

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
July 27, 2016**

**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-16-177

To convert a Single Detached House to a Child Care Service Use (49 Children) and to construct interior and exterior alterations (convert attached garage to usable floor space and construct an outdoor landing 1.0 metre by 1.0 metre @ 1.47 metres in height with ramp)

9650 - 153 Street NW
Project No.: 188307978-001

II 11:00 A.M. SDAB-D-16-178

WITHDRAWN

To construct (1) Freestanding Off-premises Sign (3 metres by 6.1 metres facing NW and SE) (Pattison Outdoor Advertising).

10410 - Allendale Road NW
Project No.: 221424956-001

III 1:30 P.M. SDAB-D-16-179

To construct an Automotive and Minor Recreation Vehicle Sales / Rentals building (Car Corner Automotive Centre)

4939 - 127 Avenue NW
Project No.: 188163171-001

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-16-177

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 188307978-001

ADDRESS OF APPELLANT: 9650 - 153 Street NW

APPLICATION TO: Convert a Single Detached House to a Child Care Service Use (49 Children) and to construct interior and exterior alterations (convert attached garage to usable floor space and construct an outdoor landing 1.0 metre by 1.0 metre @ 1.47 metres in height with ramp)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 22, 2016

DATE OF APPEAL: July 2, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9650 - 153 Street NW

LEGAL DESCRIPTION: Plan 5229AD Blk 26 Lot 1

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Jasper Place Area Redevelopment Plan

Grounds for Appeal

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

1. I Request to allow 1% variance, its only 1 percent and it is mandatory to create Ramp for childcare
2. A fence of height 1.8 m in a residential district shall not be higher than 1.2 m (4 ft) , reason I chose 6 ft is for child care its mandatory to have 6 ft high fence, Transportation department did not mention any issues for 6 ft fence, please advise I can go lower height of

fence as well, Fencing Bylaws are confusing with respect to child care and in residential area

3. Please see the letter received from Transportation department, Transport department showed no concerns, Transportation department comments are "The Proposed childcare requires a total of 16 onsite parking stalls (Provided 10 stalls, required 16 stalls), This change in the Bylaw results in an overall parking deficiency of 6 parking Stalls for the site. It should be noted that Transportation Planning and Engineering maintained that the existing 10 tandem stalls are sufficient to support the development. There is parking also available on 153 street and 97 avenue,"
4. Please see the letter received from Transportation department, Transport department comments are "Transport Planning and Engineering advised that there is no technical concerns relative to the Proposed tandem stalls adjacent to the alley"
5. perimeter planting can be provided if its required, although I have visited other day cares in neighborhood, no perimeter Planter is provided in these Day cares [content unedited, formatting revised for clarity]

<i>General Matters</i>

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 June 22, 2016. The Notice of Appeal was filed on July 2, 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 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, Semi-detached Housing and Duplex Housing under certain conditions.

Under Section 110.3(1), **Child Care Services** are a **Discretionary Use** in the RF1 Single Detached Residential Zone.

Section 7.8(2) states:

Child Care Services means a development intended to provide care, educational activities and supervision for groups of seven or more children under 13 years of age during the day or evening, but does not generally include overnight accommodation. This Use Class typically includes daycare centres; out-of-school care centres; preschools; and dayhomes/group family care providing child care to seven or more children within the care provider’s residence.

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

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

Maximum Site Coverage

Section 110.4(7)(a) provides as follows:

Maximum Site Coverage shall be as follows:

	Principal Dwelling/ building	Accessory building	Principal building with attached Garage	Total Site Coverage
a. a.Single Detached Housing - Site greater than 300 m2	28%	12%	40%	40%

Development Officer’s Determination

1) Maximum Site Coverage: 28% (Reference Section 110.4.7)

Site Area: 685.21 m2

Principal Building Footprint Area 198.7m2 + Landing (1.1m2)= 199.8m2 (29%)

Exceed by 1%

Note: The existing attached garage is proposed to be converted to part of the Principal building and therefore shall not exceed 28%.

Fencing

Section 49(1)(a) provides as follows:

1. The regulations contained within Section 49 of this Bylaw apply to:
 - a. the Height of the material used in the construction of a fence, wall, or gate, such as but not limited to boards, panels, masonry, ornamental iron, and chain link, plus any additional elements used for screening, such as but not limited to lattice.

Development Officer’s Determination

2) A fence on a site in a residential district shall not be higher than 1.2 m (4 ft) for the portion of fence that does extend beyond the foremost portion of the principal building on the site abutting the front yard. (Reference Section 49.1(a)).

