

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
July 4, 2019**

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

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

I	9:00 A.M.	SDAB-D-19-104	Construct exterior alterations to a Semi-detached House (increased in building height) 10973 - 132 Street NW Project No.: 279658672-022
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II	10:30 A.M.	SDAB-D-19-105	Operate a Major Home Based Business (Office and Food Preparation Area for a Food Preparation Business - SABZ) expires May 24, 2024 11712 - 42 Avenue NW Project No.: 311485274-001
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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-19-104

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 279658672-022

APPLICATION TO: Construct exterior alterations to a Semi-detached House (increased in building height)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 13, 2019

DATE OF APPEAL: June 5, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10973 - 132 Street NW

LEGAL DESCRIPTION: Plan RN60 Blk 21 Lot 17

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

To Whom it May Concern,

I wish to appeal the decision of the Development Authority. The development officer had to refuse the decision because the zoning is RF1 and in RF1 zoning, building a semi-detached is a discretionary use under RF1 zoning. My semi-detached project is over by 0.1m in height which is a little under 4 inches. This semi-detached home was designed with a pitched roof to provide a consistent look with the Westmount neighborhood. The semi-detached house is already completed with approved occupancy permit and both sides are occupied by home owners.

I am sorry that I did not appeal this decision in a timely manner and I hope the SDAB will still consider and reveal this 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,

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;

- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.2(6), **Semi-detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.2(7), **Semi-detached Housing** means:

development consisting of a building containing two principal Dwellings joined in whole or in part at the side or rear with neither of those Dwellings being placed over another in whole or in part. Each principal Dwelling has separate, individual, and direct access to ground level. This type of development is designed and constructed as two Dwellings at the time of initial construction of the building. This Use does not include Duplexes.

Under section 6.1, **Height** means “a vertical distance between two points.”

Section 110.1 states that the **General Purpose** of **(RF1) Single Detached Residential Zone** is:

to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.

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

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

Mature Neighbourhood Overlay - Height

Section 814.3(5) states “The maximum Height shall not exceed 8.9 m.”

Development Officer’s Determination

Height (to the midpoint of the roof) - The maximum height is 9.0m instead of 8.9m (Section 814.3.5). [unedited]

Height and Grade

Section 52.2(c) states:

In determining whether a development conforms to the maximum Height permissible in any Zone, the following regulations shall apply:

...

- c. Where the maximum Height as determined by Section 52.1 is measured to the midpoint, the ridge line of the roof shall not extend more than 1.5 m above the maximum permitted building Height of the Zone or overlay, or in the case of a Garden Suite the maximum permitted building Height in accordance with Section 87 of this Bylaw.

Development Officer’s Determination

Height (to the peak of the roof) - The maximum height is 10.5m instead of 10.4m (Section 52.2.c). [unedited]

Community Consultation

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

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

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

Section 814.5(2) states:


Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of 60.0 metres of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of 60.0 metres of the Site of the proposed development and the President of each Community League	814.3(5) - Height

