, means that the lot or Site physically touches upon another lot, Site, or piece of land, and shares a property line or boundary line with it;



Under section 6.1 **Lane** means “an alley as defined in the Traffic Safety Act.”

Under section 6.1 **Driveway** means “an area that provides for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”

Development Officer’s Determination

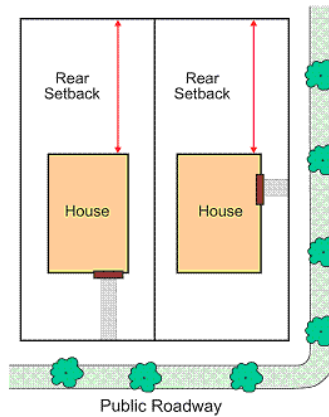
Driveway - The driveway is located off Grand View Drive (front) instead of the lane. (Section 814.3.17). [unedited]

Rear Setback

Section 814.3(4) states “the minimum Rear Setback shall be 40% of Site Depth, [...]”

Under section 6.1 **Rear Setback** means:

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



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.”

Development Officer’s Determination

Reduced Rear Setback: The distance from the principal Dwelling to the rear property line is 12.33m (30.97%) instead of 15.92 m (40%). Deficient by 3.59m. (Section 814.3.4) [unedited]

Community Consultation

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) and 814.3(9) of this Overlay:

- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;

- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit Application in accordance with Sections 11.3 and 11.4.

Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	814.3(17) – Driveway Access
Tier 2	The municipal address and assessed owners of the land Abutting the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site of the proposed development	814.3(4) – Rear Setback

Notice to Applicant/Appellant

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



Application for Minor Development Permit

Project Number: **325119909-001**
 Application Date: JUL 10, 2019
 Printed: October 29, 2019 at 12:39 PM
 Page: 1 of 1

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

Applicant <div style="border: 1px solid black; height: 60px; width: 100%;"></div>	Property Address(es) and Legal Description(s) 12421 - GRAND VIEW DRIVE NW Plan 1920810 Blk 12 Lot 11B
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Scope of Application
 To construct a Single Detached House with front attached Garage, fireplace and Unenclosed Front Porch.

Permit Details # of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: 1 Class of Permit: Lot Grading Needed?: Y 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: _____

