# SUBDIVISION

# AND

# DEVELOPMENT APPEAL BOARD

# AGENDA

Wednesday, 9:00 A.M. June 22, 2016

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

# SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING ROOM NO. 3

<u>TO</u>	BE RAISED		
I	9:00 A.M.	SDAB-D-16-133	To change the use of a Single Detached House to a Child Care Service and to construct interior alterations.
			14804 - 78 Street NW Project No.: 188667407-001
II	11:00 A.M.	SDAB-D-16-145	Construct exterior alterations to an existing Automotive and Minor Recreation Vehicle Sales/Rentals development (revise previously approved landscape plan to replace landscaping with fencing)
			8115 - 137 Avenue NW Project No.: 139511609-005

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

# TO BE RAISED

<u>ITEM I: 9:00 A.M.</u> <u>FILE: SDAB-D-16-133</u>

### AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 188667407-001

ADDRESS OF APPELLANT: 14804 - 78 Street NW

APPLICATION TO: To change the use of a Single Detached

House to a Child Care Service and to

construct interior alterations.

**DECISION OF THE** 

DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 19, 2016

DATE OF APPEAL: April 29, 2016

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 14804 - 78 Street NW

LEGAL DESCRIPTION: Plan 6143NY Blk 23 Lot 9

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:

Permit Masters will be representing the applicant for this appeal. The original application proposed 37 children. Since the original submission, the applicant has changed this to be 23 children. It is the opinion of the appellant that this use intensity is not excessive, and that the business model and daily operations of the Child Care Service needs to be reevaluated. It is also the opinion of the appellant, that this use can be properly integrated into the RF1 Zone and properly reflect the Zoning Bylaw requirements. Prior to the appeal date, we will submit a full

report with evidence of our reasons for support, including proposed on site parking resolutions and neighbourhood canvassing information. Further information will likely be presented to the Board on the day of the hearing. [unedited]

#### 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 Authority was dated March 24, 2016. The Notice of Appeal was filed on March 24, 2016.

### **Bylaw Amendment**

On May 25, 2016, Bylaw 17643 to amend the Special Land Use Provisions for Child Care Services was passed by City Council.

To ensure that all parties had sufficient time to review the amendments, the Subdivision and Development Appeal Board at a hearing on May 26, 2016, made and passed the following motion:

That the hearing for SDAB-D-16-133 be tabled to June 22, 2016.

#### General Provisions from the Edmonton Zoning Bylaw:

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

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

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

Section 7.8(2) states:

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

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

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

# General Purpose of the RF1 Single Detached Residential Zone

The Development Officer referenced Section 110.1, the General Purpose of the RF1 Single Detached Residential Zone, and made the following determination:

1. The proposed Child Care Service is listed as a Discretionary use under the RF1 Zone. The purpose of this 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 (reference Section 110.1). In the opinion of the Development Officer, the conversion of a Single Detached house to a Child Care Service with 37 children proposed, is excessive, and not in keeping with the general purpose of the RF1 Zone. [unedited]

### Locational Preference

Pre-Amendment	Post-Amendment
80(1) A Child Care Service shall comply with the following regulations:  1. in all low density Residential Zones the Development Officer shall, when making a decision on the suitability of the Child Care Service for the location proposed, give preference to those facilities that are located:  a. abutting a collector or arterial	80(4)(b) Where a Child Care Services Use is proposed as part of a Dwelling, or is proposed in a converted Single Detached Housing, the Use shall only be located:  i. on a Corner Lot; or  ii. on a Site Abutting a Site that is actively used for a Community, Educational, Recreational and Cultural Service Use Class; or
road, b. on a corner Site, c. adjacent to or in community facilities such as a school, park, church or community centre; or d. adjacent to commercial areas or multi-family development;	iii. Abutting a Site with zoning that lists Apartment Housing, General Retail Stores or Convenience Retail Stores as a permitted Use.

