

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
July 16, 2015**

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

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

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I	9:00 A.M.	SDAB-D-15-151	To install (1) Freestanding Minor Digital Off-premises Sign
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103 - Haddow Close NW  
Project No.: 169796633-001

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II	1:00 P.M.	SDAB-D-15-152	To develop a Minor Impact Utility Service (Cromdale Bus Barn; Vehicle, equipment and material storage yard for LRT maintenance) as a Temporary Development; 5 to 6 years. 11647 - 80 Street NW, 11651 - 80 Street NW, 7805 - 117 Avenue NW, 11525 - 80 Street NW, 11615 - 79 Street NW, 11631 - 80 Street NW, 11631 - 80 Street NW, 11555 - 80 Street NW, 11655 - 80 Street NW
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Project No.: 162330611-003

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-15-151

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 169796633-001

APPLICATION TO: Install (1) Freestanding Minor Digital Off-premises Sign

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 5, 2015

DATE OF APPEAL: June 18, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 103 - Haddow Close NW

LEGAL DESCRIPTION: Condo Common Area (Plan 0524641)

ZONE: Site Specific Development Control Provision DC2(533)

OVERLAY: N/A

STATUTORY PLAN: N/A

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DEVELOPMENT OFFICER'S DECISION

REFUSED - The proposed development is refused for the following reasons:

- 1) Signs may be allowed in this District as provided for in Schedule 79D and in accordance with the general provision of Section 79.1 to 79.9 inclusive of the Land Use Bylaw and the following additional criteria:

The design, placement and illumination of signage shall be consistent with the intended residential character of the development and such that there is no adverse visual impact on surrounding residential properties, to the satisfaction of the Development Officer (reference Section DC2.533.4(k)(i)).

The proposed Freestanding Minor Digital Off-Premises Sign faces the rear yards of the nearby single detached dwellings across from Riverbend Road. The proposed Freestanding Minor Digital Off-Premises Sign also faces the 4 storey residential apartment buildings at the southeast corner of Terwilligar Drive and Riverbend Road, contrary to Section DC2.533.4(k)(i). The illumination from the Minor Digital Sign will

unduly interfere with the enjoyment of the residents of the single detached houses and apartment house identified.

2) The general purpose of Direct Control Zone (DC2(533)) is to establish a Site Specific Development Control District to accommodate a limited range of convenience commercial and personal service uses, including a gas bar, a convenience retail store, a drive-through car wash, and a drive-in food establishment, with appropriate development regulations to achieve a high quality development consistent with the Haddow NASP objectives, to reduce potential impacts and ensure compatibility with the adjacent residential land uses. (Reference Section DC2.533.1)

In the opinion of the Development Officer, the general purpose of the DC2(533) Zone is established similar to the general purpose of the conventional CNC Zone (reference Section 310.1):

"The purpose of this Zone is to provide for convenience commercial and personal service uses, which are intended to serve the day-to-day needs of residents within residential neighbourhoods."

The CNC Zone only allows Freestanding Minor Digital Off-premises signs, in a location where such Signs lawfully existed as of the effective date of Bylaw 15892 (Zoning Bylaw 12800, October 11, 2011).

Therefore, in the opinion of the Development Officer and notwithstanding the DC2(533) Zone, a Freestanding Minor Digital Off-premises sign is inappropriate for this location which, the general purpose and sign restrictions are similar to the CNC Zone.

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#### APPELLANT'S SUBMISSION

We are solicitors for Pattison Outdoor Advertising, the Applicant in the above noted matter. Our clients' Development Permit Application has been refused. On behalf of our clients, we hereby appeal the refusal on the following grounds:

1. The Development Officer failed to follow the directions of Council within the meaning of section 641(4)(b) of the Municipal Government Act by:
  - (a) failing to determine the appropriate Use Class for the proposed Sign pursuant to section 11.2(3) of the Edmonton Zoning Bylaw and/or section 11.4(2) of the Edmonton Land Use Bylaw; and, thereafter,
  - (b) applying the Use Class "Minor Digital Off-premises Sign" to the proposed Sign, all in circumstances where the proposed Sign is not a "use of land" but is simply a regulated item under the provisions of the former Edmonton Land Use Bylaw, which Bylaw applies in these circumstances.
2. The Development Officer failed to follow the directions of Council within the meaning of section 641(4)(b) of the Municipal Government Act by ignoring the following subsections of the applicable Direct Control provision, namely:

