

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

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

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

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

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I 9:00 A.M. SDAB-D-15-144

To move on a Residential Sales Centre building.

1306C - Windermere Way SW

Project No.: 164646558-002

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**LUNCH BREAK – 11:30 A.M. TO 12:30 P.M.**

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II 12:30 P.M. SDAB-D-15-145

To change the Use from a General Industrial  
Use to a Personal Service Shop operating as a  
Body Rub Centre

4019 - 97 Street NW, 9601C - 41 Avenue NW

Project No.: 172187428-001

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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-15-144

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

APPLICATION NO.:	164646558-002
APPLICATION TO:	Move on a Residential Sales Centre building.
DECISION OF THE DEVELOPMENT AUTHORITY:	Approved with Conditions
DECISION DATE:	May 26, 2015
DATE OF APPEAL:	June 11, 2015
NOTIFICATION PERIOD:	June 2, 2015 through June 15, 2015
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	1306C - Windermere Way SW
LEGAL DESCRIPTION:	Condo Common Area (Plan 1421329)
ZONE:	Direct Development Control Provision, DC1(16281)
OVERLAY:	N/A
STATUTORY PLAN:	Windermere Area Structure Plan

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DEVELOPMENT OFFICER'S DECISION

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

1. This Development Permit authorizes the development of a building for the operation of a Residential Sales Centre.
2. This approval is valid for a period of two years and the Development Permit expires on May 26, 2017.
3. When an application for a Development Permit has been approved by the Development Officer, the Development Permit shall not be valid unless and until:
  - a. any conditions of approval, except those of a continuing nature, have been fulfilled; and
  - b. the time for filing a notice of appeal to the Subdivision and Development Appeal Board as specified in subsection 21.1 of this Bylaw and the Municipal Government Act has passed.
4. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21(1). (Reference Section 17(1))
5. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Notification Fee of \$100.00.
6. This proposed building is not a Dwelling unit. The building shall not be used as a Dwelling prior to the registration of individual lots and the expiration and/or cancellation of the Development Permit for the Residential Sales Centre.
7. All off-premise directional signage and on-premise advertising signage, including the display of advertising copy and supergraphics on hoardings or false fronts used to enclose temporary structures, shall be in accordance with Section 59 of this Bylaw. (Edmonton Zoning Bylaw 12800)
8. All exterior lighting shall be developed in accordance with Section 51 and 58 of this Bylaw. (Edmonton Zoning Bylaw 12800 - Reference Section 82).

ADVISEMENT:

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

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.

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.

Signs require separate Development Applications.

NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.

#### VARIANCES:

There is no variance for the proposed Residential Sales Centre (temporary structure for up to two years).

Reasons for notification:

The proposed development is located in a Direct Control zone. All developments in Direct Control zones need notifications in accordance with subsections 12.4 and 20.1 of the Edmonton Zoning Bylaw 12800.

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#### APPELLANT'S SUBMISSION

The Board of Windermere Waters Condominium Corporation (Plan 122-4161) (the "WW Board") wishes to appeal the Development Officer's approval of a Development Permit related to the relocation of a Residential Sales Centre to the site 1306C Windermere Way SW (Condo Common Area Plan 1421329). The permit number is 164646558-002. This approval allows a temporary structure for up to two years.

The President of the developer, Westrich Pacific Ltd. ("Westrich"), advised the WW Board last summer that he had absolutely no intention of building on this site until he finishes all of his other projects, which includes the 40 story Encore condo tower downtown?. This Encore project has not broken ground and the estimate we were provided by Richie Lam, President, was "approximately six years before we see activity at this site". This six years is far greater than the original decision approving a temporary structure for up to two and the WW Board can only assume that further requests will be made in future years. After being provided Westrich's estimated timelines, the WW Board requested Westrich on numerous occasions to clean up their site at 1306C Windermere Way SW. Since that time, there was very little cleanup activity by Westrich or its employees. The City of Edmonton was contacted by the WW Board in late May, 2015. Both City of Edmonton Bylaw and Zoning departments,

as well as Beaverbrook Developments, have ordered Westrich to remove their construction materials from this site. Westrich has received warnings and, if we understand correctly, fines for these violations and Westrich is being monitored by all three groups to ensure compliance.