Development Application Decision
 Refused

Issue Date: Oct 29, 2019 **Development Authority:** HETHERINGTON, FIONA

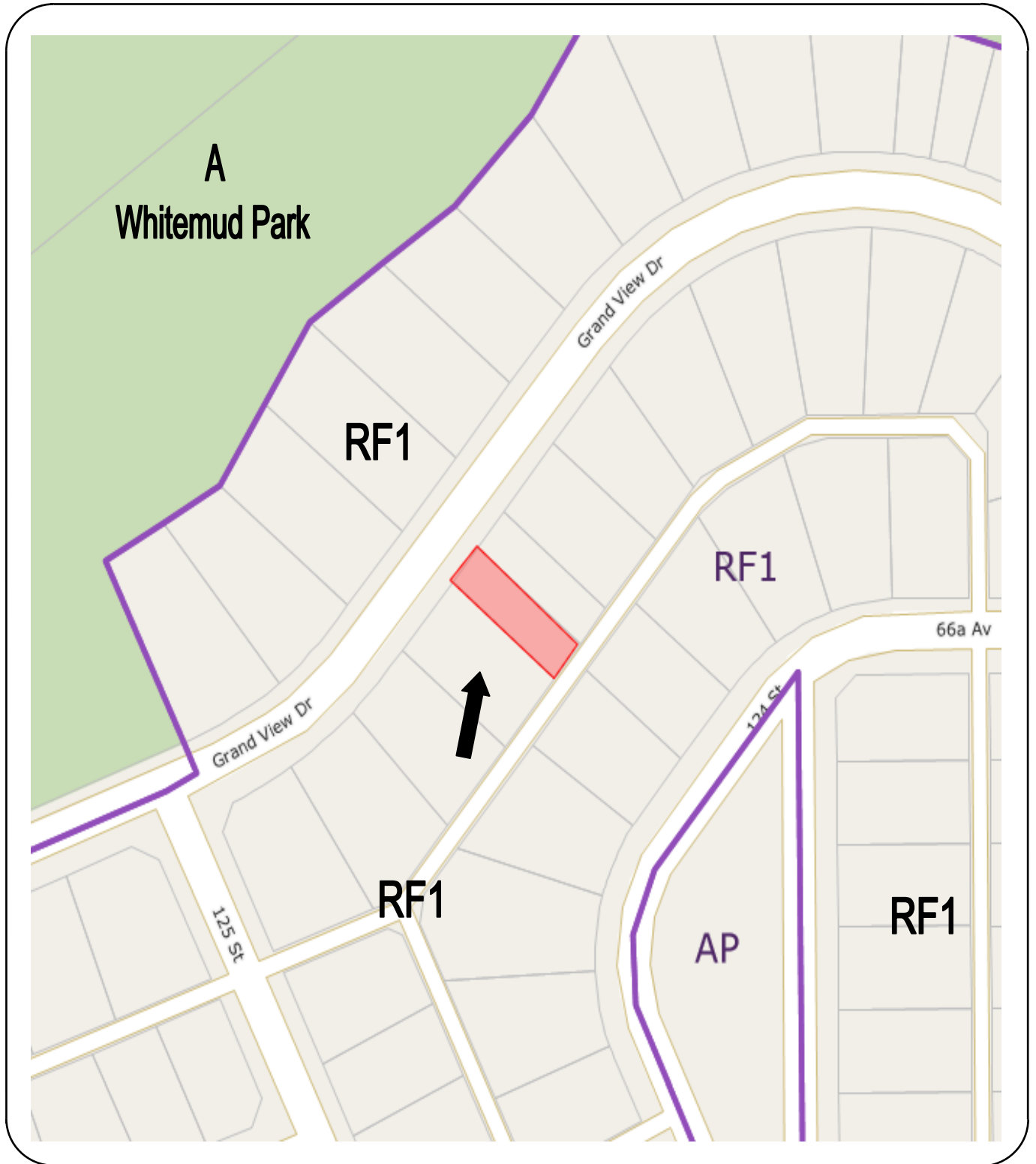
Reason for Refusal
 Driveway - The driveway is located off Grand View Drive (front) instead of the lane. (Section 814.3.17).

Reduced Rear Setback: The distance from the principal Dwelling to the rear property line is 12.33m (30.97%) instead of 15.92 m (40%). Deficient by 3.59m. (Section 814.3.4)

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

Fees	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$493.00	\$493.00	05985897	Jul 12, 2019
Development Permit Inspection Fee	\$207.00	\$207.00	05985897	Jul 12, 2019
Lot Grading Fee	\$145.00	\$145.00	05985897	Jul 12, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	\$845.00	\$845.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-213



ITEM II: 10:30 A.M.

FILE: SDAB-D-20-001

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 340114368-001

APPLICATION TO: Operate a Major Home Based Business.
(Massage therapy - 7DCEO)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 22, 2019

DATE OF APPEAL: December 5, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 14604 - 106 AVENUE NW

LEGAL DESCRIPTION: Plan 5887HW Blk 5 Lot 17

ZONE: RF1-Single Detached Residential 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:

Thank you for the opportunity to file an appeal regarding the aforementioned Project Number. I have recently moved into Edmonton. In searching for a place to live, I had been advised by other housing projects (apartments, condos and other multi-family sites) that running a business in those properties would not be acceptable. I therefore chose to rent the main floor of a house that would be easily accessible by clients and would not change the face of the neighborhood.

I am a sole proprietor of this business. As such, I do not have a waiting room and will never have one, nor will I be hiring staff to have onsite since I will only be working with one client at a time.

The City of Edmonton refusal was based on two issues: a Secondary Suite and Parking.

1. Secondary Suite:

The tenant in the Secondary Suite, Nelda Hinds, has signed a letter stating that she is not concerned with the running of a Massage Therapy business on the main floor. The treatments are therapeutic and relatively quiet with only background soothing music playing.

2. Parking:

Please view the photos attached.

As per Section 54.2, Schedule 1 (A).

Though parking on the street is not considered, please note:

- that this street is still one of the wider streets.

- the property is on the corner of the street. Thus, a client could park on either 146 street or on 107 Avenue – if they needed to and it would not impact the neighborhood. But they do not need to as there is ample parking in front of the garage.