- (a) DC2.533.4(k) which subsection provides that Sign Schedule 79D of the Edmonton Land Use Bylaw applies to the site and which Sign Schedule, in turn, provides that Freestanding General Advertising Signs (as the proposed Sign is properly designated under the Edmonton Land Use Bylaw) shall be allowed at this location.
  - (b) DC2.533.4(l) which provides that no freestanding signs are permitted along the Haddow Close street frontage, up to two freestanding signs are permitted along the Riverbend Road frontage (and there is only one) and that no signage restrictions apply along the Terwilligar Drive frontage.
3. The Development Officer failed to follow the directions of Council within the meaning of section 641(4)(b) of the Municipal Government Act by applying to his decision making process the CNC provisions of the Edmonton Zoning Bylaw in circumstances where the Edmonton Zoning Bylaw does not apply. Had the Development officer referenced the CNC provisions of the former Edmonton Land Use Bylaw (which Bylaw does apply in these circumstances), he would have noted that the applicable Sign Schedule provides that Freestanding General Advertising Signs (as the proposed Sign is properly designated under the Edmonton Land Use Bylaw) shall be allowed in the CNC District.
  4. The Development Officer failed to follow the directions of Council by evaluating the Appellant's proposed development against factual criteria that are not accurate, including, but not limited to:
    - (a) the Officer's statement that the proposed sign "faces the rear yards of the nearby single detached dwellings across from Riverbend Road". It does not, it faces east, and the referenced dwellings are located to the south of the proposed location.
    - (b) the Officer's statement that the proposed sign faces the 4 storey residential apartment buildings at the southeast corner of Terwilligar Drive and Riverbend Road where no such apartment buildings exist. The 2nd storey townhouse development at this location is over 225 metres distant and is separated from the proposed sign by a four lane divided roadway and intersection complex, and the proposed sign faces, only obliquely, the corners and end sections of the said townhouses.
  5. The proposed development complies with the provisions of the applicable Direct Control district and the applicable provisions of the Edmonton Land Use Bylaw and no variances are required.
  6. Such further and other reasons as may be presented at the hearing of this appeal.

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SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

Section 641(4) of the *Municipal Government Act*, Chapter M-26 states despite section 685, if a decision with respect to a development permit application in respect of a direct control district

- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
- (b) is made by a development authority, the appeal is limited to whether the development authority following 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 12800 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 DC site, the City of Edmonton Land Use Bylaw 5996 was in effect. A recent 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.

Section DC2.533.4(k) states Signs shall be allowed in this District as provided for in Schedule 79D and in accordance with the general provisions of Section 79.1 to 79.9 inclusive, of the Land Use Bylaw and the following additional criteria:

- i. the design, placement and illumination of signage shall be consistent with the intended residential character of the development and such that there is no adverse visual impact on surrounding residential properties, to the satisfaction of the Development Officer.

**The Development Officer determined the proposed Freestanding Minor Digital Off-premises Sign faces the Rear Yards of the nearby single detached dwellings across from Riverbend Road. The proposed Freestanding Minor Digital Off-premises Sign**

**also faces the 4 Storey residential apartment buildings at the southeast corner of Terwillegar Drive and Riverbend Road, contrary to Section DC2 533.4(k)(i). The illumination from the Minor Digital Sign will unduly interfere with the enjoyment of the residents of the single detached houses and apartment houses identified.**

Section DC2.533.4(l) states notwithstanding Clause 4.(k) of this Bylaw, freestanding signs shall not be permitted along the Haddow Close street frontage and shall be limited to a maximum of two (2) signs along the Riverbend Road street frontage.

Section DC2.533.1 states the general purpose is to establish a Site Specific Development Control District to accommodate a limited range of convenience commercial and personal service uses, including a gas bar, a convenience retail store, a drive-through car wash, and a drive-in food establishment, with appropriate development regulations to achieve a high quality development consistent with the Haddow NASP objectives, to reduce potential impacts and ensure compatibility with the adjacent residential land uses.

**It is in the opinion of the Development Officer, the general purpose of the DC2(533) Zone is established similar to the general purpose of the conventional CNC Zone (reference 310.1):**

**“The purpose of this Zone is to provide for convenience commercial and personal services uses, which are intended to serve the day-to-day needs of residents within residential neighbourhoods.”**

**The CNC Zone only allows Freestanding Minor Digital Off-premises Signs, in a location where such Signs lawfully existed as of the effective of Bylaw 15892 (Zoning Bylaw 12800, October 11, 2011).**

**Therefore, in the opinion of the Development Officer and notwithstanding the DC2(533), a Freestanding Minor Digital Off-premises Sign is an inappropriate for this location which, the general purpose and sign restrictions are similar to the CNC Zone.**

