

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
June 21, 2017**

**Hearing Room No. 2
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 2**

I 9:00 A.M. SDAB-D-17-107

Operate a Major Home Based Business.
(Administration office for general contractor -
SLM Exterior Renovation Inc.)

3613 - 22 Street NW
Project No.: 241001611-001

II 10:30 A.M. SDAB-D-17-108

Demolish an existing Minor Digital Off-
premises Sign and install (1) Freestanding
Minor Digital Off-premises Sign (14.63 metres
by 4.25 metres – south side Static and north side
Digital)

2750 - 91 Street NW
Project No.: 242835983-001

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-17-107

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 241001611-001

APPLICATION TO: Operate a Major Home Based Business.
(Administration office for General Contractor - SLM Exterior Renovation Inc.)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 2, 2017

DATE OF APPEAL: May 24, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3613 - 22 Street NW

LEGAL DESCRIPTION: Plan 0024588 Blk 52 Lot 37

ZONE: (RPL) Planned Lot Residential Zone

OVERLAY: N/A

STATUTORY PLANS: The Meadows Area Structure Plan
Wild Rose Neighbourhood Structure Plan

Grounds for Appeal

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

I am a small business and carry my equipment in a trailer like thousands of businesses like me (roofing/framing/siding etc). They park in a street at night after work. I will provide 100 plus pictures if necessary.

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 2, 2017. The Notice of Appeal was filed on May 24, 2017.

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*:

Under section 130.3(6), a **Major Home Based Business** is a **Discretionary Use** in the (RPL) Planned Lot Residential Zone.

Under section 7.3(7), **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 such businesses 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 Class includes Bed and Breakfast Operations but does not include General Retail Sales.

Section 130.1 states that the **General Purpose** of the **(RPL) Planned Lot Residential Zone** is:

to provide for small lot Single Detached Housing, serviced by both a Public Roadway and a Lane that provides the opportunity for the more efficient utilization of land in developing neighbourhoods, while maintaining the privacy and independence afforded by Single Detached Housing forms.

Development Officer's Determination:

2. A Major Home Based Business is a discretionary use in the RPL Zone (Reference Section 130.3.6)

Note: Storage of 18ft trailer on-street is not appropriate for a residential area and it takes away from on-street parking availability. [unedited]

Section 75 – Major Home Based Business Regulations

Section 75.5 states:

there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings.


Development Officer's Determination:

1. There shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings (Reference Section 75.5)

**Note: Applicant has an 18ft trailer for his business stored on-street
[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*.

	Project Number: 241001611-001 Application Date: FEB 09, 2017 Printed: May 24, 2017 at 2:23 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) 3613 - 22 STREET NW Plan 0024588 Blk 52 Lot 37
Scope of Application To operate a Major Home Based Business. (Administration office for general contractor - SLM EXTERIOR RENOVATION INC)	
Permit Details	
# of business related visits/day: 0 Administration Office Only?: Y Class of Permit: Do you live at the property?: Y Outdoor storage on site?: N	# of vehicles at one time: 0 Business has Trailers or Equipment?: Y Description of Business: Administration office for general contractor- home renovation, installing doors and windows. Outdoor storage of 18ft enclosed trailer parked on-street. Expiry Date:
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Application Decision Refused Reason for Refusal The application is refused for the following reasons: 1. There shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings (Reference Section 75.5) Note: Applicant has an 18ft trailer for his business stored on-street 2. A Major Home Based Business is a discretionary use in the RPL Zone (Reference Section 130.3.6) Note: Storage of 18ft trailer on-street is not appropriate for a residential area and it takes away from on-street parking availability. 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 02, 2017 Development Authority: KIM, JENNIFER Signature: _____	
THIS IS NOT A PERMIT	



Application for Home Occupation

Project Number: **241001611-001**
Application Date: FEB 09, 2017
Printed: May 24, 2017 at 2:23 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$309.00	\$122.00	147230001001237A	Feb 09, 2017
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$309.00	<u>\$122.00</u>		
(\$187.00 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-107



ITEM II: 10:30 A.M.