Additionally, the photos verify that there is a large garage adjacent to the house. This garage has ample parking for 2 vehicles inside. Clients would be requested to park in the driveway where there is ample parking between the garage door and the city sidewalk. Though the space to the edge of the city property is not 5.5 metres, it is evident that the space from the front of the garage door to the city sidewalk adequately fits a good sized vehicle.

3. Generation of Pedestrian or Vehicular traffic. (Section 75.3)

There will be only 4 clients per day with a 30 minute buffer between clients. Therefore only one vehicle would be in the driveway and not likely on the street for parking. Since there would only be 4 clients per day at most, this does not impact the neighborhood negatively. One would not know if this was a client or a family friend dropping in for a visit.

As for pedestrian traffic, there are many people out walking with or without dogs all day long. Should a client choose to walk here for a treatment, it would not be noticed as an increase in pedestrian traffic.

I have worked as a Registered Massage Therapist for over 20 years. I am a member in good standing of the Canadian Massage and Manual Osteopathic Association. There is no danger of immoral business dealings occurring at this location. I have an honorable reputation and I serve my clients with upright values. I am also an avid promoter of local businesses.

As I went out into the community to meet the neighbors and obtain their feedback on how they felt about a Massage Therapy Business being here, the response was favorable – except for one person outside the 60 metre zone. He simply did not want to get involved nor sign anything.

This is a vibrant community and the neighbours seem to truly look out for each other. I am pleased to have chosen this neighborhood and I hope for a favorable outcome so that I may serve the people in this community.

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,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, [...]

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to 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), **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:

development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution.

Section 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.”

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

to regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Major Home Based Business regulations

Under section 75, a **Major Home Based Business** shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
3. **the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;**
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;
7. a Bed and Breakfast Operation, operating as a Major Home Based Business shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;
8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored;

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; and
- 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

1) A Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite. (Section 75.10)

Proposed: There is a Secondary Suite existing in the same Principal Dwelling as the Major Home Based Business.

3) The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located. (Section 75.3)

Proposed: Developments on this block are predominantly low-density Single Detached Housing. Parking requirements for the business are not met and may lead to increased street parking. This is uncharacteristic of the residential zone.

<i>Parking</i>

Section 54.2, Schedule 1(A)(8) states:

Use of Building or Site	Minimum Number of Parking Spaces Required
Major Home Based Business Except:	1 parking space in addition to parking required for principal Dwelling.
a. Bed and Breakfast	1 parking space per guest room is required in addition to the parking required for the principal Dwelling.

Section 54.2, Schedule 1(A)(2) states:

Use of Building or Site	Minimum Number of Parking Spaces Required
Secondary Suite	1 parking space in addition to the parking requirements for principal Dwelling.

Section 54.2, Schedule 1(A)(3) states:

Use of Building or Site	Minimum Number of Parking Spaces Required
Single Detached Housing	1 parking spaces per Dwelling


Development Officer's Determination

2) 1 parking space in addition to parking required for principal Dwelling with Secondary Suite. (Section 54.2 Schedule 1(A))

Required: 3 parking spaces
Proposed: 2 parking spaces
Deficient by 1 parking space

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.

