

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
January 18, 2017**

**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-17-014	Install (1) Freestanding Off-premises Sign (2 sided - 6.1 m x 3 m -existing without permits) 8306 - 118 Avenue NW Project No.: 221499491-001
<hr/>			
II	10:30 A.M.	SDAB-D-16-294	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. 10123 - 106 Street NW Project No.: 000413016-004
<hr/>			
III	10:30 A.M.	SDAB-D-16-295	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 10145 - 106 Street NW Project No.: 000413016-003

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-17-014

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 221499491-001

APPLICATION TO: Install (1) Freestanding Off-premises Sign
(2 sided - 6.1 m x 3 m -existing without permits)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: December 2, 2016

DATE OF APPEAL: December 19, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8306 - 118 Avenue NW

LEGAL DESCRIPTION: Plan RN76 Blk 2 Lot 14

ZONE: CB2 General Business Zone

OVERLAY: Alberta Avenue Pedestrian Commercial Shopping Street Overlay

STATUTORY PLAN: Alberta Avenue/Eastwood Area Redevelopment Plan

Grounds for Appeal

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

Sign has existed since 1993 with no issues/complaints. Want to renew permit as it had lapsed. Not changing or modifying structure in any way.

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 December 2, 2017. The Notice of Appeal was filed on December 19, 2016.

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 340.1 states that the **General Purpose** of the **CB2 General Business Zone** is “to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.”

Under Section 340.3(39), **Freestanding Off-premises Signs** are a **Discretionary Use** in the CB2 General Business Zone.

Section 7.9(3) states:

Freestanding Off-premises Signs means any Sign supported independent of a building, 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, entertainment or service provided on the premises or Site where the Sign is displayed.

Section 821.1 states that the **General Purpose** of the **Alberta Avenue Pedestrian Commercial Shopping Street Overlay (the “Overlay”)** is:

... to facilitate development of a pedestrian-oriented character to commercial and mixed Use developments along 118 Avenue, between 76 and 105 Streets, in close proximity to residential areas, in accordance with the Avenue Initiative Revitalization Strategy and Plans in effect for this area of the City.

Community Consultation Requirement Under the Overlay

Section 821(25) provides as follows:

25. Where an application for a Development Permit does not comply with the regulations contained in this Overlay:

- a. the applicant shall contact the affected parties, being each assessed owner of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development and the President of each affected Community League and the President of each Business Revitalization Zone Association operating within the distance described above, at least 21 days prior to submission of a Development Application;

- b. the applicant shall outline to the affected parties, any requested variances to the Overlay and solicit their comments on the application;
- c. the applicant shall document any opinions or concerns, expressed by the affected parties, and what modifications were made to address their concerns; and
- d. the applicant shall submit this documentation as part of the Development Application.

<i>Maximum Height</i>

Section 821.3(23) states:

23. Signage shall be provided in accordance with Schedule 59E of this Bylaw, with the intent to compliment the pedestrian-oriented commercial environment, except that:

- a. the maximum Height of a Freestanding Sign shall be 6.0 m;
- b. a Projecting Sign may be used to identify businesses that are located entirely at or above the second Storey level; and
- c. the top of a Projecting Sign on a building two Storeys or higher shall not extend more than 75 cm above the floor of the second or third Storey, nor higher than the windowsill level of the second or third Storey.

Development Officer's Determination

The maximum height of Freestanding sign shall be 6 meter. (Section 821.3(23)(a))
Proposed height: 8 m
Exceeds by 2 m [unedited]

