

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
July 5, 2017**

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

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

I 9:00 A.M. SDAB-D-17-119

Operate a Major Home Based Business. (Tax and Bookkeeping Services – Cybal Finance & Tax Services)

13407 - 92 Street NW
Project No.: 251377712-001

II 10:30 A.M. SDAB-D-17-120

Demolish existing Freestanding Off-premises Sign & install (1) Freestanding Minor Digital Off-premises (14.6 m x 4.26 m - West face Digital & East face static)

2010 - 80 Avenue NW
Project No.: 239859787-001

III 1:00 P.M. SDAB-D-17-121

Operate a Temporary Storage (RV Storage) and Outdoor Participant Recreation Service (driving range with clubhouse) on a portion of the site (Temporary - 5 years)

15821 - 34 Street NW
Project No.: 235482683-003

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-17-119

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 251377712-001

APPLICATION TO: Operate a Major Home Based Business.
(Tax and Bookkeeping Services – Cybal
Finance & Tax Services)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 30, 2017

DATE OF APPEAL: June 12, 2017

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 13407 - 92 Street NW

LEGAL DESCRIPTION: Plan 942MC Blk 19 Lot 39

ZONE: RF1 Single Detached Residential Zone

OVERLAY: MNO Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

**Re: Rights of Appeal - Application for Home Occupation - Project
Number:251377712 -00**

This letter is to appeal your decision to not approve the *Application for Home Occupation* dated May 30, 2017. The based business is located at 13407 – 92 Street NW, Edmonton. For your information and attention.

I. Excessive traffic

Traffic/parking resulting from clients of Cybal Finance and Tax Services Inc. can be and are accommodated by the three (3) parking spaces located off the rear lane. Also, there is off-site parking

located on 92nd Street.

The hours of operation for Cybal Finance and Tax Services Inc. are 9:00 AM to 4:00 PM. Most of the neighbourhood residents are not home during this time period. Traffic would be non-existent.

Cybal Finance and Tax Services Inc. does not operate on Sundays, traffic becomes a non-issue during this time.

Considerable traffic in the area is as a result of an elementary school located across the street. (A letter supporting this is attached.)

2. Neighbourhood Characteristic

Major Home Based Business Zoning Bylaw Regulations allow for more than one visit to the home each day. On the average, Cybal Finance and Tax Services Inc. have an average of 0-3 visits per day. These visits are by appointment only and at different times during the day.

Many of Cybal Finance and Tax Services Inc. clients are operated remotely and drop off tax service. Their clients e-mail and/or drop off/pick up their papers in the mailbox. These clients do not come to the home nor have reason to be in the neighbourhood.

In summary, three visits per day, from 9:00 AM to 4:00 PM does not/will not generate vehicle traffic in excess of what is normal for this neighborhood plus it does not affect the residential area.

A letter, with signatures from the neighbors, in support of Cybal Finance and Tax Services Inc. was obtained and is attached. It states that the increase in traffic in the area is due to the location of the elementary school across the street and not due to Cybal Finance and Tax Services Inc.' clients.

3. Summary

Cybal Finance and Tax Services Inc. have been operating in this location since 2008 with no complaints, with this exception.

Judy LaForge, a neighbor has made several complaints about a dog barking as well as one of the son parking one meter from her property. This recent complaint was about traffic. As a principal owner of Cybal Finance and Tax Service Inc. I respect my neighbours and the neighbourhood. I certainly do not wish to inconvenience the residents in any way; however, I believe that the above complaints from only one individual shows prejudice towards my family and my business. Her complaints have made it very uncomfortable for the entire family.

Most of the clients are recent immigrant small business owners. The fees for services are below the market rates in the industry. In today's economic situation renting an office in a commercial or industrial zone would be a financial hardship.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or
 - ...

The decision of the Development Officer is dated May 30, 2017. The Notice of Appeal was filed on June 10, 2017.

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(7), **Major Home Based Business** is a **Permitted Use** in the RF1 Single Detached Residential Zone.

Section 7.3(7) states:

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

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.

Traffic

Section 75(3) states: “A Major Home Based Business shall comply with the following regulations: ...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”.

Development Officer’s Determination

Excessive traffic - A number of complaints have been made regarding the amount of vehicular traffic and parking generated by the business.

Compatibility



Section 75(9) states: “A Major Home Based Business shall comply with the following regulations: ... 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.”.

Development Officer’s Determination

Neighborhood Characteristic - Due to the number of visits, the business would be more appropriately located in a Commercial Zone.