	<h2 style="margin: 0;">Application for Home Occupation</h2>	Project Number: 340114368-001 Application Date: SEP 04, 2019 Printed: November 22, 2019 at 3:49 PM Page: 1 of 2		
This document is a Development Permit Decision for the development application described below.				
Applicant <div style="border: 1px solid black; width: 150px; height: 50px; margin: 0 auto;"></div>	Property Address(es) and Legal Description(s) 14604 - 106 AVENUE NW Plan 5887HW Blk 5 Lot 17 Specific Address(es) Suite: 14604 - 106 AVENUE NW			
Scope of Application To operate a Major Home Based Business. (Massage therapy - 7DCEO).				
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> # of business related visits/day: 4 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: N </td> <td style="width: 50%; border: none; vertical-align: top;"> # of vehicles at one time: 1 Business has Trailers or Equipment?: N Description of Business: Massage therapy services. Maximum of 4 clients per day, 0 courier or employee visits permitted. Expiry Date: </td> </tr> </table>			# of business related visits/day: 4 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: N	# of vehicles at one time: 1 Business has Trailers or Equipment?: N Description of Business: Massage therapy services. Maximum of 4 clients per day, 0 courier or employee visits permitted. Expiry Date:
# of business related visits/day: 4 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: N	# of vehicles at one time: 1 Business has Trailers or Equipment?: N Description of Business: Massage therapy services. Maximum of 4 clients per day, 0 courier or employee visits permitted. Expiry Date:			
I/We certify that the above noted details are correct. Applicant signature: _____				
Development Application Decision Refused Issue Date: Nov 22, 2019 Development Authority: WINGET, MARK Reason for Refusal 1) A Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite. (Section 75.10) Proposed: There is a Secondary Suite existing in the same Principal Dwelling as the Major Home Based Business. 2) 1 parking space in addition to parking required for principal Dwelling with Secondary Suite. (Section 54.2 Schedule 1(A)) Required: 3 parking spaces Proposed: 2 parking spaces Deficient by 1 parking space 3) The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located. (Section 75.3) Proposed: Developments on this block are predominantly low-density Single Detached Housing. Parking requirements for the business are not met and may lead to increased street parking. This is uncharacteristic of the residential zone.				
THIS IS NOT A PERMIT				



Application for Home Occupation

Project Number: **340114368-001**
Application Date: SEP 04, 2019
Printed: November 22, 2019 at 3:49 PM
Page: 2 of 2