Notice to Applicant/Appellant

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

	Project Number: 221499491-001 Application Date: MAY 10, 2016 Printed: January 4, 2017 at 4:06 PM 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 	Property Address(es) and Legal Description(s) 8306 - 118 AVENUE NW Plan RN76 Blk 2 Lot 14										
Scope of Application To install (1) Freestanding Off-premises Sign (2 sided - 6.1 m x 3 m -existing without permits)											
Permit Details											
ASA Sticker No./Name of Engineer: Construction Value: 1000	Class of Permit: 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										
I/We certify that the above noted details are correct. Applicant signature: _____											
Development Application Decision Refused Reason for Refusal The maximum height of Freestanding sign shall be 6 meter. (Section 821.3(23)(a)) Proposed height: 8 m Exceeds by 2 m Rights of Appeal 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: Dec 02, 2016 Development Authority: AHUJA, SACHIN Signature: _____											
Fees <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 10%;">Fee Amount</th> <th style="width: 10%;">Amount Paid</th> <th style="width: 10%;">Receipt #</th> <th style="width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Existing Without Dev Permit Penalty Fee</td> <td style="text-align: right;">\$261.00</td> <td style="text-align: right;">\$261.00</td> <td style="text-align: right;">03295490</td> <td style="text-align: right;">May 20, 2016</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Existing Without Dev Permit Penalty Fee	\$261.00	\$261.00	03295490	May 20, 2016
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THIS IS NOT A PERMIT											