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: 251377712-001 Application Date: MAY 09, 2017 Printed: June 23, 2017 at 3:45 PM Page: 1 of 2		
<h2 style="margin: 0;">Application for Home Occupation</h2>			
This document is a Development Permit Decision for the development application described below.			
Applicant 	Property Address(es) and Legal Description(s) 13407 - 92 STREET NW Plan 942MC Blk 19 Lot 39 Specific Address(es) Suite: 13407 - 92 STREET NW Entryway: 13407 - 92 STREET NW Building: 13407 - 92 STREET NW		
Scope of Application To operate a Major Home Based Business. (Tax and Bookkeeping Services – Cybal Finance & Tax Services)			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> # of business related visits/day: 5 Administration Office Only?: N Class of Permit: Class A Do you live at the property?: Y Outdoor storage on site?: N </td> <td style="width: 50%; border: none; vertical-align: top;"> # of vehicles at one time: 3 Business has Trailers or Equipment?: N Description of Business: Tax preparation and Bookkeeping Services Expiry Date: </td> </tr> </table>		# of business related visits/day: 5 Administration Office Only?: N Class of Permit: Class A Do you live at the property?: Y Outdoor storage on site?: N	# of vehicles at one time: 3 Business has Trailers or Equipment?: N Description of Business: Tax preparation and Bookkeeping Services Expiry Date:
# of business related visits/day: 5 Administration Office Only?: N Class of Permit: Class A Do you live at the property?: Y Outdoor storage on site?: N	# of vehicles at one time: 3 Business has Trailers or Equipment?: N Description of Business: Tax preparation and Bookkeeping Services Expiry Date:		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused Reason for Refusal Excessive traffic - A number of complaints have been made regarding the amount of vehicular traffic and parking generated by the business. 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)) Neighborhood Characteristic - Due to the number of visits, the business would be more appropriately located in a Commercial Zone. 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. (Section 75(9)) 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: May 30, 2017 Development Authority: KENNEDY, CLARK Signature: _____			
THIS IS NOT A PERMIT			



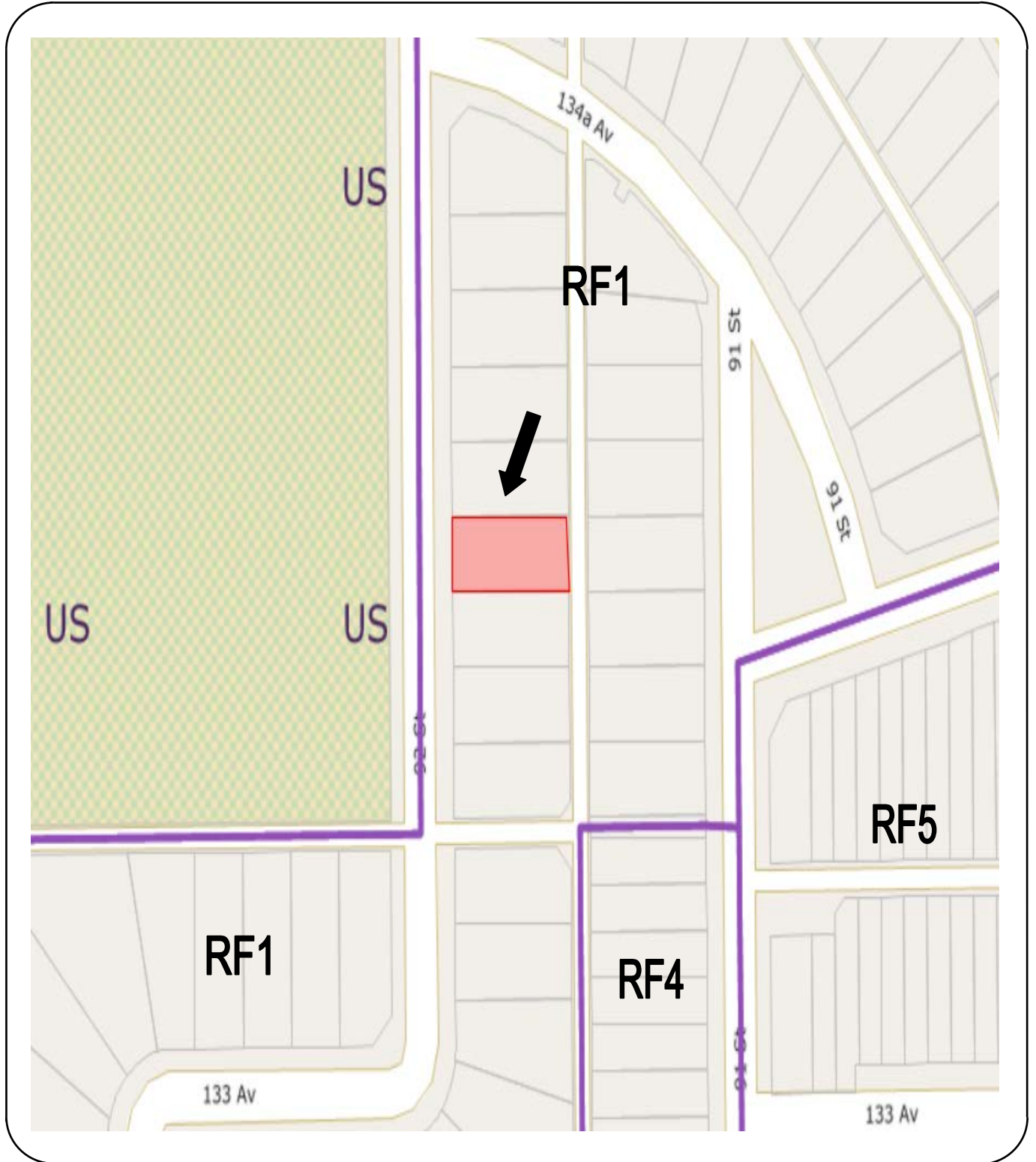
Application for Home Occupation

Project Number: **251377712-001**
Application Date: MAY 09, 2017
Printed: June 23, 2017 at 3:45 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$309.00	\$309.00	04110027	May 09, 2017
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$309.00	\$309.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-119