Proposed: 1.8 m beyond the foremost portion of the principal building.
 Exceeds by: 0.6 m

Parking: Pick-up/Drop-off

Section 54.2 Schedule 1 – Vehicular Parking Requirement provides as follows:

Schedule 1(A) Areas outside of the Downtown Special Area	
Use of Building or Site	Minimum Number of Parking Spaces or Garage Spaces Required
Community, Educational, Recreational and Cultural Service Use Classes	
33. Child Care Services	a) Passenger pick-up/drop-off spaces shall be provided at the rate of 2 pick-up/drop-off spaces for the first 10 children, plus 1 additional pick-up/drop-off space for every 10 additional children. i) Passenger pick-up/drop-off spaces shall be designated with signs to reserve the parking spaces for Child Care Service pick-up/drop-off, to the satisfaction of the Development Officer. ii) Passenger pick-up/drop-off spaces shall be located as close as possible to the main entrance used by the Child Care Service, and shall not be located further than 100 m from the main entrance used by the Child Care Service. The distance between the farthest parking space in the pickup/drop-off area and

	<p>the main entrance of the Child Care Service shall be measured along the shortest publically accessible pedestrian route.</p> <p>iii) An on-street loading zone shall satisfy a portion of the passenger pick-up/drop-off parking space requirement without a variance if the Development Officer, after consultation with Transportation Operations, is satisfied with the proposal.</p>
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Development Officer’s Determination

3) Parking shall be provided in accordance to Section 54 schedule 1.33.

Required: 6 passenger pick-up/drop-off spaces and 10 staff spaces

Provided: 5 passenger pick-up/drop-off spaces and 5 staff spaces

Deficient by: 1 passenger pick-up/drop-off space and 5 staff spaces

Parking: Staff Parking

Section 54.1(2)(f) states: “Unless otherwise specified in this Bylaw, no required parking spaces shall be provided as Tandem Parking.”

Development Officer’s Determination

4) Unless otherwise specified in the Zoning Bylaw, no required parking spaces shall be provided as Tandem Parking. (Section 54.1.2.f)

Five staff parking stalls are tandem parking, contrary to Section 54.1.2.f.

Parking: Spaces for People with Disabilities

Section 54.1(3)(a) provides as follows:

3. Parking for People with Disabilities

a. Parking spaces for the disabled shall:

- i. be provided in accordance with the Alberta Building Code in effect at the time of the Development Permit application, for which no discretion exists;
- ii. be included, by the Development Officer, in the calculation of the applicable minimum parking requirement; and
- iii. be identified as parking spaces for the disabled through the use of appropriate signage, in accordance with Provincial standards.

Development Officer's Determination

5) Parking for People with Disabilities shall be provided in accordance to Section 54.1.3.a.

Required: 1 disabled parking stall 2.4m wide adjacent to a 2.4m wide access aisle.

Provided: 1 space 3.6m wide

Deficient by: 1.2m in width

Perimeter Planting

Section 55.5(5) states:

Any parking lot having eight or more parking spaces that is visible from an Abutting Site in a Residential or Commercial Zone, or from a public roadway other than a Lane, or from a LRT line, shall have perimeter planting. The location, length, thickness and Height of such perimeter planting at maturity shall, in conjunction with a change in Grade or other natural or man-made features, be sufficient to provide substantial interruption of the view of the parking lot.

Development Officer's Determination

6) Any parking lot having eight or more parking spaces that is visible from an adjoining Site in a Residential or Commercial Zone, or from a public roadway other than a Lane, or from a Light Rail Transit line, shall have perimeter planting. The location, length, thickness and Height of such perimeter planting at maturity shall, in conjunction with a change in Grade or other natural or man-made features, be sufficient to provide substantial interruption of the view of the parking area from any adjoining Residential or Commercial Zone, and enhance the view of the parking area from any adjacent public roadway or Light Rail Transit line, in accordance to Section 55.4.3.

Proposed: No perimeter planting is proposed adjacent to the rear parking area abutting 97 Avenue, contrary to Section 55.4.3.

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: **188307978-001**
Application Date: MAR 08, 2016
Printed: June 22, 2016 at 8:56 AM
Page: 1 of 3

Application for Major Development Permit

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

Applicant 	Property Address(es) and Legal Description(s) 9650 - 153 STREET NW Plan 5229AD Blk 26 Lot 1
	Specific Address(es) Suite: 9650 - 153 STREET NW Suite: BSMT, 9650 - 153 STREET NW Entryway: 9650 - 153 STREET NW Building: 9650 - 153 STREET NW

Scope of Application
To convert a Single Detached House to a Child Care Service Use (49 Children) and to construct interior and exterior (convert attached garage to usable floor space and construct an outdoor landing 1.0m x 1.0m @ 1.47m in height with ramp).

Permit Details Class of Permit: Class B Gross Floor Area (sq.m.): 198.7 New Sewer Service Required: N/A Site Area (sq. m.): 687.21	Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
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I/We certify that the above noted details are correct.
Applicant signature: _____

Development Application Decision
Refused

THIS IS NOT A PERMIT



Project Number: **188307978-001**
Application Date: MAR 08, 2016
Printed: June 22, 2016 at 8:56 AM
Page: 2 of 3

Application for Major Development Permit

Reason for Refusal

1) Maximum Site Coverage: 28% (Reference Section 110.4.7)

Site Area: 685.21 m²

Principal Building Footprint Area 198.7m² + Landing (1.1m²)= 199.8m² (29%)

Exceed by 1%

Note: The existing attached garage is proposed to be converted to part of the Principal building and therefore shall not exceed 28%.