# **Development Officer's Original Determination**

The Development Officer's original decision referenced pre-amendment Section 80(1) and made the following determination:

- 2. A Child Care Service shall comply with the provisions of Section 80 of the Zoning Bylaw. The proposed development does not meet the locational criteria within this low density Residential Zone, specifically:
- a) that the site does abut a collector or arterial roadway;
- b) that the site is not adjacent to a school, park, or community centre, and;
- c) is not adjacent to commercial areas or multi-family development (reference Section 80.1). [unedited]

# Peaceful Enjoyment of the Properties of Nearby Residents

Pre-Amendment	Post-Amendment
80(8)(d) where on-site outdoor play space is provided, pursuant to the Provincial Child Care Licensing Regulation, it shall comply with the following regulations:   d. in a Residential Zone, outdoor play space may be allowed in any Yard, providing it is designed to limit any interference with other Uses, or the peaceful enjoyment of the properties of nearby residents, through fencing, landscaping, buffering and the placement of fixed play equipment;	80(3)(a) Where outdoor play space is provided at ground level it shall be allowed in any Yard. It shall be fenced on all sides and all gates shall be self-latching. Fencing shall not be required where outdoor play space is proposed to share existing play equipment on Sites zoned (US) Urban Services Zone or (AP) Public Parks Zone, or if an exemption is permitted by the Government of Alberta.

# **Development Officer's Determination**

The Development Officer's original decision referenced pre-amendment Section 80(8)(d) and made the following determination:

In the opinion of the Development Officer, the rear yard of the site adjacent other single detaching, with the number of children proposed, would have a negative impact to residences with respect to noise. [unedited]

Vehicular Parking Requirement - Employee Parking

### **Pre-Amendment**

Section 54.2 Schedule 1(A) – Vehicular Parking Requirement provides the following:

Schedule 1(A) Areas outside of the Downtown Special Area			
Use of Building or Site	Minimum Number of Parking Spaces or Garage Spaces Required		
Community, Educational, Recreational and Cultural Service Use Classes			
33. Child Care Services	1 parking space for the first 2 employees, plus 0.5 spaces per additional employee		

### **Post-Amendment**

Section 54.2 Schedule 1(A) – Vehicular Parking Requirement provides the following:

Schedule 1(A) Areas outside of the Downtown Special Area		
Use of Building or Site	Minimum Number of Parking Spaces or Garage Spaces Required	
Community, Educati	ional, Recreational and Cultural Service Use Classes	
33. Child Care Services	a)	
	b) employee parking shall be provided at the rate of:	
	i) 1 parking space per 33.5 m2 of Floor Area; or	
	ii) 1 parking space per 117.0 m2 of Floor Area where the Child Care Service is proposed within 400 m of an LRT Station, Transit Centre, Transit Avenue, or all Lots within the boundaries of the Oliver Area Redevelopment Plan, as adopted by Bylaw 11618, as amended, or all Lots within the boundaries of the Strathcona Area Redevelopment Plan, as adopted by Bylaw 11890, as amended; or	
	iii) Where the Child Care Service is for a dayhome/group family care providing care to 7 or more children within the residence of the child care provider, 1 parking space for each non-resident employee, in addition to the parking required for the primary Dwelling. Where a Front Yard Driveway provides access to a parking space that is not within the Front Yard, the Development Officer may consider this Driveway as the provision of a parking space that is in tandem.	

### **Development Officer's Determination**

The Development Officer's original decision referenced pre-amendment Section 33 of Schedule 1 to Section 54.2, and and made the following determination:

4. Off-street parking spaces shall be provided in accordance to Section 54.2, Schedule 1(33).

Proposed number of employees: 4 Required off-street parking spaces: 2

Proposed: 1

Deficient by: 1 space

Tandem Off-street parking spaces are not considered for the proposed Child Care Service. Unless otherwise specified in this Bylaw, no

required parking spaces shall be provided as Tandem Parking. (Section 54.1.2.f). Two (2) additional off street parking spaces spaces located on the front driveway, are located on City Right-of-Way and cannot be considered to meet Section 54 [unedited]

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

Section 6.1(102) defines **Tandem Parking** as "two parking spaces, one behind the other, with a common or shared point of access to the manoeuvring aisle".