FILE: SDAB-D-17-108

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

APPELLANT:

APPLICATION NO.: 242835983-001

APPLICATION TO: Demolish an existing Minor Digital Off-premises Sign and install (1) Freestanding Minor Digital Off-premises Sign (14.63 metres by 4.25 metres – south side Static and north side Digital)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: May 10, 2017

NOTIFICATION PERIOD: May 16, 2017 through May 30, 2017

DATE OF APPEAL: May 29, 2017

RESPONDENT:
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2750 - 91 Street NW

LEGAL DESCRIPTION: Plan 1621104 Blk 14 Lot 2B

ZONE: DC2.247 Site Specific Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

I wish to appeal this permit for several reasons (all of which I will elaborate on during the appeals hearing) My reasons include, but not limited to the following:

- 1) The proposed increased dynamic digital display will completely disrupt any outdoor nighttime enjoyment at my residence.

- 2) The proposed increased signage will negatively impact the value of my property
- 3) The increased level of light pollution will adversely affect indigenous wildlife in the area
- 4) This proposed larger sign is VERY likely to compound to the hazards of an already “high risk” nearby intersection (91st Street and 34th Avenue)
- 5) It seems that every few years, this company brings forth additional requests to “alter” it’s signage requirements... ultimately trying to circumvent previous decisions taken against them. This endless search for “loop holes” has to stop. Already it has been PROVED that their property is in violation of several of our city’s sign ordinances (clearly documented in previously appealed decisions), yet they continue to request bigger, brighter, more powerful signage at the expense of their neighbours’ fundamental right to enjoy their personal property. This HAS to stop!

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

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

Appeals

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

...

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

Designation of direct control districts

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

...

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

Section 2 of the *Edmonton Zoning Bylaw* concerning Repeal, Enactment and Transition Procedures states the following:

2.4 Subject only to the provisions in the Municipal Government Act respecting legal non-conforming Uses and notwithstanding the effect it may have on rights, vested or otherwise, the provisions of this Bylaw govern from the Effective Date onward. In particular, no application for a Development Permit shall be evaluated under the procedural or substantive provisions of the previous Land Use Bylaw after the Effective Date, even if the application was received before the Effective Date.

...

2.6 Any Direct Control Districts that were in effect immediately prior to the Effective date are hereby deemed to continue in full force and effect and are hereby incorporated into Part IV of this Bylaw.

2.7 Unless there is an explicit statement to the contrary in a Direct Control District or Provision, any reference in a Direct Control

District or Direct Control Provision to a land use bylaw shall be deemed to be a reference to the land use bylaw that was in effect at the time of the creation of the Direct Control District or Provision.

At the time of the creation of the subject Direct Control Site, the *City of Edmonton Land Use Bylaw 5996* was in effect. An Alberta Court of Appeal decision in *Parkdale-Cromdale Community League Association v. Edmonton (City)*, 2007 ABCA 309 concluded that section 2.7 of the *Edmonton Zoning Bylaw* only applies if there is an express cross-reference in a Direct Control Bylaw passed before 2001 to a provision of the old *Land Use Bylaw*. In the absence of an express reference in the Direct Control Bylaw to the *Land Use Bylaw 5996*, it does not prevail over section 2.4 of the *Edmonton Zoning Bylaw*.

Hearing and Decision

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

...

- (a.1) must comply with the land use policies 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 DC2.247 Site Specific Development Control Provision

DC2.247.4.h states:

Signs shall be allowed in this District as provided for in Schedule 79E and in accordance with the general provisions of Sections 79.1 to 79.9 inclusive of the Land Use Bylaw, except that Section 79.5(1)(a) shall not apply.

DC2.247.1 states that the **General Purpose** of this provision is to:


To establish a Site Specific Development Control District to accommodate industrial business uses offices and a limited range of commercial uses, with site specific development regulations that will ensure compatibility with residential land uses to the east and a high standard of appearance appropriate to the function of 91 Street.

Development Officer's Determination:

Discretionary Use - Minor Digital On-premises Sign is approved as a Discretionary Use [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*.