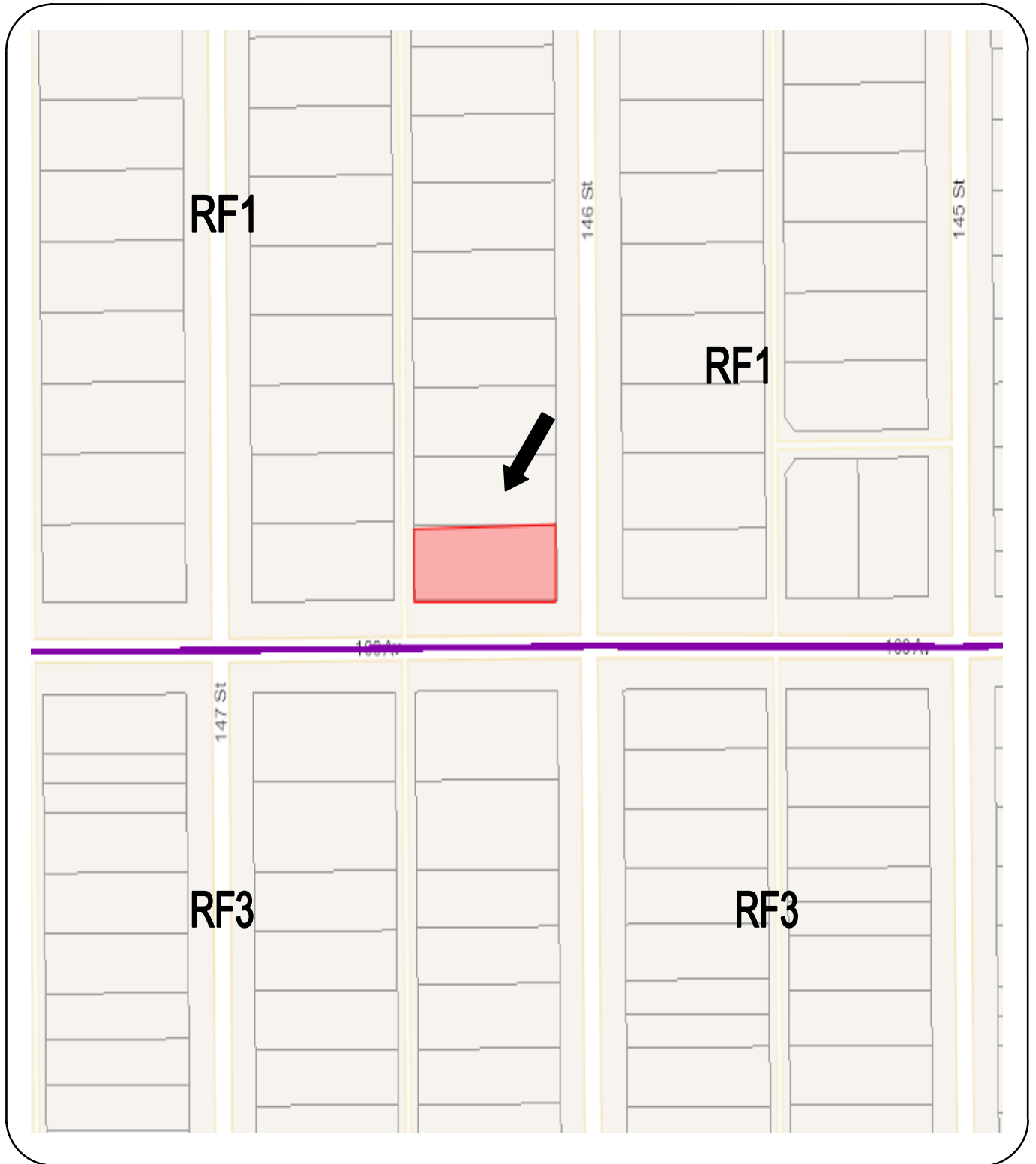
Rights of Appeal

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

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$321.00	\$321.00	06116258	Sep 04, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$321.00</u>	<u>\$321.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-001



ITEM III: 1:30 P.M.

FILE: SDAB-D-20-002

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 327217651-001

APPLICATION TO: Install (1) Freestanding Off-premises Sign
(TANG BISTRO | OUTFRONT MEDIA)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

Requesting Hearing Date of January 29, 2020

DECISION DATE: November 19, 2019

DATE OF APPEAL: December 9, 2019

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 8715 - 109 STREET NW

LEGAL DESCRIPTION: Plan EDMONTO Lot 7

ZONE: CB1 - Low Intensity Business Zone; DC2
- Site Specific Development Control
Provision

OVERLAY: N/A

STATUTORY PLAN: 109 Street Corridor Area Redevelopment
Plan

Grounds for Appeal

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

Site has existed for 20+ years with no ill effects. No complaints or issues with the structure existing as is. No change to the structure or lighting is proposed, simply desire to renew site. Parcel is currently being rezoned as CB2

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,

- (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, [...]

685(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

- (a) ...
- (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.

Section 2 of the *Edmonton Zoning Bylaw* concerning Repeal, Enactment and Transition Procedures states the following:

- 2.4 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.

...

- 2.6 Any Direct Control Districts that were in effect immediately prior to the Effective date are hereby deemed to continue in full force and effect and are hereby incorporated into Part IV of this Bylaw.
- 2.7 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.

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

DC2.528 (Area A) Site Specific Development Control Provision:

DC2.528.1 states that the General Purpose of DC2.528 (Area A) is:

To establish a Site Specific Development Control District for low intensity commercial, office and service uses with parking to be provided in Area B.

General Provisions from the *Land Use Bylaw 5996*:

Under section 9.2(4b), **Billboard** means:

a General Advertising Sign that has a sign area of more than 3.75 m² (40.35 sq. ft.). The display copy of the sign can be printed on a translucent vinyl sheet or painted on a number of plywood or light steel sections which are locked into a frame to form a single sign face.

Under section 9.2(15), **Freestanding Sign** means “any sign supported independently of a building and permanently fixed to the ground.”

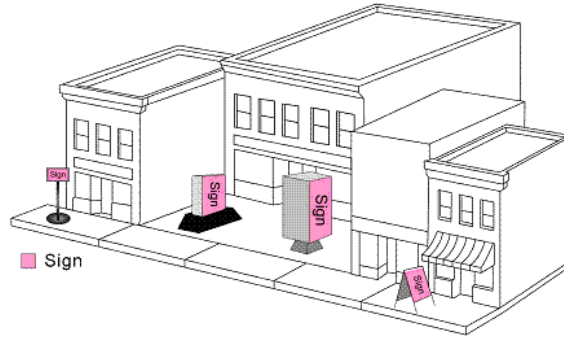
Under section 9.2(16), **General Advertising Sign** means:

a sign which directs attention to a business, activity, product, service or entertainment which cannot be considered as the principal products sold nor a principal business, activity, entertainment or service provided on the premises where the sign is displayed and general advertising has a similar meaning. Typical General Advertising Signs includes Billboards and Junior Panels as defined in this Bylaw.