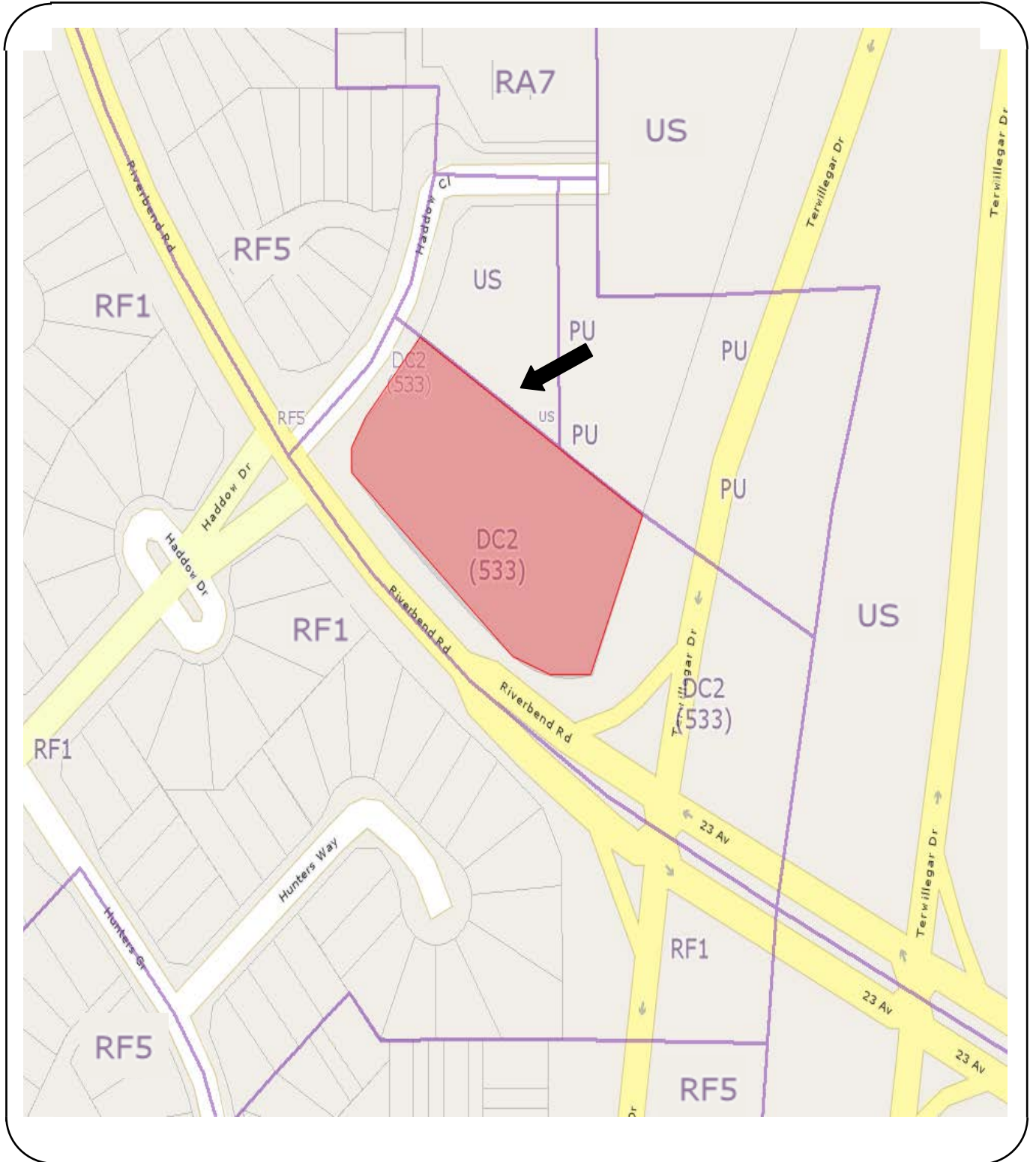
Sustainable Development has submitted to the SDAB an email dated April 30, 2015 from Xiaobin Wang, Project Engineer, Development Planning, Transportation Services that indicates the proposed development has been reviewed by Transportation Services and includes conditions and advisements if approved. **A copy of the email from Transportation Services is on file.**

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NOTICE TO APPLICANT/APPELLANT

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board’s decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the Municipal Government Act.

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**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-15-151





ITEM II: 1:00 P.M.

FILE: SDAB-D-15-152

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

APPELLANT:

APPLICATION NO.: 162330611-003

APPLICATION TO: Develop a Minor Impact Utility Service  
(Cromdale Bus Barn; Vehicle, equipment  
and material storage yard for LRT  
maintenance) as a Temporary  
Development; 5 to 6 years.