According to the Zoning Department, Westrich does not have a building permit in place or in process for this site, so there is no legitimate reason for any sales center to be located there. Given that this Development Permit is for a two-year period, it has been determined by our Board, City of Edmonton Zoning and Bylaw, and Beaverbrook Developments, that Westrich is merely using this location as a storage site for their former sales center that was relocated from their Signature site, as well as storing construction materials and garbage. This is a significant concern to our condo as well as other neighbours and homes, which overlook this site. This includes Windermere Mansions Condominiums as well as the homes that back onto the green belt behind this lot. This site was zoned for a condo development, not as construction storage site; however, it has been used as such during the past number of years while both Windermere Waters and Windermere Mansions construction was ongoing. This construction completed in 2014.

Given these actions, our concerns are that Westrich would store all their materials, construction garbage, etc. from the Signature site at this location as well. We want to ensure that Westrich follows the City of Edmonton's Zoning requirements to the letter in order to:

1. Ensure the safety of neighbourhood residents and visitors;
2. Protect the local environment by preventing construction trash from blowing from this site around the neighbourhood;
3. Maintain the aesthetic appeal of the neighbourhood, which will also affect property and sale/resale values of homes.

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

Section 685 states if a decision with respect to a development permit application in respect of a direct control district

- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
- (b) is made by a development authority, the appeal is limited to whether the development authority following the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

A **Residential Sales Centre** is a Use listed in the Site Specific Development Control Provision, DC1(16281).3(l).

Under Section 7.3(9), **Residential Sales Centre** means a permanent or temporary building or structure used for a limited period of time for the purpose of marketing residential land or buildings.

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

The decision of approval by the Development Officer has been appealed by the Windermere Waters Condominium Corporation located at 1230 Windermere Way SW.

Section 82 states the following regulations shall apply to all Residential Sales Centres except those development provided for in subsections 12.2(8) and 12.2(15) of this Bylaw:

1. Sites containing Residential Sales Centres shall be located and developed such that their impacts on local roadways and surrounding residential development are minimized. In deciding upon an application, the Development Officer shall take into consideration the scale of the Residential Sales Centre, its proximity to arterial or neighbourhood collector roadways, and to occupied residential development;
2. where Sites are located within 60.0 metres of existing development, the applicant shall demonstrate that sufficient parking is available on or adjacent to the Site so that parking congestion shall not develop on that portion of local streets serving existing development in the vicinity of the Residential Sales Centre. The Development Officer shall determine the adequacy of parking based on a requirement of 1 parking space per 20 square metres of Floor Area of the Residential Sales Centre;
3. the siting and development of Residential Sales Centre buildings shall comply with the regulations of the Land Use Zone applying to the Site except that:
  - a. the Development Officer may attach conditions requiring additional setbacks to minimize any adverse impacts on adjacent development;
  - b. in the case of a temporary structure, the Height of the building including any hoardings or false fronts shall not exceed one Storey or 4.0 metres; and
  - c. all curb crossings and access points shall be designed and located so as to minimize on-site and off-site traffic impacts and, in consultation with Transportation Services;
4. where a Site is located within a Residential Zone or is visible from residential development located within 60.0 m of the Site, the colour and material of the exterior finish of the temporary structure and hoardings or false fronts, excluding advertising Copy, shall be compatible with those commonly found in Residential Zones;
5. any exterior lighting shall be developed in accordance with Section 51 of this Bylaw;
6. a Development Application for a Residential Sales Centre shall be accompanied by the following information in addition to the information required by subsection 13.3 of this Bylaw:
  - a. a context plan identifying the nature of the land uses and development

- within a 60 metres radius of the proposed Site;
  - b. a description of the exterior finish materials and colours for any temporary sales structure including any proposed hoardings or false fronts;
  - c. drawings showing the location, area, Height, construction material, colour and method of support for any proposed on-site identification and advertising Signs, including any advertising or supergraphics that shall be displayed on a hoarding or false front; and
  - d. drawings showing the area, Height, construction materials and method of support for any proposed off-site Directional Signs that shall exceed 1.0 square metres in area 1.5 metres in Height, and a description of the proposed location for the Signs; and
7. the Development Permit for a Residential Sales Centre shall be valid for such a period of time as specified by the Development Officer having regard for the amount of land or development being marketed, but in no case shall the time period exceed two years.