ITEM II: 10:30 A.M.

FILE: SDAB-D-17-120

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 239859787-001

APPLICATION TO: Demolish existing Freestanding Off-premises Sign & install (1) Freestanding Minor Digital Off-premises (14.6 m x 4.26 m - West face Digital & East face static)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 2, 2017

DATE OF APPEAL: June 12, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2010 - 80 Avenue NW

LEGAL DESCRIPTION: Plan 8020358 Blk 1 Lot 6

ZONE: IB Industrial Business Zone

OVERLAY: Edmonton - Strathcona County Joint Planning Study Area Secondary and Garage Suites Overlay

STATUTORY PLAN: Maple Ridge Industrial Area Structure Plan

Grounds for Appeal

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

- Height applied for is necessary for landlord to safely use/access his property.
- Separation distance is no longer an issue as the vertical sign to the east (which was 125 metres away) has been removed.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or
 - ...

The decision of the Development Officer is dated June 2, 2016. The Notice of Appeal was filed on June 12, 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 400.1 states that the **General Purpose** of the **IB Industrial Business Zone** is:

... to provide for industrial businesses that carry out their operations such that no nuisance is created or apparent outside an enclosed building and such that the Zone is compatible with any adjacent non-industrial Zone, and to accommodate limited, compatible non-industrial businesses. This Zone should normally be located on the periphery of industrial areas and adjacent to arterial or major collector roadways.

Under Section 400.3(42), **Minor Digital Off-premises Signs** are a **Discretionary Use** in the **IB Industrial Business Zone**.

Section 7.9(6) states:

Minor Digital Off-premises Signs means any Sign that is remotely changed on or off Site and has a Message Duration greater than or equal to 6 seconds. Minor Digital Off-premises Signs incorporate a technology or method allowing the Sign to change Copy without having to physically or mechanically replace the Sign face or its components. The Copy on such Sign directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, entertainment or service provided on the premises or Site where the Sign is displayed.

Section 822.1 states that the **General Purpose** of the **Edmonton-Strathcona County Joint Planning Study Area Secondary, Garage and Garden Suites Overlay** is:

... to limit the expansion of Secondary Suites and to limit the creation of any Garage and Garden Suites within a portion of the Edmonton-Strathcona County Joint Planning Study Area to the Use opportunity that existed prior to the adoption of Bylaw 14750, in order to limit residential

intensification in proximity to Industrial Uses until such time as more definitive criteria may be established to prescribe residential development within the Study Area, at which time this Overlay may be subject to amendment.

Maximum Height

Section 59F.3(6)(b) states: “Minor Digital On-premises Off-premises Signs and Minor Digital Off-premises Signs shall be subject to the following regulations: ...the maximum Height shall be 8.0 m”.

Section 11.3(1)(b) states: “In approving a Development Permit Application pursuant to Section 11.2, the Development Officer shall adhere to the following: ...except as otherwise provided in this Bylaw, there shall be no variance from maximum Height, Floor Area Ratio or Density regulations”.

Development Officer’s Determination

1) The maximum height of Freestanding Minor Digital Off-premises Sign shall be 8.0 m. (Reference Section 59F.3(6)(b))

Required Height: 8m
 Proposed Height: 9.75 m
 Exceeds by: 1.75 m

As per Section 11.3(b) the Development Officer does not have authority to grant variance to Height.

Separation Distance

Section 59F.3(6)(e) provides as follows:

6. Minor Digital On-premises Off-premises Signs and Minor Digital Off-premises Signs shall be subject to the following regulations:

...

e. proposed Sign locations shall be separated from any other Digital Sign greater than 8.0 m² or Off-premises Sign as follows:

Proposed Sign Area	Minimum separation distance from Digital Signs greater than 8.0 m ² or other Off-premises Sign
Greater than 8.0 m ² to less than 20 m ²	100 m
20 m ² to 40 m ²	200 m
Greater than 40 m ²	300 m

The separation shall be applied from the larger Off-premises Sign or Digital Sign location.