DECISION OF THE  
DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: May 29, 2015

DATE OF APPEAL: June 21, 2015

NOTIFICATION PERIOD: June 9, 2015 through June 22, 2015

RESPONDENT: City Of Edmonton

MUNICIPAL DESCRIPTION  
OF SUBJECT PROPERTY: 11647 - 80 Street NW, 11651 - 80 Street  
NW, 7805 - 117 Avenue NW, 11525 - 80  
Street NW, 11615 - 79 Street NW, 11631 -  
80 Street NW, 11555 - 80 Street NW,  
11655 - 80 Street NW

LEGAL DESCRIPTION: Plan 5850R Blk 18 Lot 12, Plan 5850R  
Blk 18 Lot 13, Plan 3759AF Lot 30, Plan  
5850R Blk 17 Lots 2-11, Plan 5850R Blk  
21 Lots 2-12, Plan 5850R Blk 18 Lots 16-  
25, Plan 5850R Blk 18 Lots 1-11,26-30,  
Plan 5850R Blk OT, Plan 5850R Blk 18  
Lots 14-15

ZONE: PU-Public Utility Zone

OVERLAY: N/A

STATUTORY PLAN: Parkdale Area Redevelopment Plan

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DEVELOPMENT OFFICER'S DECISION

APPROVED - The proposed development is approved subject to the following conditions:

1) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a DP Notification Fee of \$100.00.

2) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Lot Grading Fee of \$589.45.

3) This Permit is valid for 6 years.

4) All access locations and curb crossings shall have the approval of the City Transportation and Streets Department prior to the start of construction. Reference Section 53(1).

5) Access from the site to 117 Avenue and 80 Street exists. Any modification to the existing accesses requires the review and approval of Transportation Services.

6) Transportation Services will not permit a graveled access to a paved roadway. The access/drive aisle for both 117 Avenue accesses must be hard surfaced. The hard surfacing will consist of the width of the boulevard (3.3 m) the remaining length of drive aisle (6.7 m) on private property for a total on 10 m, as shown on Enclosure I. The pavement will limit loose gravel from being carrying onto the paved surface of the adjacent roadway from the graveled yard.

7) There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; [www.digshaw.ca](http://www.digshaw.ca)) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.

8) Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at: [http://www.edmonton.ca/bylaws\\_licences/licences\\_permits/oscam-permit-request.aspx](http://www.edmonton.ca/bylaws_licences/licences_permits/oscam-permit-request.aspx).

9) Any sidewalk or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Services, as per Section 15.5(f) of the Zoning Bylaw. The sidewalks and boulevard will be inspected by Transportation Services prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.

10) All activities or operations of the proposed development shall comply to the standards prescribed by the Province of Alberta pursuant to the Environmental Protection and Enhancement Act and the regulations pertaining thereto.

11) The off-street parking, loading and unloading (including aisles or driveways) shall be hardsurfaced, curbed, drained and maintained in accordance to Section 54.6.

12) The development shall comply to the performance standards for the IB District in accordance to Section 57 of the Edmonton Zoning Bylaw. (Reference Section 400.4(6)).

13) An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

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

Notes:

a) Signs require separate Development Applications.

b) 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.

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

VARIANCES:

Section 520.4.1 relaxed - The minimum Front Setback from 6.0 m to 0 m.

Section 520.4.2 relaxed - The minimum Rear Setback from 7.5 m to 0 m.

Section 520.4.3 relaxed - The minimum Side Setbacks from 4.5 m to 0 m.

Section 55.4 .1 relaxed - Waive landscaping requirements for all Setbacks.

Notes:

- A variance was granted for this Development Permit pursuant to Sections 11.3 and 11.4.

- Subject to the right of appeal the permit is NOT VALID until the required Notification Period expires in accordance with Sections 21.1 and 17.1.

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APPELLANT'S SUBMISSION

Sorry this will be brief, I'm flying out on vacation today in a couple of hours and don't have the time to write up all my complaints so I'll keep it short. I've had several problems with the LRT yard that is already across the street from my house.

-I've had noise issues at all hours of the night. I finally got fed up and complained when the workers started using leaf blowers at 3-4 in the morning to blow snow off of the materials in the yard. The loader runs at all hours of the night. The backup alarm is keeping me awake. I've complained to bylaw on several occasions. I finally went out to

Speak to some of the workers and they told me actually the yard is going to become the main yard for the LRT and be significantly expanded. So it's only going to get worse.