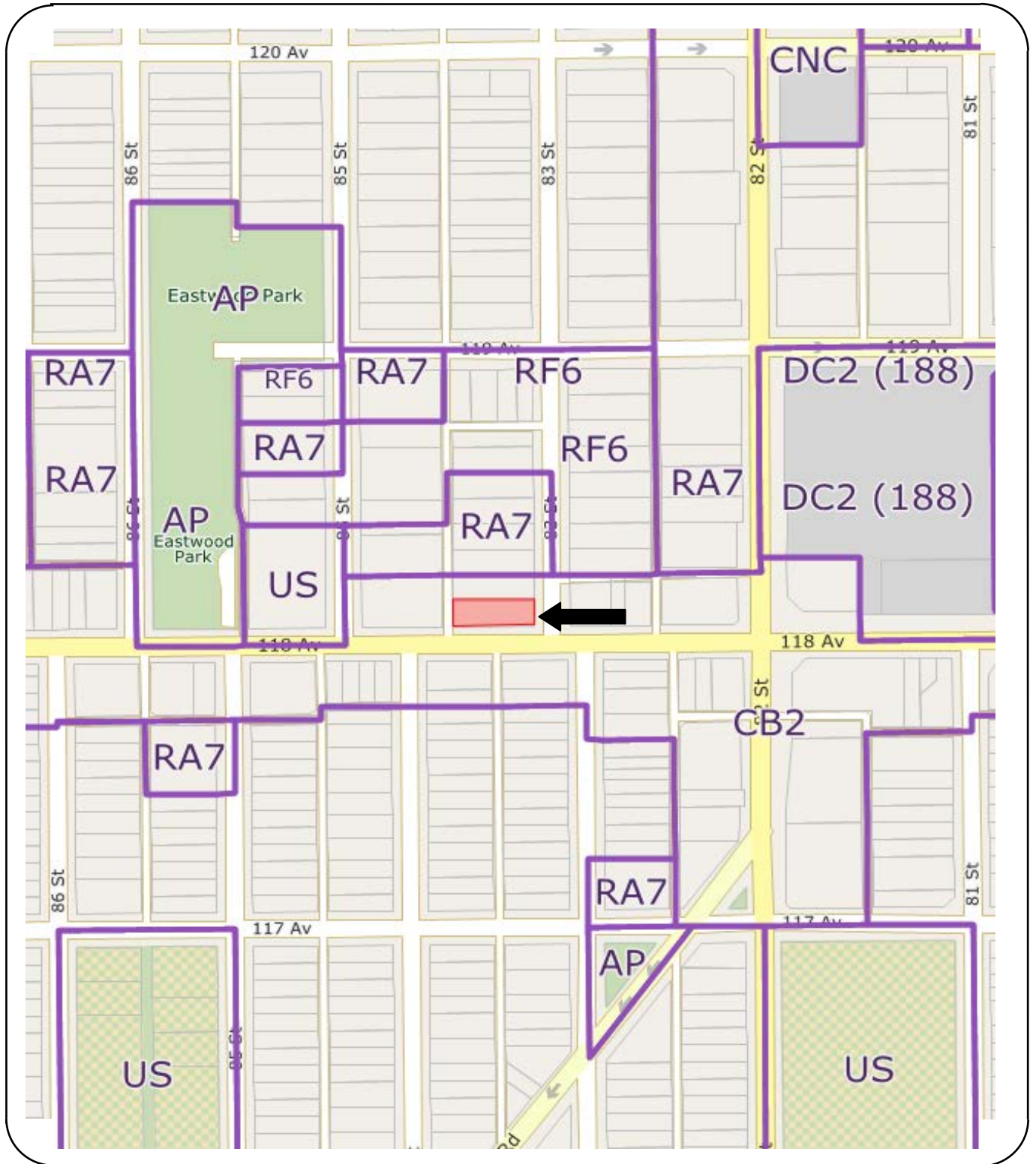
Application for Sign Combo Permit

Project Number: **221499491-001**
Application Date: MAY 10, 2016
Printed: January 4, 2017 at 4:06 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sign Development Application Fee	\$261.00	\$261.00	03295490	May 20, 2016
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$522.00	\$522.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-014



AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 000413016-004

APPLICATION TO: 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.

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: September 8, 2016

DATE OF APPEAL: September 20, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10123 - 106 Street NW

LEGAL DESCRIPTION: Plan B2 Blk 5 Lot 133

ZONE: UW Urban Warehouse Zone

OVERLAY: Special Area Downtown

STATUTORY PLAN: Capital City Downtown Plan

Grounds for Appeal

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

We act on behalf of Wigalo Holding Ltd. Wigalo Holding Ltd. is appealing the Stop Order issued in relation to its property on the following grounds:

1. Wigalo Holding Ltd. is in the process of taking steps to obtain the appropriate development permits.

2. Wigalo Holding Ltd. requires additional time to take the steps to obtain the development permit and is seeking to have the Stop Order varied to extend the date of compliance.
3. Such further and other grounds of appeal as may be presented at the hearing of the within appeal.

Given that Wigalo Holding Ltd. is in the process of taking steps to obtain a development permit, I am requesting that the hearing of this appeal be adjourned until after a decision regarding the development permit application and any subsequent appeal has been made. Wigalo Holding Ltd. will make the development permit application this week and will request that the decision regarding the development permit be expedited. If the development permit is refused, then Wigalo Holding Ltd. will appeal the refusal. I will then request that the development permit appeal be heard first as the outcome of the development permit appeal will dictate the outcome of this appeal.

<i>General Matters</i>

The Subdivision and Development Appeal Board at a hearing on September 29, 2016 made and passed the following motion:

“that the appeal hearing be scheduled for November 17, 2016.”

The Subdivision and Development Appeal Board at a hearing on November 17, 2016 made and passed the following motion:

“that the appeal hearing be scheduled for January 18, 2017.”

Appeal Information:

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

Stop order

645(1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Permit

683 Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

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

...

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 910.11(1) states that the **General Purpose** of the **UW Urban Warehouse Zone** is:

...to develop a unique mixed-use business commercial, educational and residential neighbourhood, accommodating a diversity of Uses, including residential, commercial, institutional, light manufacturing and assembly in a safe, walkable, human-scaled built environment that builds on the existing land use pattern and respects the architectural characteristics and functions of the area.

Under section 910.11(3)(s), **Non-accessory Parking** is a **Discretionary Use** in the Urban Warehouse Zone.

Under Section 7.4(39), **Non-accessory Parking** is defined as: “development providing vehicular parking which is not primarily intended for the Use of residents, employees or

clients of a particular development. Typical Uses include surface parking lots and parking structures located above or below Grade.”

Section 910.1 states that the **General Purpose** of the **Special Area Downtown** is “To designate the Downtown area as a Special Area and to adopt the following land use regulations to achieve the objectives of the Capital City Downtown Plan.”

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*.



MAILING ADDRESS:
5th Floor, 10250 - 101 Street NW
Edmonton, AB T5J 3P4

September 8, 2016

Our File: 000413016-004

WIGALO HOLDING LTD
101 6915 - 109 STREET NW
EDMONTON AB T6H 3B7

Dear Sir/Madam:

A check with Land Titles Office discloses that you are the registered owner(s) of the property located at 10123 - 106 STREET NW, legally described as Plan B2 Blk 5 Lot 133.