Section 12.2(8) states a temporary structure, the sole purpose of which is incidental to the erection, alteration or marketing of a building for which a Permit has been granted under this Bylaw.

Section 12.2(15) states the Temporary Use of a portion of a building or structure for which a Development Permit has been granted under this Bylaw, for the marketing of the building or structure.

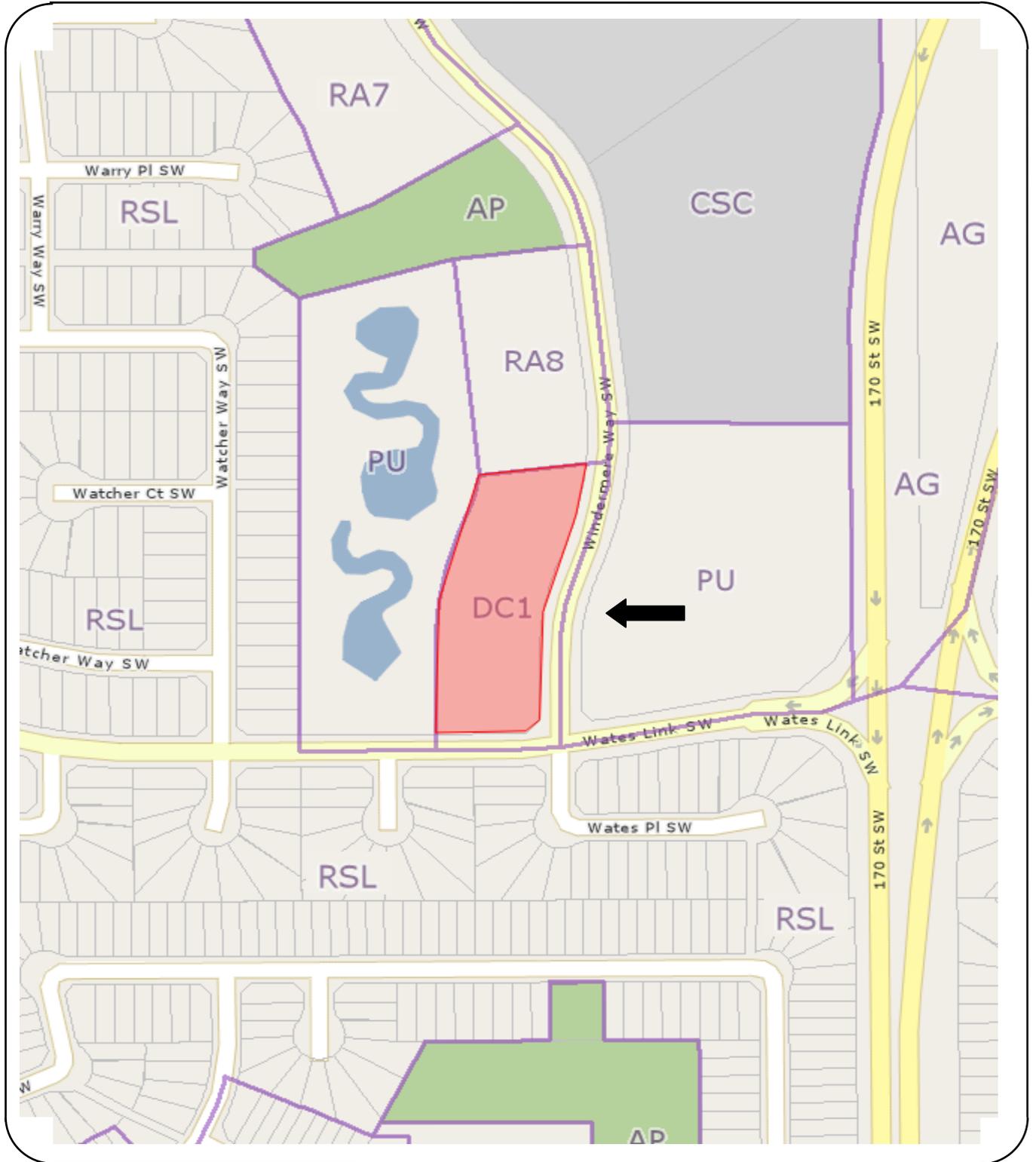
Section 1 of the Site Specific Development Control Provision, DC1(16281) states the general purpose is to accommodate low intensity commercial and residential mixed-use development and limit the range of commercial uses. To complement nearby Community Commercial, retail space shall not be provided on site. Commercial uses are permitted on the first and second Storeys only. A mix of residential and commercial uses shall be maintained within both Area 1 and Area 2 of this site, as shown on Appendix 1. Development regulations shall create a pedestrian-friendly environment and complement adjacent development through urban design controls and architecture.