Development Officer's Determination

2) Proposed Sign locations shall be separated from any other Digital Sign greater than 8.0 m² or Off-premises Signs. If the proposed Sign Area greater than 40m² - the minimum separation distance shall be 300m. The separation shall be applied from the larger Off-premises Sign or Digital Sign location. (Reference Section 59F.3(6)(e))



Required Separation: 300 m

Proposed Separation from Freestanding Off-premise Sign to the East: 125 m

Deficient by: 175 m

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: 239859787-001 Application Date: JAN 24, 2017 Printed: June 23, 2017 at 4:49 PM Page: 1 of 2				
<h2 style="margin: 0;">Application for Sign Combo Permit</h2>					
This document is a Development Permit Decision for the development application described below.					
Applicant 	Property Address(es) and Legal Description(s) 2010 - 80 AVENUE NW Plan 8020358 Blk 1 Lot 6				
Scope of Application To demolish existing Freestanding Off-premises Sign & install (1) Freestanding Minor Digital Off-premises (14.6 m x 4.26 m - West face Digital & East face static)					
Permit Details <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 50%; padding: 5px;"> ASA Sticker No./Name of Engineer: Construction Value: 320000 </td> <td style="width: 50%; padding: 5px;"> Class of Permit: Expiry Date: </td> </tr> <tr> <td style="padding: 5px;"> Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 1 Minor Digital On/Off-premises Sign: 0 </td> <td style="padding: 5px;"> Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0 </td> </tr> </table>		ASA Sticker No./Name of Engineer: Construction Value: 320000	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: 1 Minor Digital On/Off-premises Sign: 0	Freestanding Off-premises Sign: 0 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
ASA Sticker No./Name of Engineer: Construction Value: 320000	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: 1 Minor Digital On/Off-premises Sign: 0	Freestanding Off-premises Sign: 0 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 <ol style="list-style-type: none"> 1) The maximum height of Freestanding Minor Digital Off-premises Sign shall be 8.0 m. (Reference Section 59F.3(6)(b)) Required Height: 8m Proposed Height: 9.75 m Exceeds by: 1.75 m As per Section 11.3(b) the Development Officer does not have authority to grant variance to Height. 2) Proposed Sign locations shall be separated from any other Digital Sign greater than 8.0 m² or Off-premises Signs. If the proposed Sign Area greater than 40m² - the minimum separation distance shall be 300m. The separation shall be applied from the larger Off-premises Sign or Digital Sign location. (Reference Section 59F.3(6)(e)) Required Separation: 300 m Proposed Separation from Freestanding Off-premise Sign to the East: 125 m Deficient by: 175 m 					
THIS IS NOT A PERMIT					



Project Number: **239859787-001**
 Application Date: JAN 24, 2017
 Printed: June 23, 2017 at 4:49 PM
 Page: 2 of 2

Application for Sign Combo Permit

Rights of Appeal

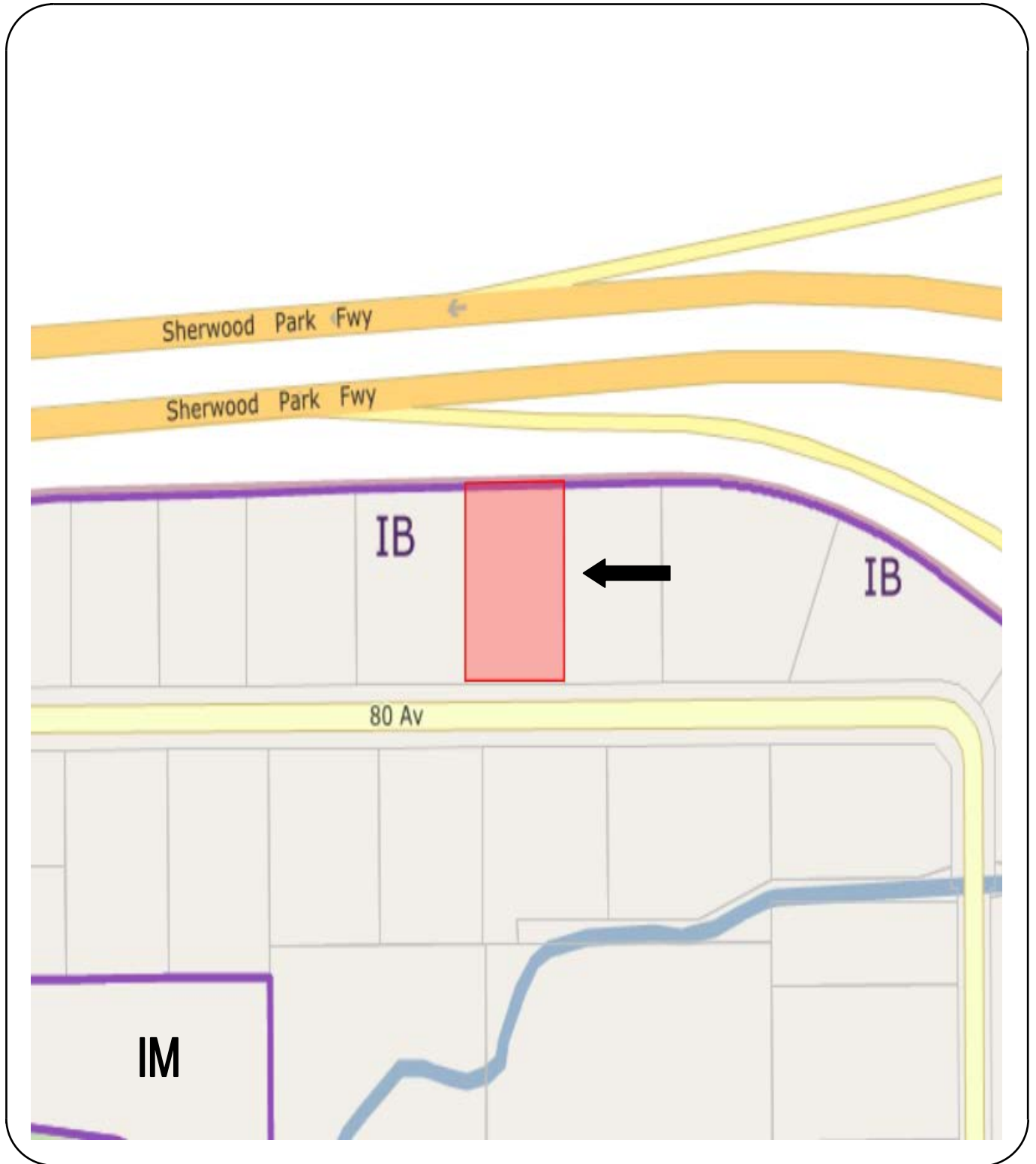
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Jun 02, 2017 **Development Authority:** AHUJA, SACHIN **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$128.00	\$128.00	03926456	Feb 16, 2017
Sign Building Permit Fee	\$3,200.00	\$3,200.00	03926456	Feb 16, 2017
Sign Dev Appl Fee - Digital Signs	\$442.00	\$442.00	03926456	Feb 16, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$3,770.00	\$3,770.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-120