LAND USE INFRACTION:

This property is zoned UW (Urban Warehouse Zone) in accordance with Section 910.11 of the Edmonton Zoning Bylaw. Our investigation revealed that a Non-Accessory Parking Lot has been operating. The City of Edmonton has not issued a development permit to operate a Non-Accessory Parking which is contrary to Section 683 of the Municipal Government Act, R.S.A. 2000, c.M-26.1.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, YOU ARE HEREBY ORDERED 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.

CONSEQUENCES FOR NON-COMPLIANCE:

In the event that a person fails to comply with an Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter on the land and take any action necessary to carry out the Order. Section 553(1)(h.1) of the Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to subsection (2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment.

The property will be inspected on or after September 28, 2016 to determine compliance with this Order.

Failure to comply will result in action as described in Section 646.

YOU ARE HEREBY NOTIFIED that if Non-Accessory Parking has not CEASED AND the meters,

signage and other related material have not been REMOVED by the September 28, 2016 deadline, the City will carry out the Order pursuant to Section 646 by entering the property and doing what is necessary to carry out the Order, and all the costs and expenses in doing so will be added to the tax roll pursuant to Section 553(1)(h.1) of the Municipal Government Act R.S.A. 2000.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, R.S.A. 2000, c.M-26.1, which provides you with the right to appeal this Order and enables the City to add all costs associated with this action to the tax roll of the property.

If you have any questions in regards to this matter, please contact the writer at 780-496-6220.

Regards,

Justin Hogberg
Development and Zoning
Development Services
Phone Number: 780-496-6220
Fax Number: 780-496-6054
Email Address: Justin.Hogberg@edmonton.ca

**Adding
Amounts
Owing to tax
roll**

- 553(1)** A council may add the following amounts to the tax roll of a parcel of land:
- (a) unpaid costs referred to in section 35(4) or 39(2) relating to service connections of a municipal public utility that are owing by the owner of the parcel;
 - (b) unpaid charges referred to in section 42 for a municipal utility service provided to the parcel by a municipal public utility that are owing by the owner of the parcel;
 - (c) unpaid expenses and costs referred to in section 549(3), if the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or a part of the parcel;
 - (d), (e) repealed 1999 c11 s35;
 - (f) costs associated with tax recovery proceedings related to the parcel;
 - (g) if the municipality has passed a bylaw making the owner of a parcel liable for expenses and costs related to the municipality extinguishing fires on the parcel, unpaid costs and expenses for extinguishing fires on the parcel;
 - (g.1) if the municipality has passed a bylaw requiring the owner or occupant of a parcel to keep the sidewalks adjacent to the parcel clear of snow and ice, unpaid expenses and costs incurred by the municipality for removing the snow and ice in respect of the parcel;
 - (h) unpaid costs awarded by a composite assessment review board under section 468.1 or the Municipal Government Board under section 501, if the composite assessment review board or the Municipal Government Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the composite assessment review board or the Municipal Government Board was related to the parcel;
 - (h.1) the expenses and costs of carrying out an order under section 646;
 - (i) any other amount that may be added to the tax roll under an enactment.

Stop order

- 645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
- (a) this Part or a land use bylaw or regulations under this Part, or
 - (b) a development permit or subdivision approval,
- the development authority may act under subsection (2).
- (2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
 - (b) demolish, remove or replace the development, or
 - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval, within the time set out in the notice.
- (3)** A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

**Enforcement of
stop order**

- 646(1)** If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.
- (2)** A municipality may register a caveat under the Land Titles Act in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.

- (3)** If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.

Permit

- 683** Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

Grounds for appeal

- 685(1)** If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

- (2)** In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.
- (3)** Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

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
 - (ii) if no decision is made with respect to the application within the 40-day period or within any extension under section 684, the date the period or extension expires,

or

- (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.

- (2)** The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
- (3)** The subdivision and development appeal board must give at least 5 days' notice in writing of the hearing
- (a) to the appellant,
 - (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
 - (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.
- (4)** The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
- (a) the application for the development permit, the decision and the notice of appeal, or
 - (b) the order under section 645.
- (5)** In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-294



ITEM III: 10:30 A.M.