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#### NOTICE TO APPLICANT/APPELLANT

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

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**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-15-144



ITEM II: 12:30 P.M.

FILE: SDAB-D-15-145

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

APPLICATION NO.: 172187428-001

APPLICATION TO: Change the Use from a General Industrial  
Use to a Personal Service Shop operating as  
a Body Rub Centre

DECISION OF THE  
DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: June 2, 2015

DATE OF APPEAL: June 10, 2015

NOTIFICATION PERIOD: June 2, 2015 through June 16, 2015

MUNICIPAL DESCRIPTION  
OF SUBJECT PROPERTY: 4019 - 97 Street NW, 9601C - 41 Avenue  
NW

LEGAL DESCRIPTION: Plan 1322403 Unit 23, Condo Common  
Area (Plan 1322403)

ZONE: IB-Industrial Business Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

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DEVELOPMENT OFFICER'S DECISION

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

- 1) All outdoor trash collection areas shall be located and screened to the satisfaction of the Development Officer in accordance with Sections 55(4) & (5).
- 2) No parking, loading, storage, trash collection, outdoor service or display areas shall be permitted within a required Yard and loading, storage, parking and trash collection areas shall be screened from view from any adjacent site and public roadway in accordance with Section 54 of the Zoning Bylaw.
- 3) The off-street parking, loading and unloading (including aisles or driveways) shall be hardsurfaced, curbed, drained and maintained in accordance to Section 54.6.
- 4) Bicycle parking shall be provided in accordance to Section 54.3 and to the satisfaction of the Development Officer.
- 5) 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 in accordance of Section 51 of the Edmonton Zoning Bylaw.
- 6) The development shall comply to the regulations pertaining to Body Rub Centres in accordance with Section 97 of the Edmonton Zoning Bylaw.

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. Signs placed on or within a Personal Service Shop Use Class operating as a Body Rub Centre shall comply with the applicable Sign Regulations contained in Section 59 of the Edmonton Zoning Bylaw and the applicable Sign Schedule for the Land Use Zone governing the Site on which the Body Rub Centre is located, except that Fascia Signs shall not: obstruct clear

glazing required in subsection 97(3)(c) of this Bylaw; and obstruct clear glazing as required by the Land Use Zone governing the Site on which the Body Rub Centre is located (Ref. Section 97.4).

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 License. A separate application must be made for a Business License.

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APPELLANT'S SUBMISSION

Sleep Easy CPAP Ltd. operates next door to this address at 4023 97 Street NW. Our business tests and treats patients for Obstructive Sleep Apnea. Many of our patients have young children who come with their parents to their appointment. Some of our patients are children. We do not test infants but many youth have been referred and tested by us. Physicians trust our location is appropriate for a medical services office. This type of business right next door to a medical services professional office is not acceptable.

Our own children age 15 and 17 work after school with us, performing various duties of service, cleaning and follow up phone calls booking appointments. We are not comfortable with potential signage that is potentially suggestive surrounding our premises.

A Body Rub center is not an appropriate business to be operating next to a family run business with children frequenting the premises on a regular basis. This type of business should not be allowed where there are children according to the city bylaws and things we have read on line.

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SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

A **Personal Service Shop** is a Discretionary Use in the IB Industrial Business Zone, Section 400.3(22).