General Provisions from the *Edmonton Zoning Bylaw 12800*:

Under section 6.2, **Freestanding Sign** means:

a Sign supported independently of a building.



Under section 6.2, **Off-Premise Sign** means:

any Sign displaying Copy that directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, service or entertainment provided on the premises or Site where the Sign is displayed.

109 Street Corridor Area Redevelopment Plan

3.2.3 POLICY DIRECTIVES:

Land Use and Density:

Policy 3.2.3.5 states:

Signage must be of a scale and type that respects the compact, pedestrian-oriented character of the District and related to local businesses. Billboards, roof-top, digital and off-premise signage of any type will not be permitted.

Development Officer’s Determination

1. Billboards, roof-top, digital and off-premise signage of any type will not be permitted (Section 3.2.3.5 109 Street Corridor ARP).

The proposed Freestanding Off-premises Sign (Billboard) is contrary to Section 3.2.3.5 of the 109 Street Corridor Area Redevelopment Plan.


[unedited]

Previous Subdivision and Development Appeal Board Decisions

Application Number	Description	Decision
SDAB-D-17-136	To demolish an existing Freestanding Off-premises Sign (Existing without Permit) & install a Freestanding Minor Digital Off-premises Sign (Single sided facing SE)	October 11, 2017; WITHDRAWN.
SDAB-D-13-089	To convert an existing Off-Premise Freestanding Sign to a Minor Digital Off-Premises Freestanding Sign.	June 13, 2013; that the appeal be DENIED and the decision of refusal by the Development Authority CONFIRMED.
SDAB-D-11-052	To replace the copy portion of an existing Freestanding Off-Premise sign with a Digital Freestanding Off-Premise Sign with support structure to remain.	March 25, 2011; No Jurisdiction.

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: 327217651-001 Application Date: AUG 06, 2019 Printed: December 10, 2019 at 7:56 AM Page: 1 of 2										
<h2 style="margin: 0;">Application for Sign Combo Permit</h2>											
This document is a Development Permit Decision for the development application described below.											
Applicant <div style="border: 1px solid black; height: 60px; width: 100%;"></div>	Property Address(es) and Legal Description(s) 8715 - 109 STREET NW Plan EDMONTO Lot 7										
Scope of Application To install (1) Freestanding Off-premises Sign (TANG BISTRO OUTFRONT MEDIA).											
Permit Details <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width: 50%; padding: 5px;"> ASA Sticker No./Name of Engineer: Construction Value: 0 </td> <td style="width: 50%; padding: 5px;"> Class of Permit: Class B Expiry Date: </td> </tr> <tr> <td style="padding: 5px;"> Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 0 Minor Digital On/Off-premises Sign: 0 </td> <td style="padding: 5px;"> Freestanding Off-premises Sign: 1 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0 </td> </tr> </table>		ASA Sticker No./Name of Engineer: Construction Value: 0	Class of Permit: Class B Expiry Date:	Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 0 Minor Digital On/Off-premises Sign: 0	Freestanding Off-premises Sign: 1 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0						
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I/We certify that the above noted details are correct. Applicant signature: _____											
Development Application Decision Refused Issue Date: Nov 19, 2019 Development Authority: MERCIER, KELSEY Reason for Refusal 1. Billboards, roof-top, digital and off-premise signage of any type will not be permitted (Section 3.2.3.5 109 Street Corridor ARP). The proposed Freestanding Off-premises Sign (Billboard) is contrary to Section 3.2.3.5 of the 109 Street Corridor Area Redevelopment Plan. Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.											
Fees <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 40%;"></th> <th style="width: 15%;">Fee Amount</th> <th style="width: 15%;">Amount Paid</th> <th style="width: 15%;">Receipt #</th> <th style="width: 15%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Sign Development Application Fee</td> <td style="text-align: right;">\$282.00</td> <td style="text-align: right;">\$282.00</td> <td style="text-align: center;">06197918</td> <td style="text-align: center;">Oct 07, 2019</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Sign Development Application Fee	\$282.00	\$282.00	06197918	Oct 07, 2019
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THIS IS NOT A PERMIT											