ITEM III: 1:00 P.M.

FILE: SDAB-D-17-121

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 235482683-003

APPLICATION TO: Operate a Temporary Storage (RV Storage) and Outdoor Participant Recreation Service (driving range with clubhouse) on a portion of the site (Temporary - 5 years)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: May 23, 2017

DATE OF APPEAL: June 9, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 15821 - 34 Street NW

LEGAL DESCRIPTION: Plan 2705NY Lot A1

ZONE: AGI Industrial Reserve Zone

OVERLAY: N/A

STATUTORY PLAN: Pilot Sound Area Structure Plan

Grounds for Appeal

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

Good Afternoon, I want to start by thanking you for hearing my plea. We own a property in the north east side of Edmonton that we purchased almost 13 years ago, when we purchased it we did so with the RV storage facility already existing and we have not changed a single thing with regards to the RV storage area, same location, same fencing, same capacity, everything is the same.

Almost 7 years ago we applied to have a development permit put into effect for the Driving Range Facility that we operate very very seasonally as a retirement project, just to keep me busy. We were given a development permit for the Driving Range almost 7 years ago and have been operating the Driving Range ever since with again absolutely no

changes to date, same location, same facility, same capacity, the only thing that has changed is that our property tax has over doubled in that time, which we gladly pay on time every time.

It was in December of 2016 that it was brought to our attention that we needed to reapply for a combined development permit for the RV Storage and the Driving Range, which we absolutely complied to and did with all associated costs of filing.

Upon completing the filing and the development permit was verbally granted we were told that it has to be passed through Drainage and Transportation to check on levy's. The Drainage division reviewed the request and came to the same realization, that as stated above there was nothing that changed from the time we started the Driving Range or the RV Storage to date, so the Drainage department did what was right and adjudicated that it didn't make sense to have to come up with the levy's at this time, but rather would be deferring any and all levy's until time of sale or major development.

Transportation has also reviewed the same case and have decided to impose the Levy's amounting to \$491,870 and suggest that somehow there is an increase of 10% in development and therefore are requesting that 10% be paid upon approval of the permit, totaling \$49,187.

I want to appeal to your human side in understanding that we are not a company or a group of wealthy business people, we are simply a small family and wanted to have something that would keep me busy through the summer months after retirement. This is not a lucrative business by any stretch of the imagination, we would be lucky to see a seasonal year stretch from Mid May to Mid September, the numbers that are being proposed would break us. We have not even had the opportunity to payback the loan taken out on the property to put the Driving Range together as it is, let alone come up with \$50,000 I beg you to explain how someone retired, operating a seasonal part time business is supposed to be able to do that.

We have been in operation seasonally for the last 7 years and we have not brought any more strain on the road ways or the road way system to demand such a request. I also want to make certain that it is understood that the the statement by Transportation about there being a 10% increase in Development is absolutely false, as mentioned before there has been 0% increase in development since our last permit which was granted until 2016.