Under 6.1(14), **Body Rub Centre** means a Personal Service Shop development where

services are provided that involve the physical external manipulation of the soft tissues of the human body that are performed, offered or solicited for a fee in a manner that appeals to or is designed to appeal to erotic or sexual appetites or inclinations. This includes but is not limited to a body rub advertised by any means as “sensual”, “sexy” or by any other word or any depiction having like meaning or implication.

Under Section 7.4(41), **Personal Service Shop** means development used for the provision of personal services to an individual which are related to the care and appearance of the body, or the cleaning and repair or personal effects. This Use Class includes barbershops, hairdressers, beauty salons, tailors, dress makers, shoe repair shops, and dry cleaning establishments and Laundromats. This Use Class does not include Health Services.

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

The decision of approval by the Development Officer has been appealed by an adjacent property owner located at 4023-97 Street.

Section 97 states a Personal Service Shop that is operating as a Body Rub Centre shall comply with the following regulations:

1. At the time a Development Permit application is made for a Body Rub Centre, the proposed location of the Body Rub Centre shall not be closer than 100.0 metres from any Site having a valid development permit for Public Education Services, Private Education Services, Public Park sites, Child Care Services, Temporary Shelter Services, and/or Extended Medical Treatment Services.  
For the purpose of this subsection only:
  - a. the 100.0 metre separation distance shall be measured from the closest point of the Body Rub Centre Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;
  - b. Public Education Services and Private Education Services are limited to primary and secondary schools inclusive that have a valid development permit; and
  - c. the term “Public Park sites” is limited to park Sites zoned as AP Zone, and areas in the river valley that are zoned as the A Zone.
2. Personal Service Shop Use Class operating as a Body Rub Centre shall not be located on a Site having a valid development permit for Residential Use Classes, Residential Related Use Classes, or Bars and Neighbourhood Pubs at the time of the application for the Development Permit.
3. The Development Officer shall consider Crime Prevention Through Environmental Design Criteria (CPTED) when reviewing applications for Personal Service Shop Use Class operating as a Body Rub Centre.
  - a. The Development Officer shall determine whether a CPTED Audit of the business premises is required, and may confer with the Edmonton Police

- Service for their recommendation;
- b. If the Development Officer deems that a CPTED Audit is necessary, the Development Officer may include recommendations of the CPTED Audit that, in the Development Officer's opinion, have implications for land use impacts including, but not limited to, exterior illumination, landscaping, screening, signs, and access, as condition(s) of the Development Permit;
  - c. Where a Body Rub Centre is proposed to be located on the First Storey, all glazed surfaces within the Façade shall be transparent, non-reflective and maintain unobstructed visibility into and out of the Public Space of the business.
4. Signs placed on or within a Personal Service Shop Use Class operating as a Body Rub Centre shall comply with the applicable Sign Regulations contained in Section 59 of this Bylaw and the applicable Sign Schedule for the Land Use Zone governing the Site on which the Body Rub Centre is located, except that Fascia Signs shall not:
- a. obstruct clear glazing required in subsection 97(3)(c) of this Bylaw; and
  - b. obstruct clear glazing as required by the Land Use Zone governing the Site on which the Body Rub Centre is located.