FILE: SDAB-D-16-295

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 000413016-003

APPLICATION TO: 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

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: September 8, 2016

DATE OF APPEAL: September 20, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10145 - 106 Street NW,

LEGAL DESCRIPTION: Plan B2 Blk 5 Lots 134, 135, 136, 137

ZONE: UW Urban Warehouse Zone

OVERLAY: Special Area Downtown

STATUTORY PLAN: Capital City Downtown Plan

Grounds for Appeal

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

We act on behalf of Wigalo Holding Ltd. Wigalo Holding Ltd. is appealing the Stop Order issued in relation to its property on the following grounds:

1. Wigalo Holding Ltd. is in the process of taking steps to obtain the appropriate development permits.

2. Wigalo Holding Ltd. requires additional time to take the steps to obtain the development permit and is seeking to have the Stop Order varied to extend the date of compliance.
3. Such further and other grounds of appeal as may be presented at the hearing of the within appeal.

Given that Wigalo Holding Ltd. is in the process of taking steps to obtain a development permit, I am requesting that the hearing of this appeal be adjourned until after a decision regarding the development permit application and any subsequent appeal has been made. Wigalo Holding Ltd. will make the development permit application this week and will request that the decision regarding the development permit be expedited. If the development permit is refused, then Wigalo Holding Ltd. will appeal the refusal. I will then request that the development permit appeal be heard first as the outcome of the development permit appeal will dictate the outcome of this appeal.

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Appeal Information:

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Permit

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Hearing and decision

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(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 910.11(1) states that the **General Purpose** of the **UW Urban Warehouse Zone** is:

...to develop a unique mixed-use business commercial, educational and residential neighbourhood, accommodating a diversity of Uses, including residential, commercial, institutional, light manufacturing and assembly in a safe, walkable, human-scaled built environment that builds on the existing land use pattern and respects the architectural characteristics and functions of the area.

Under section 910.11(3)(s), **Non-accessory Parking** is a **Discretionary Use** in the Urban Warehouse Zone.

Under Section 7.4(39), **Non-accessory Parking** is defined as: “development providing vehicular parking which is not primarily intended for the Use of residents, employees or

clients of a particular development. Typical Uses include surface parking lots and parking structures located above or below Grade.”

Section 910.1 states that the **General Purpose** of the **Special Area Downtown** is “To designate the Downtown area as a Special Area and to adopt the following land use regulations to achieve the objectives of the Capital City Downtown Plan.”

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*.



MAILING ADDRESS:
5th Floor, 10250 - 101 Street NW
Edmonton, AB T5J 3P4

September 8, 2016

Our File: 000413016-003

WIGALO HOLDING LTD
101 6915 - 109 STREET NW
EDMONTON AB T6H 3B7

Dear Sir/Madam:

A check with Land Titles Office discloses that you are the registered owner(s) of the property located at 10145 - 106 STREET NW, legally described as Plan B2 Blk 5 Lot 135, Plan B2 Blk 5 Lot 136, Plan B2 Blk 5 Lot 134, Plan B2 Blk 5 Lot 137.

LAND USE INFRACTION:

This property is zoned UW (Urban Warehouse Zone) in accordance with Section 910.11 of the Edmonton Zoning Bylaw. Our investigation revealed that a Non-Accessory Parking Lot has been operating. The City of Edmonton has not issued a development permit to operate a Non-Accessory Parking which is contrary to Section 683 of the Municipal Government Act, R.S.A. 2000, c.M-26.1.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, YOU ARE HEREBY ORDERED 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.

CONSEQUENCES FOR NON-COMPLIANCE:

In the event that a person fails to comply with an Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter on the land and take any action necessary to carry out the Order. Section 553(1)(h.1) of the Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to subsection (2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment.

The property will be inspected on or after September 28, 2016 to determine compliance with this Order.

Failure to comply will result in action as described in Section 646.