We are not saying that we want you to waive the levy's completely and we understand that at some point they will be requested and at that moment it would make sense, such a time as Major Development or sale of the land. We are not nor have we created a Major development of any kind, no houses, no apartment buildings, no commercial buildings, everything is as it was 7 plus years ago.

The Drainage department obviously understands the perspective that we see with 0% change and have deferred any levy's and we humbly request that the levy's for Transportation do the same. Thank you in advance for understanding our position and helping us through this. [Content unedited; paragraph breaks inserted for clarity]

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,

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Appeals

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- (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 May 23, 2017. The Notice of Appeal was filed on June 9, 2017.

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 630.1 states that the **General Purpose** of the **AGI Industrial Reserve Zone** is:

...to allow for agricultural and rural Uses that do not prejudice future Use when the lands are required for Industrial Use.

Under section 630.3(7), **Outdoor Participation Recreation Services, where lawfully existing on June 14, 2001, the effective date of the Edmonton Zoning Bylaw, 12800, on the same site only** is a **Discretionary Use** in the AGI Industrial Reserve Zone.

Under section 630.3(10), **Temporary Storage** is a **Discretionary Use** in the AGI Industrial Reserve Zone.

Section 7.8(7) states:

Outdoor Participant Recreation Services means development providing facilities which are available to the public at large for sports and active recreation conducted outdoors. This Use Class does not include Community Recreation Services, Spectator Sports Establishments and Outdoor Amusement Establishments. Typical Uses include golf courses, driving ranges, ski hills, ski jumps, sports fields, outdoor tennis courts, unenclosed ice surfaces or rinks, athletic fields, boating facilities, outdoor swimming pools, bowling greens, riding stables and fitness trails.

Section 7.5(5) states:

Temporary Storage means development used exclusively for temporary outdoor storage of goods and materials where such storage of goods and materials does not involve the erection of permanent structures or the material alteration of the existing state of the land. Typical Uses include pipe yards, or vehicle or heavy equipment storage compounds.

Disputed Condition

The Appellant objects to the following condition imposed on the approved permit:

3) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the owner must enter into a Servicing Agreement with the City of Edmonton for the payment of the Arterial Roadway Assessment.

This lot is within the Ebbers & Gorman Arterial Roadway Assessment (ARA) catchment area. The entire amount of ARA using the 2016 rate totals \$491,870 for the entire site. The proposed development represents a 10% increase in development on the property, therefore 10% of the ARA for the entire property in the amount of \$49,187 is owing with this development application and payable under this Agreement. Upon future development or subdivision of the site, the deferred amount will be collected. Notwithstanding the entire ARA amount as cited above, the assessment amount owing may be adjusted to reflect the current ARA rate at the time the Servicing Agreement is signed. The owner must contact Dan-Christian Yeung (780-496-4195) of Sustainable Development for more information on the Servicing Agreement and ARA owing. The owner must enter into a Servicing Agreement with the City of Edmonton for the payment of the ARA owing on the portion of the property being developed.

The *Municipal Government Act* provides as follows:

Off-site levy

648(1) For the purposes referred to in subsection (2), a council may by bylaw

- (a) provide for the imposition and payment of a levy, to be known as an “off-site levy”, in respect of land that is to be developed or subdivided, and
- (b) authorize an agreement to be entered into in respect of the payment of the levy.

(2) An off-site levy may be used only to pay for all or part of the capital cost of any or all of the following:

- (a) new or expanded facilities for the storage, transmission, treatment or supplying of water;
- (b) new or expanded facilities for the treatment, movement or disposal of sanitary sewage;
- (c) new or expanded storm sewer drainage facilities;
- (c.1) new or expanded roads required for or impacted by a subdivision or development;
- (d) land required for or in connection with any facilities described in clauses (a) to (c.1).

(3) On September 1, 1995 an off-site levy under the former Act continues as an off-site levy under this Part.

(4) An off-site levy imposed under this section or the former Act may be collected once for each purpose described in subsection (2), in respect of land that is the subject of a development or subdivision, if

- (a) the purpose of the off-site levy is authorized in the bylaw referred to in subsection (1), and
- (b) the collection of the off-site levy for the purpose authorized in the bylaw is specified in the agreement referred to in subsection (1).

(4.1) Nothing in subsection (4) prohibits the collection of an off-site levy by instalments or otherwise over time.

(5) An off-site levy collected under this section, and any interest earned from the investment of the levy,

- (a) must be accounted for separately from other levies collected under this section, and
- (b) must be used only for the specific purpose described in subsection (2)(a) to (c.1) for which it is collected or for the land required for or in connection with that purpose.

(6) A bylaw under subsection (1) must be advertised in accordance with section 606 unless

- (a) the bylaw is passed before January 1, 2004, or
- (b) the bylaw is passed on or after January 1, 2004 but at least one reading was given to the proposed bylaw before that date.