	Project Number: 242835983-001 Application Date: MAR 09, 2017 Printed: May 29, 2017 at 10:20 AM Page: 1 of 3
<h2 style="margin: 0;">Application for Sign Combo Permit</h2>	
This document is a record of a Development Permit and/or Building 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, Safety Codes Act RSA 2000, Safety Codes Act Permit Regulation, Alberta Building Code 2006 and City of Edmonton Bylaw 15894 Safety Codes Permit Bylaw.	
Applicant	Property Address(es) and Legal Description(s) 2750 - 91 STREET NW Plan 1621104 Blk 14 Lot 2B
Scope of Application To demolish an existing Minor Digital Off-Premises Sign & install (1) Freestanding Minor Digital Off-premises Sign (14.63m x 4.25 m - South-side static and North-side Digital)	
Permit Details	
ASA Sticker No./Name of Engineer: Construction Value: 320000	Class of Permit: Class B Expiry Date: 2022-05-10 00:00:00
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: 1 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Permit Decision Approved	
THIS IS NOT A PERMIT	



Project Number: **242835983-001**
 Application Date: MAR 09, 2017
 Printed: May 29, 2017 at 10:20 AM
 Page: 2 of 3

Application for Sign Combo Permit

Subject to the Following Conditions

1) PRIOR TO THE REVIEW AND ISSUANCE OF THE BUILDING PERMIT AND INSTALLATION OF THE SIGN, THE APPLICANT SHALL DEMONSTRATE, TO THE SATISFACTION OF THE DEVELOPMENT OFFICER THAT THE EXISTING FREESTANDING OFF PREMISES SIGN LOCATED ALONG 91 STREET IS REMOVED FROM THE SITE AND CLEARED OF ALL DEBRIS.

2) Freestanding Minor Digital Off-premises Sign permit is be approved for a period of up to five years. A new application will be required on or before May 10, 2022

3) The proposed Freestanding Minor Digital Off-premises sign shall comply in accordance to the approved plans submitted.

4) Minor Digital Off-premises Signs shall use automatic light level controls to adjust light levels at night, under cloudy and other darkened conditions to reduce light pollution, in accordance with the following:

a) Ambient light monitors shall automatically adjust the brightness level of the Copy Area based on ambient light conditions. Brightness levels shall not exceed 0.3 footcandles above ambient light conditions when measured from the Sign face at its maximum brightness, between sunset and sunrise, at those times determined by the Sunrise / Sunset calculator from the National Research Council of Canada; (Reference Section 59.2(5)(a))

b) Brightness level of the Sign shall not exceed 400 nits when measured from the sign face at its maximum brightness, between sunset and sunrise, at those times determined by the Sunrise/Sunset calculator from the national research Council of Canada (Reference Section 59.2(5)(b))

5) The proposed Freestanding Digital Off-Premises Sign shall comply with the following conditions in consultation with the Transportation Planning, in accordance to Section 59.2(11):

a) That, should at any time, Transportation Planning and Engineering determine that the sign face contributes to safety concerns, the owner/applicant must immediately address the safety concerns identified by removing the sign, de-energizing the sign, changing the message conveyed on the sign, and or address the concern in another manner acceptable to Transportation Planning and Engineering.

b) That the owner/applicant must provide a written statement of the actions taken to mitigate concerns identified by Transportation Planning and Engineering within 30 days of the notification of the safety concern. Failure to provide corrective action will result in the requirement to immediately remove or de-energize the sign.

c) The proposed sign shall be constructed entirely within private property. No portion of the sign shall encroach over/into road right-of-way.

ADVISEMENT:

1) Should the Applicant wish to display video or any form of moving images on the sign, a new Development Application for a major digital sign will be required. At that time, Transportation Services will require a safety review of the sign prior to responding to the application.

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

Variances

Discretionary Use - Minor Digital On-premises Sign is approved as a Discretionary Use

THIS IS NOT A PERMIT



Project Number: 242835983-001
Application Date: MAR 09, 2017
Printed: May 29, 2017 at 10:20 AM
Page: 3 of 3

Application for Sign Combo Permit

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 10, 2017 Development Authority: AHUJA, SACHIN