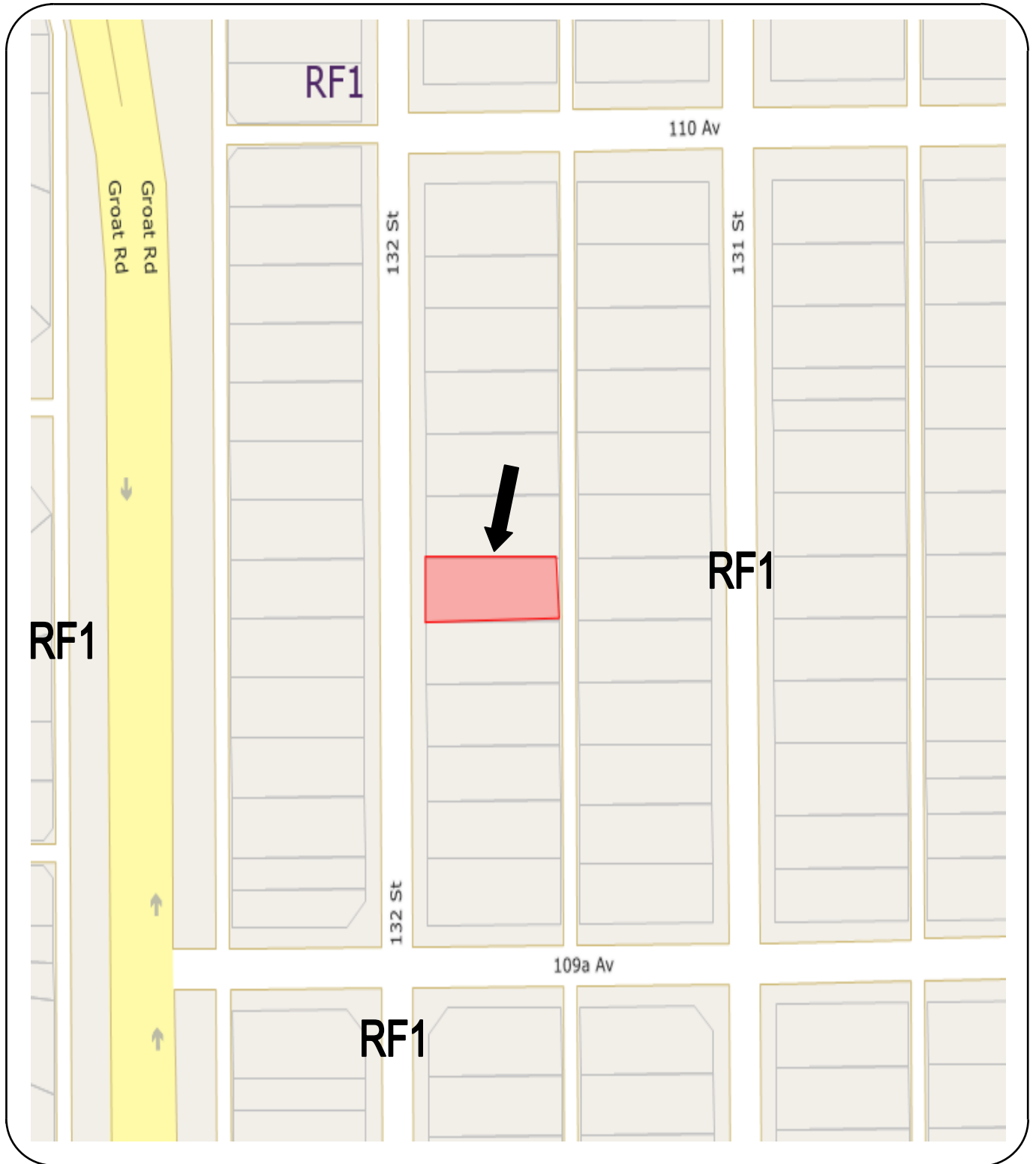
Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-18-094	To construct a Semi-Detached House with Unenclosed Front Porch, fireplace, rear uncovered deck, Basement development (NOT to be used as an additional Dwelling), and to demolish the existing Single Detached House and Accessory building (rear detached Garage).	July 17, 2018; The appeal is ALLOWED and the decision of the Development Authority is REVOKED . The development is GRANTED as applied for to the Development Authority, subject to CONDITIONS .