2) A fence on a site in a residential district shall not be higher than 1.2 m (4 ft) for the portion of fence that does extend beyond the foremost portion of the principal building on the site abutting the front yard. (Reference Section 49.1(a)).

Proposed: 1.8 m beyond the foremost portion of the principal building.

Exceeds by: 0.6 m

3) Parking shall be provided in accordance to Section 54 schedule 1.33.

Required: 6 passenger pick-up/drop-off spaces and 10 staff spaces

Provided: 5 passenger pick-up/drop-off spaces and 5 staff spaces

Deficient by: 1 passenger pick-up/drop-off space and 5 staff spaces

4) Unless otherwise specified in the Zoning Bylaw, no required parking spaces shall be provided as Tandem Parking. (Section 54.1.2.f)

Five staff parking stalls are tandem parking, contrary to Section 54.1.2.f.

5) Parking for People with Disabilities shall be provided in accordance to Section 54.1.3.a.

Required: 1 disabled parking stall 2.4m wide adjacent to a 2.4m wide access aisle.

Provided: 1 space 3.6m wide

Deficient by: 1.2m in width

6) Any parking lot having eight or more parking spaces that is visible from an adjoining Site in a Residential or Commercial Zone, or from a public roadway other than a Lane, or from a Light Rail Transit line, shall have perimeter planting. The location, length, thickness and Height of such perimeter planting at maturity shall, in conjunction with a change in Grade or other natural or man-made features, be sufficient to provide substantial interruption of the view of the parking area from any adjoining Residential or Commercial Zone, and enhance the view of the parking area from any adjacent public roadway or Light Rail Transit line, in accordance to Section 55.4.3.

Proposed: No perimeter planting is proposed adjacent to the rear parking area abutting 97 Avenue, contrary to Section 55.4.3.

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.

THIS IS NOT A PERMIT



Project Number: **188307978-001**
Application Date: MAR 08, 2016
Printed: June 22, 2016 at 8:56 AM
Page: 3 of 3

Application for Major Development Permit

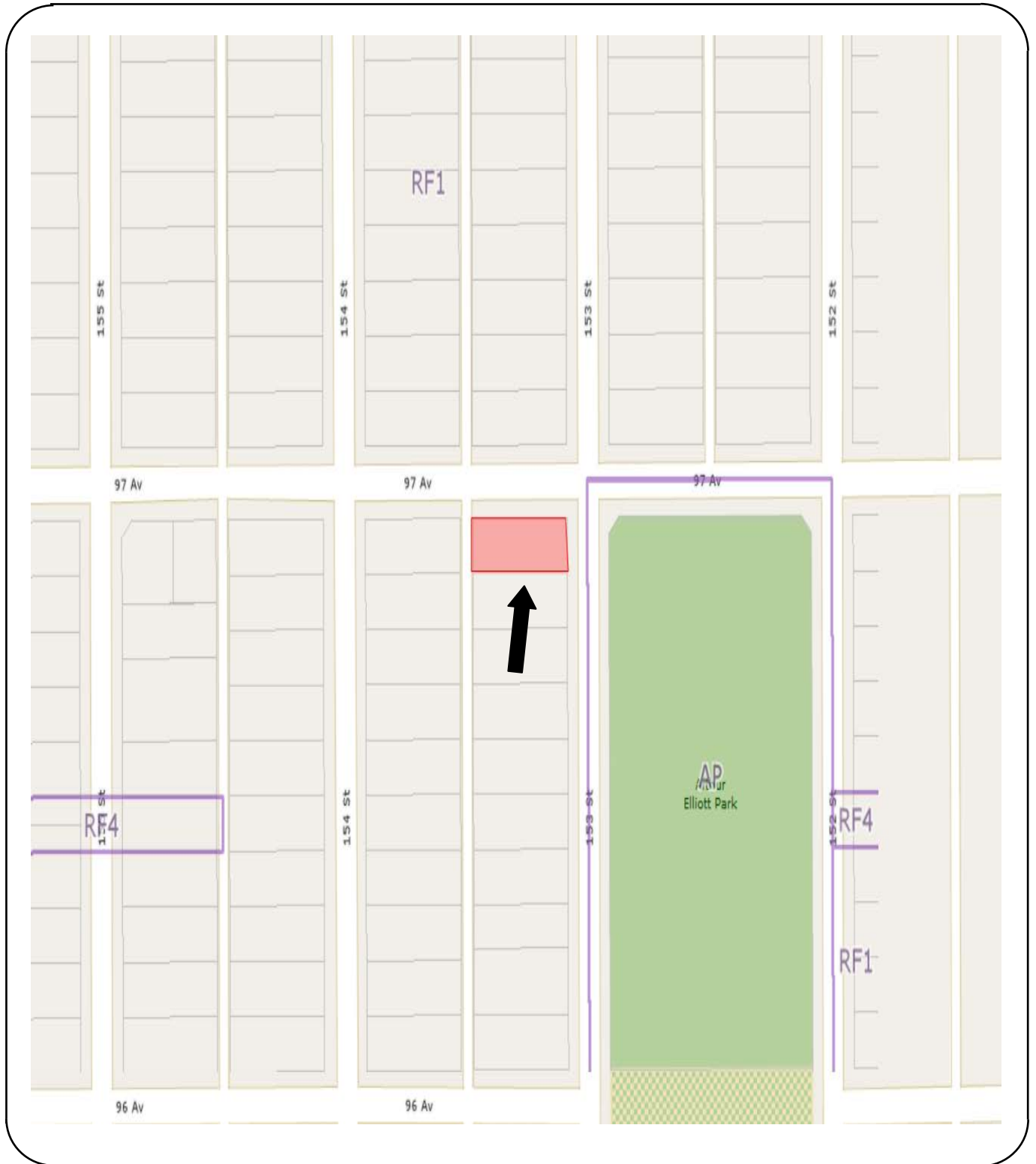
Issue Date: Jun 22, 2016 Development Authority: LI, CINDY

Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$323.00	\$323.00	03114621	Mar 08, 2016
DP Notification Fee	\$102.00	\$102.00	03114621	Mar 08, 2016
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$425.00	\$425.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location



File: SDAB-D-16-177



ITEM II: 11:00 A.M.

FILE: SDAB-D-16-178

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 221424956-001

ADDRESS OF APPELLANT: 10410 - Allendale Road NW

APPLICATION TO: Construct (1) Freestanding Off-premises Sign (3 metres by 6.1 metres facing NW and SE) (Pattison Outdoor Advertising).

WITHDRAWN

DECISION OF THE DEVELOPMENT AUTHORITY:

DECISION DATE: June 17, 2016

DATE OF APPEAL: June 30, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10410 - Allendale Road NW

LEGAL DESCRIPTION: Plan 4976KS Blk 34 Lots 9,12

ZONE: DC1 Direct Development Control Provision (16136)

OVERLAY: N/A

STATUTORY PLAN: Strathcona Junction Area Redevelopment Plan

Grounds for Appeal

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

I am a representative of Pattison Outdoor Advertising, the Applicant in the above noted matter. Our Development Permit Application has been refused. On behalf of Pattison Outdoor Advertising, I hereby appeal the refusal on the following grounds:

1. The Planning Technician whom had conducted the preliminary review of our Development Permit Application mistakenly changed the scope of our Application. The Application we had submitted was titled: "An Application to Extend the Duration of a Freestanding Off-Premises Sign." This was also indicated within the Sign Combo

Permit Application form, which was submitted along with the Development Permit Application.

2. The existing Development Permit, which we had applied to extend the duration of, was still valid at the time the application was submitted. The condition attached to the existing permit, that a new application to extend the display duration be submitted on or before May 9, 2016, was met. Our application was submitted on May 3, 2016.
3. It is clear that the Development Officer has reviewed and refused our Application based on the erroneous Scope of Application entered by the Planning Technician. This is obvious, because had our Application been reviewed according to the correct scope, it would not have been appropriate for the Development Officer to apply the second reason for refusal. Such action would be contrary to the applicable Sign Schedule, 59E.3(2(i)), which states: *An application for the renewal of a Sign with a lawful permit existing at the time of the passage of this Bylaw will not be refused for the sole reason that it does not comply with development regulations of this Bylaw.*
4. New Freestanding Off-Premises Sign developments are not listed as an available use class within the applicable DC1 (16136) Zone. However, we believe that the Development Authority and the Subdivision Development Appeal Board have the jurisdictional authority to approve our Development Permit Application if it is reviewed according to the correct Scope of Application.
5. Such further and other reasons as may be presented at the hearing of this appeal.

<p><i>General Matters</i></p>

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 June 17, 2016. The Notice of Appeal was filed on June 30, 2016.

Direct Control Districts

641(4) Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

...

(b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 1 of DC1(16136) states that the **Purpose** of this DC1 Direct Development Control Provision is:

... to provide transition for the area to become a pedestrian-oriented, urban style commercial mixed Use area, while respecting the character of 104 Street and Gateway Boulevard. This Provision enhances the pedestrian environment by incorporating pedestrian scaled architecture, amenities and landscaping. It allows for industrial, commercial and limited residential Uses.

Freestanding Off-premises Signs is not a Listed Use within this Direct Control District.

Section 7.9(3) of the *Edmonton Zoning Bylaw* 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.

Development Officer's Reasons for Refusal

- 1) Freestanding Off-premises Signs are not a listed Use Class in Area 1 of DC1 16136. (Reference Section 3. Uses, in DC1 16136 approved by Council June 18, 2012)
- 2) The Proposed Freestanding Off-premises Sign is a billboard, and is contrary to Section 3.1.10 of the Strathcona Junction Area Redevelopment Plan, which states "Signs will respect the character of an urban area. Billboards will not be allowed." (Reference Section 3.1.10 of the Strathcona Junction Area Redevelopment Plan, adopted by Council July 2011.)