Vehicular Parking Requirement – On-Site Drop-Off Spaces

#### **Pre-Amendment**

Section 80(6) states:

parking shall be provided according to the regulations outlined in Schedule 1 to Section 54 of this Bylaw. In addition, drop-off parking shall be provided as follows:

- a. a separate on-site drop-off area shall be provided at the rate of 2 drop-off spaces for up to 10 children, plus 1 additional space for every 10 additional children;
- b. each drop-off space shall be a minimum of 2.6 m in width and a minimum of 5.5 m in length; and
- c. the drop-off area shall be located within 60.0 m from the main entrance of the Child Care Service facility;

#### **Post-Amendment**

The parking requirements under Section 80(6) have been moved to Schedule 1(a) of Section 54, which provides as follows:

Schedule 1(A) Areas outside of the Downtown Special Area					
Use of Building or Site	Minimum Number of Parking Spaces or Garage Spaces Required				
Community, Educational, Recreational and Cultural Service Use Classe					
33. Child Care Services	<ul> <li>a) Passenger pick-up/drop-off spaces shall be provided at the rate of 2 pick-up/drop-off spaces for the first 10 children, plus 1 additional pick-up/drop-off space for every 10 additional children.</li> <li>i) Passenger pick-up/drop-off spaces shall be designated with signs to reserve the parking spaces</li> </ul>				

for Child Care Service pick-up/drop-off, to the satisfaction of the Development Officer.

- ii) Passenger pick-up/drop-off spaces shall be located as close as possible to the main entrance used by the Child Care Service, and shall not be located further than 100 m from the main entrance used by the Child Care Service. The distance between the farthest parking space in the pickup/drop-off area and the main entrance of the Child Care Service shall be measured along the shortest publically accessible pedestrian route.
- iii) An on-street loading zone shall satisfy a portion of the passenger pick-up/drop-off parking space requirement without a variance if the Development Officer, after consultation with Transportation Operations, is satisfied with the proposal.

#### **Development Officer's Determination**

The Development Officer's original decision referenced pre-amendment Section 80(6) and made the following determination:

Required on-site drop off spaces: 4

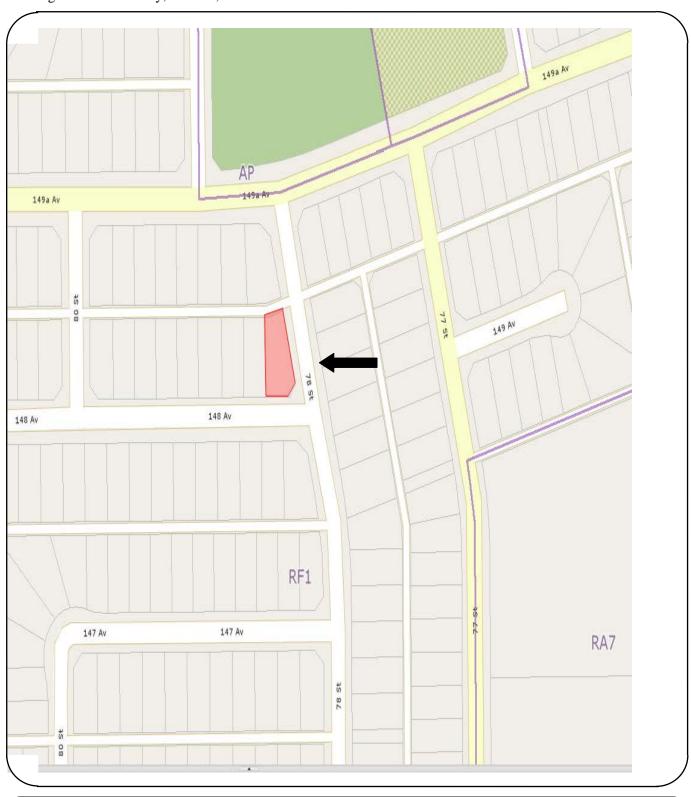
Proposed: none

Deficient by: 4 drop off spaces

The applicant has indicated and proposed 4 drop off spaces that are located on City Road right-of way that does not comply with Section 80.6.a [unedited]