Notice to Applicant/Appellant

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

	<h2 style="margin: 0;">Application for Addition Permit</h2>	Project Number: 279658672-022 Application Date: MAR 05, 2019 Printed: May 13, 2019 at 10:16 AM Page: 1 of 1		
This document is a Development Permit Decision for the development application described below.				
Applicant	Property Address(es) and Legal Description(s) 10973 - 132 STREET NW Plan RN60 Blk 21 Lot 17			
	Location(s) of Work Entryway: 10973 - 132 STREET NW Entryway: 10975 - 132 STREET NW Building: 10973 - 132 STREET NW			
Scope of Application To construct exterior alterations to a Semi-Detached House (increased in building height).				
Permit Details				
Class Of Permit: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 650.33			
I/We certify that the above noted details are correct. Applicant signature: _____				
Development Application Decision Refused Issue Date: May 13, 2019 Development Authority: YEUNG, KENNETH Reason for Refusal Height (to the midpoint of the roof) - The maximum height is 9.0m instead of 8.9m (Section 814.3.5). Height (to the peak of the roof) - The maximum height is 10.5m instead of 10.4m (Section 52.2.c). Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.				
Building Permit Decision Refused				
Fees				
	Fee Amount	Amount Paid	Receipt #	Date Paid
Building Permit Fee (Construction Value)	\$110.00	\$110.00	05690902	Mar 05, 2019
Safety Codes Fee	\$4.50	\$4.50	05690902	Mar 05, 2019
Development Application Fee	\$425.00	\$425.00	05690902	Mar 05, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	\$539.50	\$539.50		
THIS IS NOT A PERMIT				



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-104



ITEM II: 10:30 A.M.

FILE: SDAB-D-19-105

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

APPELLANT:

APPLICATION NO.: 311485274-001

APPLICATION TO: Operate a Major Home Based Business (Office and Food Preparation Area for a Food Preparation Business - SABZ) expires May 24, 2024

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: May 24, 2019

DATE OF APPEAL: June 7, 2019

NOTIFICATION PERIOD: May 30, 2019 through June 20, 2019

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11712 - 42 Avenue NW

LEGAL DESCRIPTION: Plan 1210NY Blk 23 Lot 20

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

Location of the home wherein the development permit was approved does not include businesses such as described (food preparation for commercial catering purposes). The business will increase non-residential traffic in the cul-de-sac that will affect parking within the cul-de-sac and could result in parking violations, property theft and crime.

The food preparation in the basement of the home will present a fire risk that could impact homes in the neighborhood. The type of business will attract a variety of pests including mice and other rodents which would result in other residents in the area having to control infestation. Approval of the business in the relatively small home will set a precedent in setting up other businesses of a similar nature resulting in downward trend in market prices of homes in the area. The establishment of a food preparation activity in the home will certainly have an effect on the care of the small children involved in the child day care operation the owners have. Can the owners provide the necessary care of the children when at the same time their devotion is to the food preparation business? There is a concern of air pollution and possible unpleasant odor resulting from the food preparation.

<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.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,

(A) within 21 days after the date on which the written decision is given under section 642, or

(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

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

...

(a.1) must comply with the land use policies;

(a.2) subject to section 638, must comply with any applicable statutory plans;

(a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;

(a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

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

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

(i) the proposed development would not

- (A) unduly interfere with the amenities of the neighbourhood, or
- (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.3(4), a **Major Home Based Business** is a **Discretionary Use** in the **(RF1) Single Detached Residential Zone**.

Under Section 7.3(7), **Major Home Based Business** means:

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

Section 110.1 states that the **General Purpose** of **(RF1) Single Detached Residential Zone** is:

to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.

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

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

Discretionary Use

Development Officer's Determination

You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.

Note: The proposed development complies with the Bylaw, and there are no variances to the development regulations. [unedited]

Section 75 – Major Home Based Business Regulations

A Major Home Based Business shall comply with the following regulations:

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

8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
9. the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.
10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

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.