-The loader damages the road that was just paved a few years ago. (I'm still paying for the neighborhood renewal on my taxes) They drop the ballast rock on the corner of 117 Av and 80 St and then he drives back and forth by my house all night to bring it to the tracks at 117 Av and 78 St. He scrapes the road picking up the ballast, he drops ballast along the way. I have chips and dents in my car, and find ballast rock in my yard all the time when I'm mowing the lawn.

-The semi trucks damage my new sidewalk (that I'm still paying for) and the sod in the utility right of way South of my house. They drive over the curb ramp, onto the grass and over the sidewalk. There is a huge rut in the grass that fills up when it rains in the shape of dual tires from a tractor trailer. I've also had truck drivers tell me I can't park in front of my house on several occasions.

-The current city lot is an eyesore and a safety hazard. There is a gap under the fence where the homeless people go through.

-I have other problems which I'll bring up later, but basically, I'm already not happy with the existing city yard and it is rarely used. Now it's proposed to be increased by a factor of about 4 in size. The development plans show that it will basically just be a storage yard with the chain link fence right up to the edge of the curb.

-This is going to affect my property value significantly.

-This is going to affect my health significantly from the increase in noise keeping me awake and the increase in dust from equipment driving around on the gravel lot.

-This is going to cause more damage to the public property (sidewalk, roads, boulevard)

-This is going to cause more damage to private property, my car, my house, my lawnmower as well as the other residents from ballast rocks dropped out of the loader.

-This will cause an increase in traffic and more difficulty with parking in an area that is already pretty bad because of the Coliseum and Northlands events.

Please find somewhere else to build this lot. Preferably in an industrial area, or if that is not feasible, a commercial one. Somewhere where you will not be keeping people awake and damaging private and public property.

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#### SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

**Minor Impact Utility Services** is a Permitted Use under Section 520.2(2) of the Edmonton Zoning Bylaw.

Under Section 7.7(7), **Minor Impact Utility Services** means development for public utility infrastructure purposes which is likely to have some impact on the environment or adjacent land Uses by virtue by its appearance, noise, size, Traffic Generation or operational characteristics. Typical Uses include vehicle, equipment and material storage

yards for utilities and services; telephone exchanges; wire centres; switching centres; snow dumping sites; Transit Centres; transit depots and transfer facilities; water towers; hydrospheres; water treatment plants; power terminals and distributing substations; communication towers and gate stations for natural gas distribution.

This application was approved by the Development Officer subject to conditions.

Pursuant to Section 11.3 and 11.4 and subject to the right of appeal to the Subdivision and Development Appeal Board, Section 21.1, the Development Officer granted the following variances:

Section 520.4(1) states the minimum Front Setback shall be 6.0 metres.

**The Development Officer granted a relaxation of 6 metres to provide for a 0 metre Setback.**

Section 520.4(2) states the minimum Rear Setback shall be 7.5 metres.

**The Development Officer granted a relaxation of 7.5 metres to provide for a 0 metre Setback.**

Section 520.4(3) states the minimum Side Setback shall be 4.5 metres.

**The Development Officer granted a relaxation of 4.5 metres to provide for a 0 metre Setback.**

Section 55.4(1) states all open space including Front Yards, Rear Yards, Side Yards, and Yards, at grade Amenity Areas, Setback areas and Separation Spaces shall be landscaped with trees, shrubs, flower beds, grass, ground cover or suitable decorative hardsurfacing, in accordance with the Landscape Plan submitted pursuant to subsection 55.3 and approved by the Development Officer. This requirement shall not apply to those areas designated for parking and circulation, which shall be landscaped in accordance with subsection 55.8 of this Bylaw. The Development Officer may require Landscaping of areas within a Site that are intended for future development if, in the opinion of the Development Officer, the lack of Landscaping creates a potential negative visual impact, given the visibility of these areas from adjacent properties and public roadways.

**The Development Officer waived the landscaping requirements for all Setbacks.**

The decision of the Development Officer was appealed by an adjacent property owner located at 11702 - 79 Street.

Section 520.1 states the purpose of the Public Utility Zone is to provide for a system or works that is used to provide for public consumption, benefit, convenience or use such as water or steam, sewage disposal, public transportation, irrigation, drainage, fuel, electric power, heat, waste management and telecommunications.

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NOTICE TO APPLICANT/APPELLANT

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the Municipal Government Act.

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**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-15-152



**BUSINESS LAID OVER**

SDAB-D-15-136	An appeal to construct and operate a Residential Sales Centre <i>July 30, 2015</i>
SDAB-D-15-138	An appeal to develop a Secondary Suite in an existing Single Detached House <i>August 5 or 6, 2015</i>