## 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*.



# **SURROUNDING LAND USE DISTRICTS**

Site Location



File: SDAB-D-16- 133



Hearing Date: Wednesday, June 22, 2016

<u>ITEM II: 11:00 A.M.</u> <u>FILE: SDAB-D-16-145</u>

### AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 139511609-005

ADDRESS OF APPELLANT: 8115 - 137 Avenue NW

APPLICATION TO: Construct exterior alterations to an

existing Automotive and Minor Recreation Vehicle Sales/Rentals development (revise previously approved landscape plan to replace landscaping with

fencing)

**DECISION OF THE** 

DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 25, 2016

DATE OF APPEAL: May 30, 2016

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 8115 - 137 Avenue NW

LEGAL DESCRIPTION: Plan 1428NY Blk 21 Lots 1,2U

ZONE: CB1 Low Intensity Business Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

### **Grounds for Appeal**

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

There is not enough space to provide the required landscaping. I would like to fence the property. [unedited]

#### 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

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

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

# Appeals

- **686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,
  - (b) in the case of an appeal made by a person referred to in section 685(1), after
    - (ii) 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 Authority was dated March 24, 2016. The Notice of Appeal was filed on March 24, 2016.

### General Provisions from the Edmonton Zoning Bylaw:

Section 330.1 states that the **General Purpose** of the **CB1 Low Intensity Business Zone** is:

... to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

Under Section 330.3(3), **Automotive and Minor Recreation Vehicle Sales/Rentals** is a **Discretionary Use** in the CB1 Low Intensity Business Zone.

Section 7.4(5) states:

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

#### Trees and Shrubs

### Section 55.4(7) states:

For development consisting of Non-residential Use Classes, the number of trees and shrubs provided shall be determined on the basis of the following:

- a. one tree for each  $25 \text{ m}^2$  and one shrub for each  $15 \text{ m}^2$  of Setback at Grade; and
- b. one tree for each 20 m² and one shrub for each 10 m² of required parking area islands. In no case shall there be less than one tree per required parking area island

### **Development Officer's Determination**

1) Developments shall provide landscaping in accordance with Section 55.4(7):

Required: 14 trees Proposed: 1 tree Deficiency: 13 trees

Required: 24 shrubs Proposed: 0 shrubs

Deficiency: 24 shrubs [unedited]

#### Landscaping

#### Section 55.4(1) states:

All open space including Front Yards, Rear Yards, Side Yards and Yards, at Grade Amenity Areas, Private Outdoor Amenity Areas, Setback areas and Separation Spaces shall be landscaped with trees, shrubs, flower beds, grass, ground cover or suitable decorative

hardsurfacing, in accordance with the Landscape Plan submitted pursuant to subsection 55.3 and approved by the Development Officer. This requirement shall not apply to those areas designated for parking and circulation, which shall be landscaped in accordance with subsection 55.8 of this Bylaw. The Development Officer may require Landscaping of areas within a Site that are intended for future development if, in the opinion of the Development Officer, the lack of Landscaping creates a potential negative visual impact, given the visibility of these areas from adjacent properties and public roadways.