	<p>Project Number: 311485274-001 Application Date: APR 18, 2019 Printed: June 10, 2019 at 8:07 AM Page: 1 of 3</p>		
Home Occupation			
<p>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.</p>			
Applicant	<p>Property Address(es) and Legal Description(s) 11712 - 42 AVENUE NW Plan 1210NY Blk 23 Lot 20</p> <p>Specific Address(es) Entryway: 11712 - 42 AVENUE NW Building: 11712 - 42 AVENUE NW</p>		
<p>Scope of Permit To operate a Major Home Based Business (Office and Food Preparation Area for a Food Preparation Business - SABZ). Expires May 24, 2024.</p>			
<p>Permit Details</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> <p># of business related visits/day: 2 Administration Office Only?: N Class of Permit: Class B</p> <p>Do you live at the property?: Y Outdoor storage on site?: N</p> </td> <td style="width: 50%; border: none; vertical-align: top;"> <p># of vehicles at one time: 1 Business has Trailers or Equipment?: N Description of Business: Administration office and food preparation. All food preparation will be done in a Commercial Food Preparation Area in basement (AHS inspected). Expiry Date: 2024-05-24 00:00:00</p> </td> </tr> </table>		<p># of business related visits/day: 2 Administration Office Only?: N Class of Permit: Class B</p> <p>Do you live at the property?: Y Outdoor storage on site?: N</p>	<p># of vehicles at one time: 1 Business has Trailers or Equipment?: N Description of Business: Administration office and food preparation. All food preparation will be done in a Commercial Food Preparation Area in basement (AHS inspected). Expiry Date: 2024-05-24 00:00:00</p>
<p># of business related visits/day: 2 Administration Office Only?: N Class of Permit: Class B</p> <p>Do you live at the property?: Y Outdoor storage on site?: N</p>	<p># of vehicles at one time: 1 Business has Trailers or Equipment?: N Description of Business: Administration office and food preparation. All food preparation will be done in a Commercial Food Preparation Area in basement (AHS inspected). Expiry Date: 2024-05-24 00:00:00</p>		
<p>I/We certify that the above noted details are correct. Applicant signature: _____</p>			
<p>Development Permit Decision Approved Issue Date: May 24, 2019 Development Authority: FOLKMAN, JEREMY</p>			



Project Number: **311485274-001**
Application Date: APR 18, 2019
Printed: June 10, 2019 at 8:07 AM
Page: 2 of 3

Home Occupation

Subject to the Following Conditions

Unless otherwise stated, all references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw #12800, as amended.

1. The business owner must live at the site. The business use must be secondary to the residential use of the building and shall not change the residential character of the Dwelling or Accessory Building (Section 7.3(7)).
2. There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling (Section 75.1).
3. The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located (Section 75.3).
4. If non-resident employees or business partners are working on-site, the maximum number shall not exceed the number applied for with this application.
5. If there are visits associated with the business the number shall not exceed the number applied for with this application.
6. Clients visit must be by-appointment only and appointments shall not overlap.
7. There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
8. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
9. The business use must maintain the privacy and enjoyment of adjacent residences and the characteristic of the neighborhood.
10. Interior alterations for the commercial kitchen cannot be used as a Secondary Suite.
11. All commercial, industrial and overweight vehicles shall be parked at an approved storage facility. The Development Permit may be revoked if any commercial, industrial and overweight vehicles are parked or stored at the residential site.
12. One or more enclosed or empty non-enclosed trailer with less than 4500kg gross vehicle weight shall be parked at an approved storage facility, unless a variance has been granted for an enclosed or empty non-enclosed trailer for this Major Home Based Business.
13. All parking for the Dwelling and Home Based Business must be accommodated on site unless a parking variance has been granted for this Major Home Based Business.
14. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
15. This approval is for a 5 year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on May 24, 2024.

Notes:

1. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site (Section 5.2).
2. This Development Permit is not a Business License.



Project Number: 311485274-001
Application Date: APR 18, 2019
Printed: June 10, 2019 at 8:07 AM
Page: 3 of 3

Home Occupation

3. Subject to the right of appeal. The permit is not valid until the required Notification Period expires (date noted below in accordance with Section 21.1 and 17.1).

Variations

You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.

Note: The proposed development complies with the Bylaw, and there are no variations to the development regulations.