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: 221424956-001 Application Date: MAY 10, 2016 Printed: June 17, 2016 at 10:17 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 PATTISON OUTDOOR ADVERTISING Care of: JIMMI ENGLISH 10707 - 178 STREET NW EDMONTON, ALBERTA CANADA T5S 1J6	Property Address(es) and Legal Description(s) 10410 - ALLENDALE ROAD NW Plan 4976KS Blk 34 Lots 9,12
Scope of Application To construct (1) Freestanding Off-premises Sign (3m x 6.1m facing NW and SE) (PATTISON OUTDOOR ADVERTISING).	
Permit Details	
ASA Sticker No./Name of Engineer: Construction Value: 0	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 1) Freestanding Off-premises Signs are not a listed Use Class in Area 1 of DC1 16136. (Reference Section 3. Uses, in DC1 16136 approved by Council June 18, 2012) 2) The Proposed Freestanding Off-premises Sign is a billboard, and is contrary to Section 3.1.10 of the Strathcona Junction Area Redevelopment Plan, which states <input type="checkbox"/> Signs will respect the character of an urban area. Billboards will not be allowed. <input type="checkbox"/> (Reference Section 3.1.10 of the Strathcona Junction Area Redevelopment Plan, adopted by Council July 2011.) 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: Jun 17, 2016 Development Authority: NOORMAN, BRENDA Signature: _____	
THIS IS NOT A PERMIT	



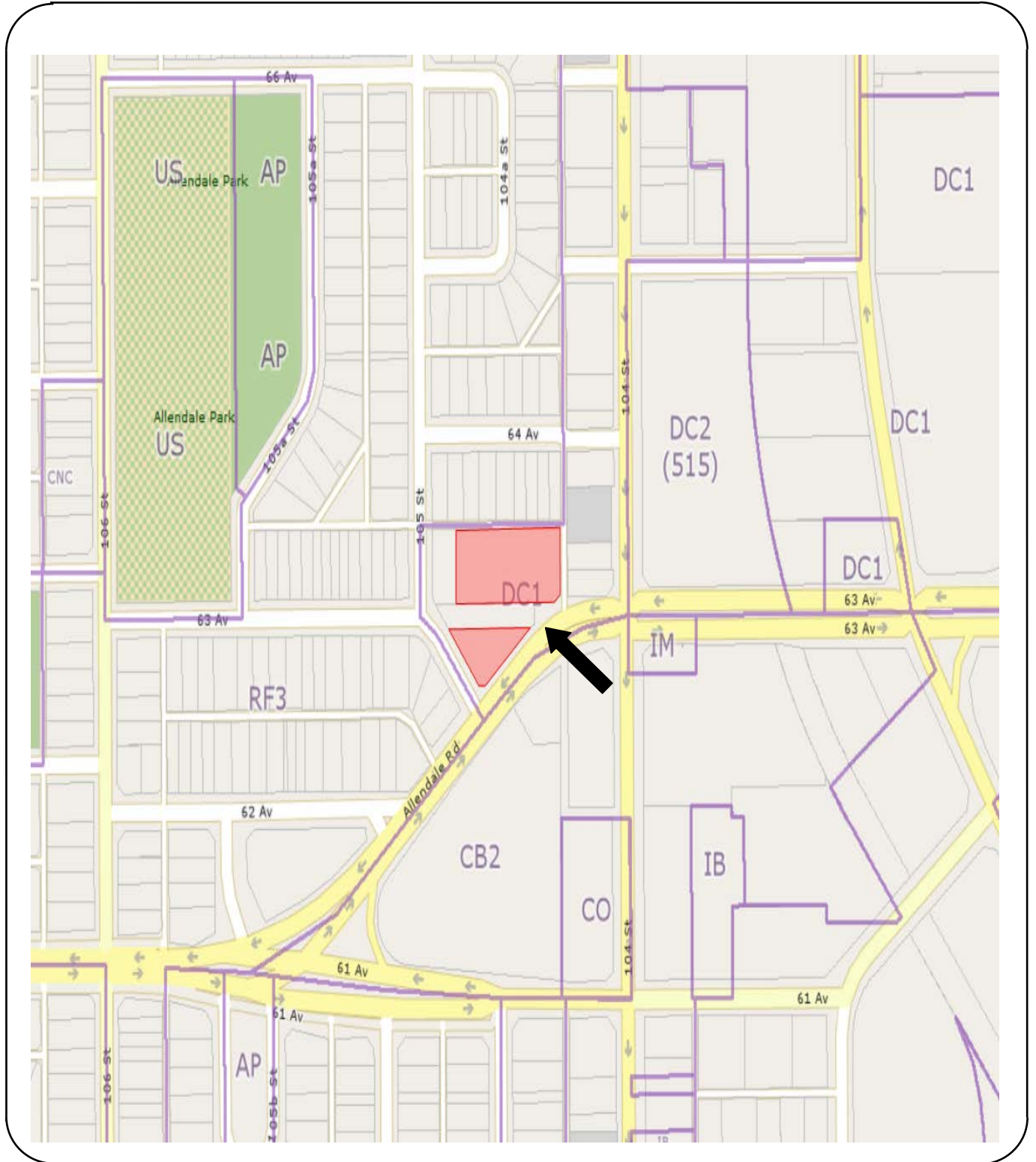
Application for Sign Combo Permit

Project Number: **221424956-001**
Application Date: MAY 10, 2016
Printed: June 17, 2016 at 10:17 AM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sign Development Application Fee	\$261.00	\$261.00	03268816	May 10, 2016
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$261.00	\$261.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-178



ITEM III: 1:30 P.M.