(7) Where after March 1, 1978 and before January 1, 2004 a fee or other charge was imposed on a developer by a municipality pursuant to a

development agreement entered into by the developer and the municipality for the purpose described in subsection (2)(c.1), that fee or charge is deemed

- (a) to have been imposed pursuant to a bylaw under this section, and
- (b) to have been validly imposed and collected effective from the date the fee or charge was imposed.

Condition of issuing development permit

650(1) A council may in a land use bylaw require that, as a condition of a development permit's being issued, the applicant enter into an agreement with the municipality to do any or all of the following:

- (a) to construct or pay for the construction of a road required to give access to the development;
- (b) to construct or pay for the construction of
 - (i) a pedestrian walkway system to serve the development, or
 - (ii) pedestrian walkways to connect the pedestrian walkway system serving the development with a pedestrian walkway system that serves or is proposed to serve an adjacent development, or both;
- (c) to install or pay for the installation of a public utility described in section 616(v)(i) to (ix) that is necessary to serve the development, whether or not the public utility is, or will be, located on the land that is the subject of the development;
- (d) to construct or pay for the construction of
 - (i) off-street or other parking facilities, and
 - (ii) loading and unloading facilities;
- (e) to pay an off-site levy or redevelopment levy imposed by bylaw;
- (f) to give security to ensure that the terms of the agreement under this section are carried out.

(2) A municipality may register a caveat under the *Land Titles Act* in respect of an agreement under this section against the certificate of title for the land that is the subject of the development.

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

(4) Where, prior to the coming into force of this subsection, an agreement referred to in subsection (1) required the applicant to install a public utility or pay an amount for a public utility referred to in subsection (1)(c), that

requirement is deemed to have been validly imposed, whether or not the public utility was located on the land that was the subject of the development.

Setback Area

Section 630.4 provides, in part:

2. The minimum Front Setback shall be 7.5 m.
3. The minimum Rear Setback shall be 7.5 m.
4. The minimum Side Setback shall be 7.5 m.

Development Officer's Determination

- 1) Discretionary Use - The Temporary Storage and Outdoor Participant Recreation Service are approved as Discretionary Uses (Section 630.3).
- 2) Use of a Setback Area - The Temporary Storage and Outdoor Participant Recreation Service are located in the setback, 0m from the side property lines and the property line facing 34 Street (Section 630.4).

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: **235482683-003**
Application Date: DEC 29, 2016
Printed: June 23, 2017 at 5:03 PM
Page: 1 of 3

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)

15821 - 34 STREET NW
Plan 2705NY Lot A1

Scope of Permit

To operate a Temporary Storage (RV Storage) and Outdoor Participant Recreation Service (driving range with clubhouse) on a portion of the site (Temporary - 5 years).

Permit Details

Class of Permit: Class B
Gross Floor Area (sq.m):
New Sewer Service Required: N
Site Area (sq. m.):

Contact Person:
Lot Grading Needed?: N
NumberOfMainFloorDwellings:
Stat. Plan Overlay/Annex Area: (none)

I/We certify that the above noted details are correct.

Applicant signature: _____

Development Permit Decision

Appealed to SDAB

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



Project Number: **235482683-003**
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 Printed: June 23, 2017 at 5:03 PM
 Page: 2 of 3

Major Development Permit

Subject to the Following Conditions

- 1) This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1).
- 2) This Development Permit shall expire on 23 May 2022.
- 3) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the owner must enter into a Servicing Agreement with the City of Edmonton for the payment of the Arterial Roadway Assessment.

This lot is within the Ebbers & Gorman Arterial Roadway Assessment (ARA) catchment area. The entire amount of ARA using the 2016 rate totals \$491,870 for the entire site. The proposed development represents a 10% increase in development on the property, therefore 10% of the ARA for the entire property in the amount of \$49,187 is owing with this development application and payable under this Agreement. Upon future development or subdivision of the site, the deferred amount will be collected. Notwithstanding the entire ARA amount as cited above, the assessment amount owing may be adjusted to reflect the current ARA rate at the time the Servicing Agreement is signed. The owner must contact Dan-Christian Yeung (780-496-4195) of Sustainable Development for more information on the Servicing Agreement and ARA owing. The owner must enter into a Servicing Agreement with the City of Edmonton for the payment of the ARA owing on the portion of the property being developed.

- 4) Any modification to the existing access requires the review and approval of Transportation Planning and Engineering.
- 5) Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.
- 6) Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51 of the Edmonton Zoning Bylaw 12800).

NOTES:

- 1) 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.
- 2) The Development Permit shall not be valid unless and until the conditions of approval, save those of a continuing nature, have been fulfilled; and no notice of appeal from such approval has been served on the Subdivision and Development Appeal Board within the time period specified in subsection 21.1 (Ref. Section 17.1).
- 3) Signs require separate Development Applications.
- 4) 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.
- 5) 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.
- 6) This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.

ADVISEMENT:

- 1) The Ebbers & Gorman Industrial ARA catchment is set up as a means for cost sharing the arterial roadway construction within the Ebbers & Gorman Industrial Area. For further information regarding Arterial Roadway Assessments, please contact Dan-Christian Yeung (780-496-4195) of Sustainable Development.