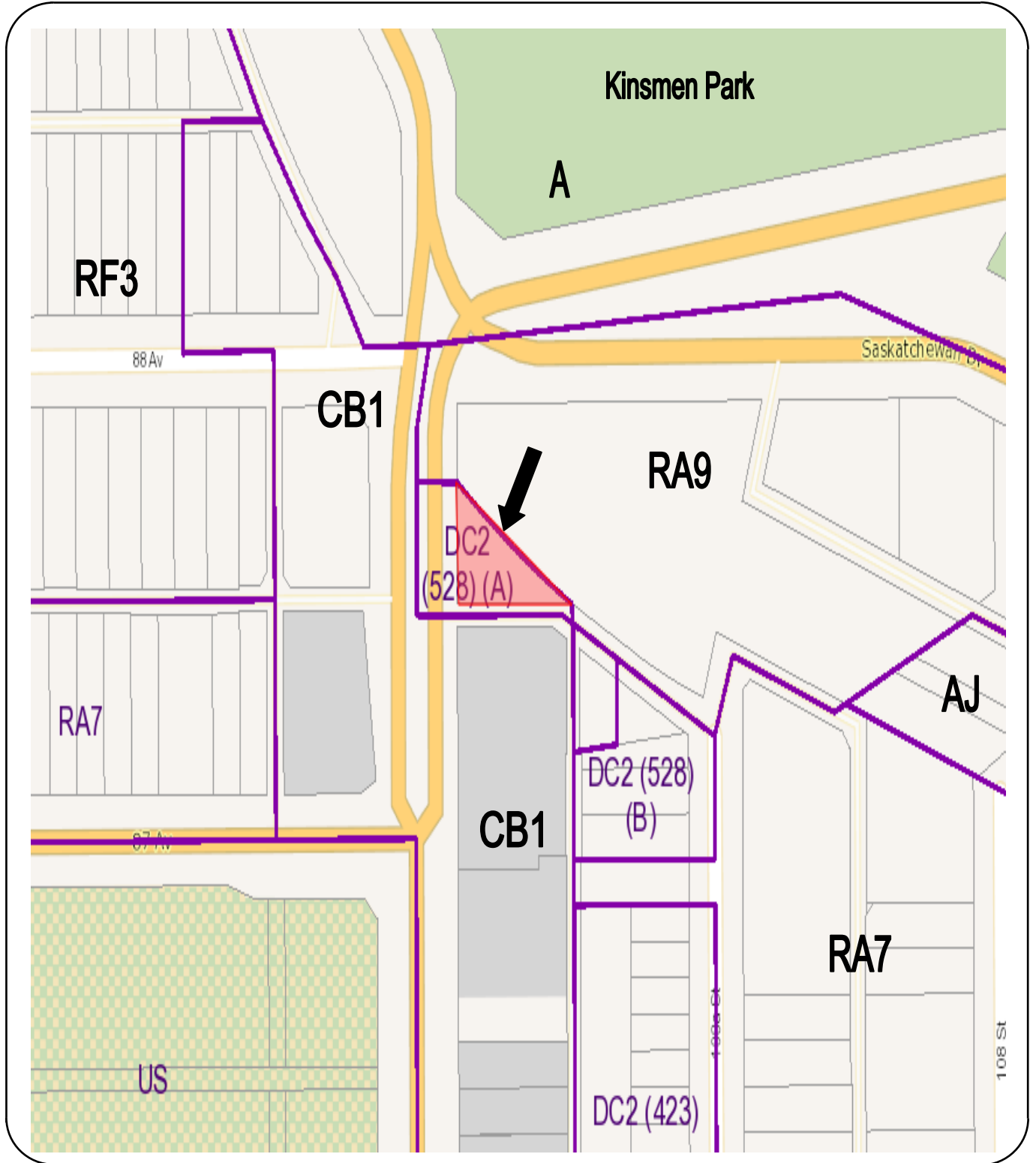
Application for Sign Combo Permit

Project Number: **327217651-001**
Application Date: AUG 06, 2019
Printed: December 10, 2019 at 7:56 AM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Existing Without Dev Permit Penalty Fee	\$282.00	\$282.00	06197918	Oct 07, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$564.00</u>	<u>\$564.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-002