# **Development Officer's Determination**

- 2) Developments shall landscape all yards and setback areas as per Section 55.4(1):
- Landscaping has not been provided on the required setback areas to the required level. [unedited]

#### Perimeter Planting for Parking Lots

Section 55.4(3) states:

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

### **Development Officer's Determination**

- 3) Developments shall provide perimeter planting as per Section 55.4(3):
- Perimeter planting has not been provided. [unedited]

### **Development Officer's Opinion**

4) It is the Development Officer's opinion that, as the development is a Discretionary Use in the CB1 Zone, the proposed exterior alteration will have a negative visual impact on surrounding properties. In particular, the Development Officer believes that the proposed fence is not an acceptable alternative to the landscaping previously approved under Development Permit 139511609-001. [unedited]

# 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*.



# Application for

Project Number: 139511609-005
Application Date: MAR 24, 2016
Printed: June 8, 2016 at 9:36 AM
Page: 1 of 2

# Major Development Permit

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

#### Applicant



#### Property Address(es) and Legal Description(s)

8115 - 137 AVENUE NW

Plan 1428NY Blk 21 Lots 1,2U

#### Specific Address(es)

Building: 8115 - 137 AVENUE NW

#### Scope of Application

To construct exterior alterations to an existing Automotive and Minor Recreation Vehicle Sales/Rentals development (revise previously approved landscape plan to replace landscaping with fencing).

#### 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: 0 Stat. Plan Overlay/Annex Area: (none)

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

Applicant signature:

#### **Development Application Decision**

Refused

#### Reason for Refusal

 Developments shall provide landscaping in accordance with Section 55.4(7): Required: 14 trees

Proposed: 1 tree Deficiency: 13 trees Required: 24 shrubs

Required: 24 shrubs Proposed: 0 shrubs Deficiency: 24 shrubs

- 2) Developments shall landscape all yards and setback areas as per Section 55.4(1):
- Landscaping has not been provided on the required setback areas to the required level.
- 3) Developments shall provide perimeter planting as per Section 55.4(3):
- Perimeter planting has not been provided.
- 4) It is the Development Officer?s opinion that, as the development is a Discretionary Use in the CB1 Zone, the proposed exterior alteration will have a negative visual impact on surrounding properties. In particular, the Development Officer believes that the proposed fence is not an acceptable alternative to the landscaping previously approved under Development Permit 139511609-001.

#### Rights of Appeal

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

#### THIS IS NOT A PERMIT



# Application for **Major Development Permit**

Project Number: 139511609-005
Application Date: MAR 24, 2016
Printed: June 8, 2016 at 9:36 AM

e Date: May 25, 2016 De	velopment Authority			ature:	
	Fee Amount	Amount Paid	Receipt #	Date Paid	
DP Notification Fee	\$102.00				
Major Dev. Application Fee	\$340.00	\$340.00	03152843	Mar 24, 2016	
Total GST Amount:	\$0.00				
Totals for Permit:	\$442.00	\$340.00			
(\$102.00 outstanding)					



# SURROUNDING LAND USE DISTRICTS

Site Location

File: SDAB-D-16-145



# **BUSINESS LAID OVER**

SDAB-D-16-120	An appeal by The House Company to construct a Single Detached House		
	with attached Garage, veranda, fireplace, rear balcony (irregular shape, 4.25		
	metres by 2.22 metres) and Basement development (NOT to be used as an		
	additional Dwelling)		
	August 3, 2016		
SDAB-D-16-136	An appeal by <u>Bill Co. Incorporated</u> to extend the duration of a Freestandin		
	Minor Digital Off-premises Sign (3.05m x 10.37m Single Sided Facing		
	South)		
	August 17 or 18, 2016		
SDAB-D-16-144	An appeal by Kiewit Energy Canada Corp to construct 6 Accessory General		
	Industrial Use buildings - existing without permits (Kiewit Energy Canada		
	Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building)		
	November 30 or December 1, 2016		

# APPEAL HEARINGS TO BE SCHEDULED

99312099-004	An appeal by 1043389 Alta. Ltd. regarding a Stop Order issued for the	
	property located at 6520 – 8 Street NW.	
	July 13, 2016	