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



Project Number: **235482683-003**
 Application Date: DEC 29, 2016
 Printed: June 23, 2017 at 5:03 PM
 Page: 3 of 3

Major Development Permit

Dan-Christian Yeung (/80-496-4195) of Development Coordination.

Variations

- 1) Discretionary Use - The Temporary Storage and Outdoor Participant Recreation Service are approved as Discretionary Uses (Section 630.3).

- 2) Use of a Setback Area - The Temporary Storage and Outdoor Participant Recreation Service are located in the setback, 0m from the side property lines and the property line facing 34 Street (Section 630.4).

Rights of Appeal

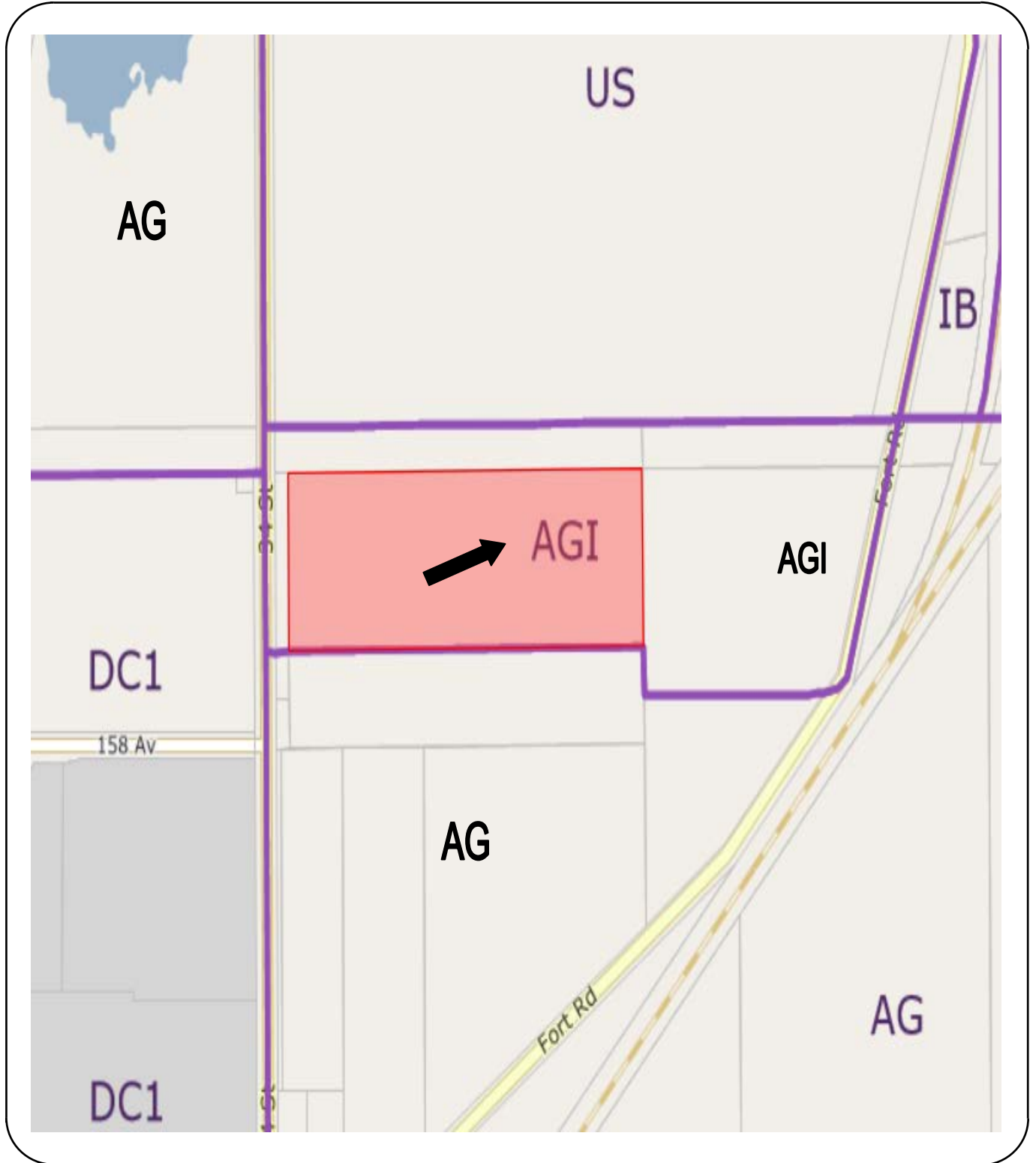
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: May 23, 2017 **Development Authority:** WELCH, IMAI **Signature:** _____
Notice Period Begins: May 30, 2017 **Ends:** Jun 13, 2017

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$102.00	\$102.00	03832490	Dec 29, 2016
Major Dev. Application Fee	\$323.00	\$323.00	03832490	Dec 29, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$425.00	\$425.00		

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-121