FILE: SDAB-D-16-179

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

APPELLANT:

APPLICATION NO.: 188163171-001

ADDRESS OF APPELLANT:

APPLICATION TO: To construct an Automotive and Minor Recreation Vehicle Sales / Rentals building (Car Corner Automotive Centre)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: June 6, 2016

DATE OF APPEAL: July 5, 2016

RESPONDENT:

ADDRESS OF RESPONDENT: 4939 - 127 Avenue NW

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4939 - 127 Avenue NW

LEGAL DESCRIPTION: Plan 7720215 Blk 25 Lot 24

ZONE: DC2 Site Specific Development Control Provision (908)

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

I, Jennifer Ward, concerned home owner in Red Willow Condominiums wish to appeal the proposed development that is scheduled to be built adjacent to my property at #33, 4707 – 126 Avenue, Edmonton, AB, T5A 4K4.

I only found out about this development through word-of-mouth from my neighbours on Monday, June 27, 2016. I did call Paul Kowal, Planner II, Development Services, on June 28 to find out if notice had been sent to me and he confirmed it had, but I have never received it. I am hoping that you will allow for a grace period for me to submit my appeal based on the fact that I have only recently been notified of this development.

As a home owner whose property is adjacent and within sight lines of this new development, it is disconcerting for me in many ways. I am concerned about lighting and noise and lack of buffering between this development and my home. I am also concerned that a business of this type will bring many individuals from outside of the Homesteader Community into our neighbourhoods.

The General Purpose of DC2.908.1 clearly states that: the purpose of this zone is to allow for a mix of services and retail uses generally intended to serve the local area.

Homesteader Community is a small community that has a large population of people that are low to middle income earning individuals that would not be serviced by an Automotive and Minor Recreation Sales/Rental Building. These community members would likely not frequent this business. Many of the residents of this community rent their residences and extending themselves financially to rent an RV or Recreation Vehicle is not a priority. Therefore, many of this business' clientele would be from outside the Homesteader Community. Therefore it would not **generally serve the local area or the community members.**

DC2.908.4 Development Regulations, section h shares: *Where Use Classes, that may in the opinion of the Development Officer, create negative impacts such as noise, light or odours which may be noticeable on adjacent properties, and where the Site containing such Use Classes is directly adjacent to Sites used or zoned for residential activities, the Development Officer may, at the Development Officer's discretion, require that these potential impacts be minimized or negated. This may be achieved through a variety of measures including: Landscaping; berming or screening, which may exceed the requirements of Section 55 of this Bylaw; noise attenuation measures such as structural soundproofing; downward direction of all exterior lighting on to the proposed development; and any other measures as the Development Officer may deem appropriate.*

From the plans submitted for this development, the lighting that will cast outward from the building can potentially shine into bedrooms and living spaces. This will impact residents' way of living and their ability to sleep. These condominiums have young families with small/school aged children, as well as seniors who will be most impacted by any extra noise and lighting coming from the development.

The current development plans do not have berming and screening for the rear-exterior of the building. This is problematic. This will unfairly impact the residents of Red Willow that face this development as the green space between the proposed development and the Condominiums is wide-open. There are no measures in the current plan to mitigate noise and noise pollution caused by this development through the general operation of the building to garbage collection that can take place at times outside of normal business hours.

Moreover, the noise that will come from increased traffic; general noise from customers; sounds of vehicles running for longer than normal periods of time; and larger vehicles driving into and away from this business. Consequently, this will impact families and individuals and their rights to quiet enjoyment.

Being that this proposed development is adjacent to a residential area, the noise by-law set out by The City of Edmonton's Community Standards Bylaw 14600 has the potential to be contravened.

Section 21 of this Bylaw states that:

(1) A person shall not cause or permit any sound exceeding 75 dB(A), as measured at the property line of a property zoned for use other than residential, between 7 a.m. and 10 p.m. (2) A person shall not cause or permit property they own or occupy to be used so that any sound coming from the property exceeds 75dB(A), as measured at the property line zoned for use other than residential between 7 a.m. and 10 p.m.

This proposed development will impact our community in ways that are unforeseen to those that are not residents of this area. Red Willow Condominiums is a unique position geographically. Re-sale and property values are impacted by the buildings and structures adjacent to our property lines. Owners of Red Willow Condominiums are therefore impacted financially by whatever development happens on Plan 7720215 Blk 25 Lot 24. Property taxes continue to rise, but financially owners of Red Willow Condominiums will take a loss of property value due to a building such as this being built on this lot.

I am not only concerned for myself, but for all residents of this community that will be impacted by this business. I appreciate your time and attention to my letter of appeal.

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,

...