YOU ARE HEREBY NOTIFIED that if Non-Accessory Parking has not CEASED AND the meters, signage and other related material have not been REMOVED by the September 28, 2016 deadline, the City will carry out the Order pursuant to Section 646 by entering the property and doing what is necessary to carry out the Order, and all the costs and expenses in doing so will be added to the tax roll pursuant to Section 553(1)(h.1) of the Municipal Government Act R.S.A. 2000.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, R.S.A. 2000, c.M-26.1, which provides you with the right to appeal this Order and enables the City to add all costs associated with this action to the tax roll of the property.

If you have any questions in regards to this matter, please contact the writer at 780-496-6220.

Regards,

Justin Hogberg
Development and Zoning
Development Services
Phone Number: 780-496-6220
Fax Number: 780-496-6054
Email Address: Justin.Hogberg@edmonton.ca

**Adding
Amounts
Owing to tax
roll**

- 553(1)** A council may add the following amounts to the tax roll of a parcel of land:
- (a) unpaid costs referred to in section 35(4) or 39(2) relating to service connections of a municipal public utility that are owing by the owner of the parcel;
 - (b) unpaid charges referred to in section 42 for a municipal utility service provided to the parcel by a municipal public utility that are owing by the owner of the parcel;
 - (c) unpaid expenses and costs referred to in section 549(3), if the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or a part of the parcel;
 - (d), (e) repealed 1999 c11 s35;
 - (f) costs associated with tax recovery proceedings related to the parcel;
 - (g) if the municipality has passed a bylaw making the owner of a parcel liable for expenses and costs related to the municipality extinguishing fires on the parcel, unpaid costs and expenses for extinguishing fires on the parcel;
 - (g.1) if the municipality has passed a bylaw requiring the owner or occupant of a parcel to keep the sidewalks adjacent to the parcel clear of snow and ice, unpaid expenses and costs incurred by the municipality for removing the snow and ice in respect of the parcel;
 - (h) unpaid costs awarded by a composite assessment review board under section 468.1 or the Municipal Government Board under section 501, if the composite assessment review board or the Municipal Government Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the composite assessment review board or the Municipal Government Board was related to the parcel;
 - (h.1) the expenses and costs of carrying out an order under section 646;
 - (i) any other amount that may be added to the tax roll under an enactment.

Stop order

- 645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
- (a) this Part or a land use bylaw or regulations under this Part, or
 - (b) a development permit or subdivision approval,
- the development authority may act under subsection (2).
- (2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
 - (b) demolish, remove or replace the development, or
 - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval, within the time set out in the notice.
- (3)** A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

**Enforcement of
stop order**

- 646(1)** If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.
- (2)** A municipality may register a caveat under the Land Titles Act in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.

- (3) If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.

Permit

- 683** Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

Grounds for appeal

- 685(1)** If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

- (2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.
- (3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