Signature: _____

Notice Period Begins: May 16, 2017

Ends: May 30, 2017

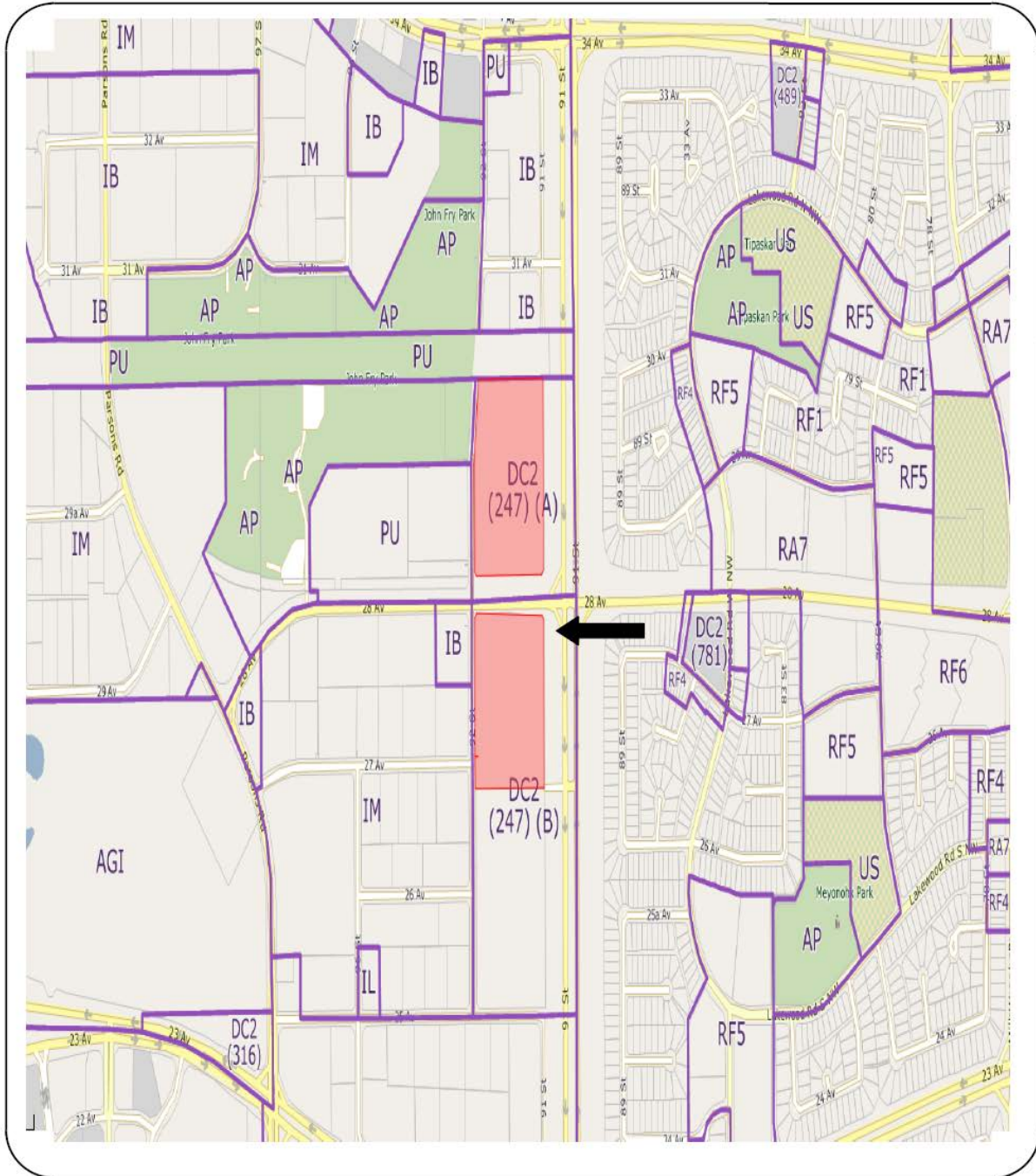
Building Permit Decision

No decision has yet been made.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sign Building Permit Fee	\$3,200.00	\$3,200.00	04026057	Apr 03, 2017
Safety Codes Fee	\$128.00	\$128.00	04026057	Apr 03, 2017
Sign Development Application Fee	\$272.00	\$272.00	04026057	Apr 03, 2017
Sign Dev Appl Fee - Digital Signs	\$442.00	\$442.00	04026057	Apr 03, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$4,042.00	\$4,042.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-108