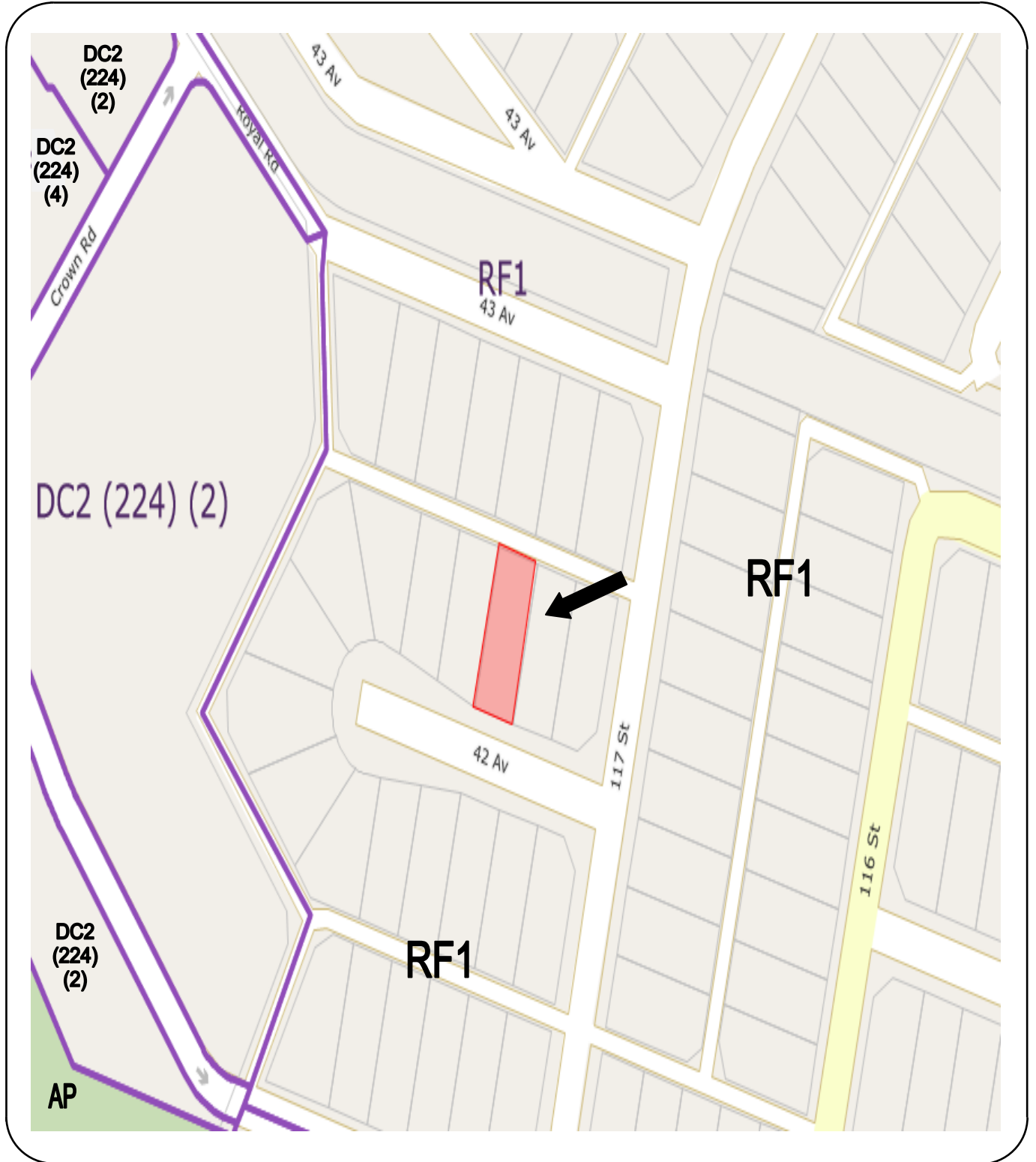
Rights of Appeal

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

Notice Period Begins: May 30, 2019 Ends: Jun 20, 2019

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$321.00	\$321.00	05790795	Apr 18, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	\$321.00	\$321.00		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-105