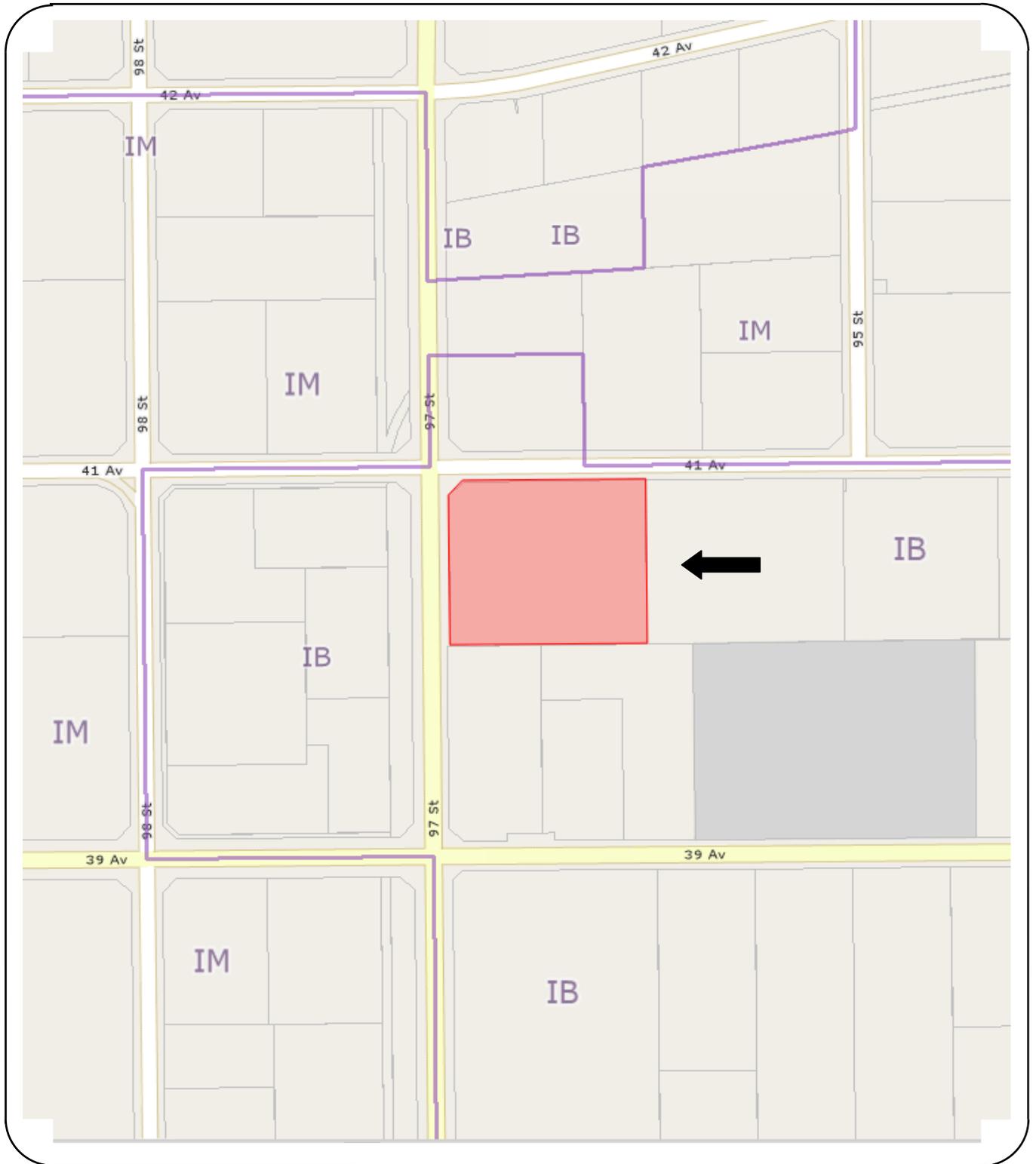
Section 400.1 states the purpose of the IB Industrial Business Zone is to provide for industrial businesses that carry out their operations such that no nuisance is created or apparent outside an enclosed building and such that the Zone is compatible with any adjacent non-industrial Zone, and to accommodate limited, compatible non-industrial businesses. This Zone should normally be located on the periphery of industrial areas and adjacent and arterial or major collector roadways.

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NOTICE TO APPLICANT/APPELLANT

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

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**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-15-145



***BUSINESS LAID OVER***

<b>SDAB-D-15-136</b>	An appeal to construct and operate a Residential Sales Centre <i>July 15 or 16, 2015</i>
<b>SDAB-D-15-125</b>	An appeal to construct an uncovered deck (1.95m x 4.90m at 1.10m in height), existing without permits <i>July 15 or 16, 2015</i>
<b>SDAB-S-15-006</b>	An appeal to create two (2) semi-detached residential units by Bard Land Condominium <i>July 15 or 16, 2015</i>
<b>SDAB-D-15-138</b>	An appeal to develop a Secondary Suite in an existing Single Detached House <i>August 5 or 6, 2015</i>

**APPEAL HEARINGS TO BE SCHEDULED**

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