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

The *Edmonton Zoning Bylaw 12800* provides as follows:

20. Notification of Issuance of Development Permits

20.1 Class B Development

1. Within seven days of the issuance of a Development Permit for Class B Development, the Development Officer shall dispatch a notice by ordinary mail to:
 - a. each assessed owner of the Site or a part of the Site of the development;
 - b. each assessed owner of land, wholly or partly within a distance of 60.0 m of the boundary of the Site;
 - c. the President of each Community League operating within the notification boundaries described in clause (b), above; and
 - d. the President of each Business Revitalization Zone Association operating within the notification boundaries described in clause (b) above.
2. The notice shall describe the development and state the decision of the Development Officer, and the right of appeal therefrom.
3. Within 10 days of the issuance of a Development Permit for Class B Development, the Development Officer shall cause to be published in a daily newspaper circulating within the City, a notice describing

the development and stating his decision, and the right to appeal therefrom.

The decision of the Development Officer is dated June 6, 2016. Notice of the development was published in the Edmonton Journal on June 14, 2016. The Notice of Appeal was filed on July 5, 2016.

Direct Control Districts

641(4) Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

...

(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.

Determining an Appeal

The *Municipal Government Act* states the following:

Hearing and decision

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

(a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

(c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 140.1 states that the **General Purpose** of the **DC2 Site Specific Development Control Provision (908)** (“DC2.908”) is:

... to allow for a mix of services and retail uses generally intended to serve the local area. Development shall be sensitive in scale with the existing development along the commercial street and the adjacent residential neighbourhood while addressing the setback regulations for the Utility Right of Way.

Under Section 2.908.3(b), **Automotive and Minor Recreation Vehicle Sales/Rentals** is a **Listed Use** within DC2.908.

Section 7.4(5) states:

Automotive and Minor Recreation Vehicle Sales/Rentals means development used for the retail sale or rental of new or used automobiles, motorcycles, snowmobiles, tent trailers, boats, travel trailers or similar light recreational vehicles or crafts, together with incidental maintenance services and sale of parts. This Use Class includes automobile dealerships, car rental agencies and motorcycle dealerships. This Use Class does not include dealerships for the sale of trucks with a gross vehicle weight rating of 4 000 kg or greater, or the sale of motorhomes with a gross vehicle weight rating greater than 6 000 kg or a length of more than 6.7 m.

Parking Spaces

Section 54.2 Schedule 1 – Vehicular Parking Requirement provides as follows:

Schedule 1(A) Areas outside of the Downtown Special Area	
Use of Building or Site	Minimum Number of Parking Spaces or Garage Spaces Required
Commercial Use Classes	
12. Any development within a Commercial Use Class not listed separately in this table, with a Floor Area of:	

a. less than 4 500 m ²	1 parking space per 40.0 m ² of Floor Area
b. 4 500m ² - 9 000m ²	1 parking space per 33.3 m ² of Floor Area
c. 9 000 m ² - 28 000 m ²	1 parking space per 28.5 m ² of Floor Area
d. greater than 28 000 m ²	1 parking space per 25.0 m ² of Floor Area

Development Officer’s Determination

The Development Officer referenced Schedule 1A(12)(a) of Section 54.2, and made the following determination:

Parking - The site has 21 parking spaces, instead of 25 [Section 54.2, Schedule 1 (12)(a)]

Parking Spaces

Section 54.4 Schedule 3 – Loading Spaces Requirement provides the following:

Use of Building or Site	Total Floor Area of Building	Minimum Number of loading Spaces Required
1. Any development within the Commercial or Industrial Use Classes, excluding Professional, Financial and Office Support Services	Less than 465 m ²	1
	465 m ² to 2 300 m ²	2
	Each additional 2 300 m ² , or fraction thereof	1 additional

Development Officer’s Determination

The Development Officer referenced Schedule 3(1) of Section 54.4 and made the following determination:

Loading - The site has one loading space, instead of 2 [Section 54.4, Schedule 3 (1)]

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: **188163171-001**
Application Date: MAR 04, 2016
Printed: June 6, 2016 at 4:21 PM
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Major Development Permit

This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.

Applicant 	Property Address(es) and Legal Description(s) 4939 - 127 AVENUE NW Plan 7720215 Blk 25 Lot 24 Specific Address(es) Entryway: 4939 - 127 AVENUE NW Building: 4939 - 127 AVENUE NW
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Scope of Permit
To construct a Automotive and Minor Recreation Vehicle Sales / Rentals building (Car Corner Automotive Centre).

Permit Details Class of Permit: Class B Gross Floor Area (sq.m.): 998.75 New Sewer Service Required: Y Site Area (sq. m.): 4495.62	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)
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I/We certify that the above noted details are correct.
Applicant signature: _____

Development Permit Decision
Approved

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



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Major Development Permit

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 \$102.00.

2) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Lot Grading Fee of \$220.00.

3) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Sanitary Sewer Trunk Fund fee of \$3,428.92. All assessments are based upon information currently available to the City. The SSTF charges are quoted for the calendar year in which the development permit is granted. The final applicable rate is subject to change based on the year in which the payment is collected by the City of Edmonton.

4) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall provide a guaranteed security to ensure that landscaping is provided and maintained for two growing seasons. The Landscape Security may be held for two full years after the landscaping has been completed. This security may take the following forms:

- a) cash to a value equal to 100% of the established landscaping costs;
- or
- b) an irrevocable letter of credit having a value equivalent to 100% of the established landscaping costs.

Any letter of credit shall allow for partial draws. If the landscaping is not completed in accordance with the approved Landscape Plan(s) within one growing season after completion of the development or if the landscaping is not well maintained and in a healthy condition two growing seasons after completion of the landscaping, the City may draw on the security for its use absolutely. Reference Section 55.6.

5) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the owner must enter into a Municipal Improvement Agreement with the City for the following improvements:

- construction of a 9 m all-directional commercial crossing to align with the existing access to the north across 127 Avenue, located 22.6 m from the west property line; and
- construction of a 9 m all-directional commercial crossing to align with the existing access to the north across 127 Avenue, located 15.5 m from the east property line.

Engineering Drawings are not required for this Agreement. However, construction must meet the City of Edmonton Design and Construction Standards. The Agreement must be signed by the property owner and returned to Transportation Planning and Engineering to the attention of Loli Fernandez (780-944-7683) including an irrevocable Letter of Credit in the amount of \$36,000 to cover 100% of construction costs. The Agreement will be forwarded directly to the owner for his signature.

6) 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).

7) The proposed 9 m all-directional access to 127 Avenue located 22.6 m from the west property line is acceptable to Transportation Planning and Engineering and must be constructed as a commercial crossing access. The access must align with the existing access to the north across 127 Avenue as shown on Enclosure I.

8) The proposed 9 m all-directional access to 127 Avenue located 15.5 m from the east property line is acceptable to Transportation Planning and Engineering and must be constructed as a commercial crossing access. The access must align with the existing access to the north across 127 Avenue as shown on Enclosure I.

9) The proposed connector sidewalk from the north property line of the subject site to tie into the City sidewalk on the south side of 127 Avenue, as shown on the Enclosure, is acceptable to Transportation Planning and Engineering.

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

11) There is an existing commercial crossing to the north of the subject site across 127 Avenue as shown on Enclosure I. The

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



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Major Development Permit

11) There is an existing catv pedestal in the vicinity of the proposed westerly access to 127 Avenue, as shown on Enclosure 1. The access must maintain a minimum clearance of 1.5 m from the catv pedestal. The applicant should contact Shaw Cablesystems at planningedmonton@sjrb.ca for more information. Should relocation of the pedestal be required, all costs associated with relocation must be borne by the owner/applicant.

12) 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

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

14) The maximum Floor Area of any individual business premises for a listed Use shall not exceed 1,000 sq.m., except that a grocery store or supermarket may be permitted a Floor Area of up to 2,500 sq.m.

15) No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback.

16) Parking will not be permitted on the Utility Right of Way.

17) A 7.5m building Setback will be required from the Utility Right of Way.

18) Bicycle parking (a minimum of 5 spaces) shall be provided in accordance to Section 54.3 and to the satisfaction of the Development Officer.

19) All outdoor trash collection areas shall be located and screened to the satisfaction of the Development Officer in accordance with Sections 55(4) & (5).

20) The applicant/owner shall provide parking for People with Disabilities (a minimum of 2 spaces) in accordance to Section 54.1(3) and to the satisfaction of the Development Officer.

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

22) Landscaping shall be in accordance to the approved Landscape Plan, Section 55 and to the satisfaction of the Development Officer.

23) 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.

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

Notes:

i) Signs require separate Development Applications.

ii) 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.

iii) Building Permit is Required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.

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



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Major Development Permit

Variations

Parking - The site has 21 parking spaces, instead of 25 [Section 54.2, Schedule 1 (12)(a)]

Loading - The site has one loading space, instead of 2 [Section 54.4, Schedule 3 (1)]

Rights of Appeal

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

Issue Date: Jun 06, 2016 **Development Authority:** KOWAL, PAUL **Signature:** _____
Notice Period Begins: Jun 14, 2016 **Ends:** Jun 27, 2016

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$893.00	\$893.00	03111336	Mar 07, 2016
Dev. Application Fee for GFA	\$450.00	\$540.00	03111336	Mar 07, 2016
DP Notification Fee	\$102.00			
Lot Grading Fee	\$220.00			
Sanitary Sewer Trunk Fund 2012+	\$3,518.92			
Total GST Amount:	\$0.00			
Totals for Permit:	\$5,183.92	\$1,433.00		
(\$3,750.92 outstanding)				

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-179



BUSINESS LAID OVER

SDAB-D-16-120	An appeal to construct a Single Detached House with attached Garage, veranda, fireplace, rear balcony (irregular shape, 4.25 metres by 2.22 metres) and Basement development (NOT to be used as an additional Dwelling) <i>August 3, 2016</i>
SDAB-D-16-136	An appeal to extend the duration of a Freestanding Minor Digital Off-premises Sign (3.05m x 10.37m Single Sided Facing South) <i>August 17 or 18, 2016</i>
SDAB-D-16-144	An appeal to 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>November 30 or December 1, 2016</i>