Appeals

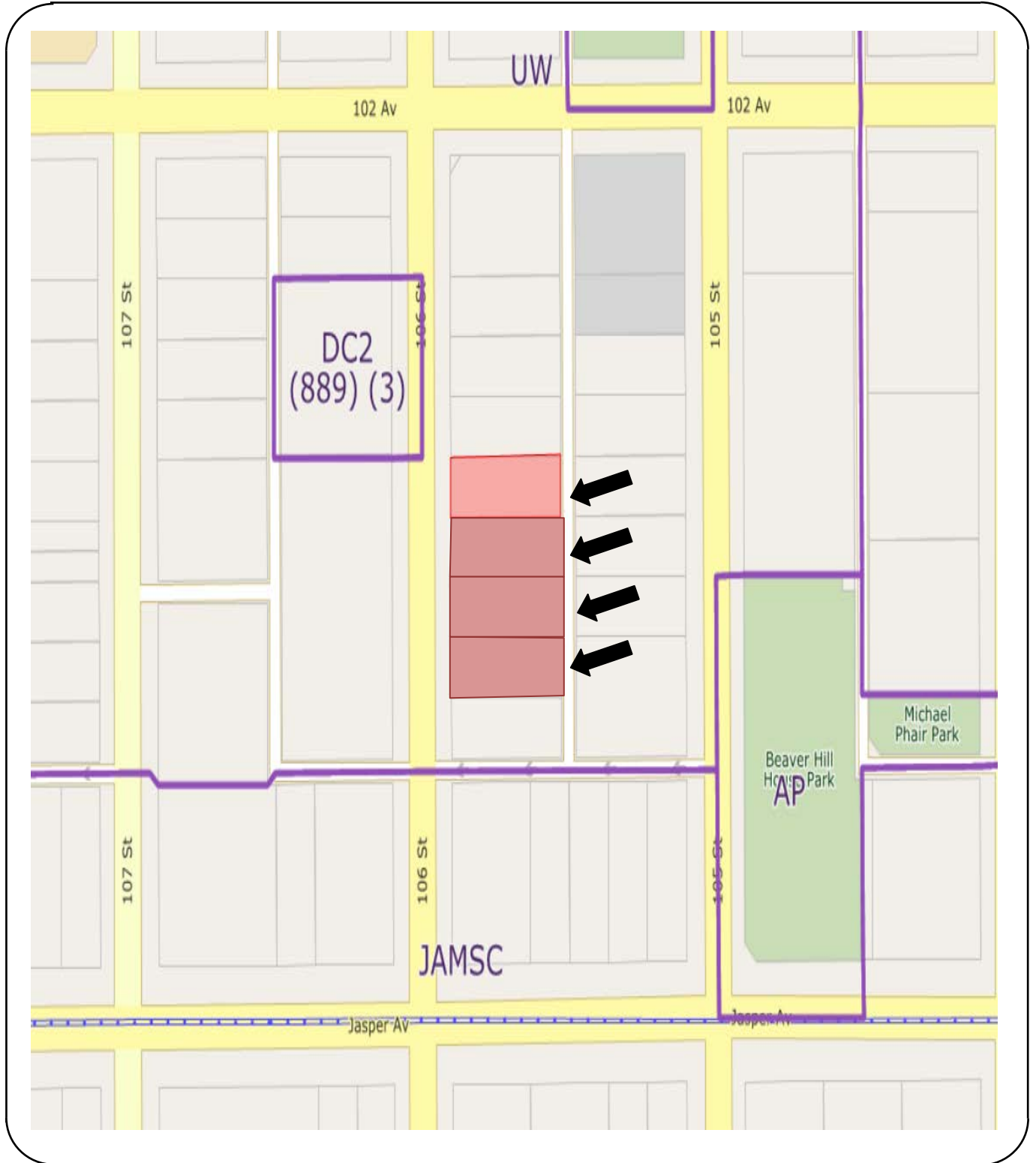
- 686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

- (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
 - (ii) if no decision is made with respect to the application within the 40-day period or within any extension under section 684, the date the period or extension expires,

or

- (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.

- (2) The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
- (3) The subdivision and development appeal board must give at least 5 days' notice in writing of the hearing
- (a) to the appellant,
 - (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
 - (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.
- (4) The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
- (a) the application for the development permit, the decision and the notice of appeal, or
 - (b) the order under section 645.
- (5) In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-295



BUSINESS LAID OVER

SDAB-D-17-007	An appeal by <u>1223382 Alberta Ltd.</u> to comply with an Order to revert the building back to a Single Detached House AND acquire a Development Permit for interior alterations to complete the work AND reduce the number of occupants living in the building down to a single Household. This Order must be complied with before January 17, 2017. <i>February 8, 2017</i>
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) <i>February 15, 2017</i>
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, located north of 41 Avenue SW and west of James Mowatt Trail SW; Desrochers; located at 3304 – 127 Street SW <i>July 19, 2017</i>

APPEAL HEARINGS TO BE SCHEDULED

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.) <i>January 26, 2017</i>
152674334-001	An appeal by <u>A&E Architectural & 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.) <i>February 22, 2017</i>
223289173-005	An appeal by <u>Kennedy Agrios LLP</u> to change the Use from a General Retail Store to a Child Care Service (part of the main floor), construct alterations to the building exterior (new doors and canopies and facade changes) and interior (create two Professional, Financial and Office Support Services tenant spaces on the second floor); Building 1. <i>March 2, 2017</i>