

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
June 27, 2018**

**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-18-092	Allow access off 67 Avenue NW and to park in the Front Yard of a Single Detached House 10722 - 67 Avenue NW Project No.: 277162378-001
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II	10:30 A.M.	SDAB-D-18-093	Add an Automotive and Minor Recreation Vehicle Sales / Rentals Use to an existing General Industrial Use (Anant Motors). 12245 - Fort Road NW, 12245 - Fort Road NW Project No.: 273692884-003
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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-18-092

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

APPELLANT:

APPLICATION NO.: 277162378-001

APPLICATION TO: Allow access off 67 Avenue NW and to park in the Front Yard of a Single Detached House

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: May 1, 2018

DATE OF APPEAL: May 28, 2018

NOTIFICATION PERIOD: May 8, 2018 through May 29, 2018

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10722 - 67 Avenue NW

LEGAL DESCRIPTION: Plan 1412HW Blk 2 Lot 6

ZONE: RF3-Small Scale Infill Development 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:

Regarding the "Variance(s) Requested to Overlay" at 10722 67th Avenue, the city had issued a Zoning Bylaw Compliance for the Developer or Property Owner to re-seed over the already existing driveway implying that the driveway was to be removed. The Developer and/or Contractor and Property Owner failed to comply with this directive.

Therefore this development does not comply with the infill bylaw relating to new development that properties will not have a rear access garage driveway and a frontal driveway access to the property.

I believe that this directive "to reseed" over the existing front driveway was part of the main development plan and if so was ignored so as to apply for a variance at a later date and completely circumvent the directive to remove the frontal driveway.

The implications of this decision if not addressed has far more reaching effects than at first appears, it will set a preference for other Developers and/or Contractors and Property Owners to apply and install frontal driveway access to their property. It will also prove to be detrimental to the community as a whole by destroying the aesthetic character of the community by allowing automobiles or other items placed in or on the frontal parking area. It will also take away access by other residents and non residents to park their automobiles on the street due to the driveway (parking is becoming one of the biggest issues in the Community of Allendale due to infill structures).

In the original letter I received from Development Officer Kirk Bacon related to the Overlay a reference was made, Quote "Note that variances may change as a result of revisions to plans throughout the development review process. Any additional variances within the Overlay may result in a new Consultation Letter", also Quote "the applicant is requesting variances to other section(s) of the Zoning Bylaw" There has not been any notification of what these other variances may be, in a letter I received from the City of Edmonton it stated, Quote" approved Development Permit (Class B) that includes variance(s) and/or a discretionary use" this leads me to believe that this property owner now has carte blanche approval in development of this property.

Allendale is classified as a mature neighbourhood and as such frontal driveways access to new infill properties whether existing or not, is subject to Mature Neighbourhood Overlay compliance and compliance with Community Standards Bylaws is required.

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.

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

Appeals

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

(a) in the case of an appeal made by a person referred to in section 685(1)

(i) with respect to an application for a development permit,

(A) within 21 days after the date on which the decision is made under section 642, [...]

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

or

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

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

Hearing and Decision

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

...

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

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

- (a.3) subject to clause (d), must comply with any 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 140.2(10), **Single Detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development Zone**.

Under section 7.2(8), **Single Detached Housing** means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 140.1 states that the **General Purpose** of **(RF3) Small Scale Infill Development Zone** is to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four Dwellings under certain conditions, and including Secondary Suites and Garden Suites.

Section 814.1 states the **General Purpose** of the **Mature Neighbourhood Overlay** is to regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Vehicular Access

Section 814.3(17) states regardless of whether a Site has existing vehicular access from a public roadway, other than a Lane, no such access shall be permitted to continue where an Abutting Lane exists.

Development Officer's Determination

Driveway - The driveway is located off of 67 Avenue (front) instead of the alley (Section 814.3.17).

Parking Spaces within the Front Yard

Section 54.2.2.e.i states parking spaces shall not be located within a Front Yard in a Residential Zone.

Development Officer's Determination

Parking - the Parking Area is located within the Front Yard (Section 54.2.2.e.i).

Community Consultation


Section 814.5 states the following:

1. When the Development Officer receives a Development Permit Application for a new principal building, new Garage Suite, or new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) or 814.3(9) of this Overlay:
 - a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
 - b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and
 - c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit Application in accordance with Sections 11.2 and 11.3.

Table 814.5(2)			
Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay Proposed to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	814.3(17) – Driveway Access

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.

	Project Number: 277162378-001 Application Date: MAR 15, 2018 Printed: May 28, 2018 at 11:47 AM Page: 1 of 2		
Minor 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 <div style="border: 1px solid black; height: 60px; width: 100%;"></div>	Property Address(es) and Legal Description(s) 10722 - 67 AVENUE NW Plan 1412HW Blk 2 Lot 6		
Scope of Permit To allow access off of 67 Avenue NW and to park in the Front Yard of a Single Detached House.			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> # of Dwelling Units Add/Remove: Client File Reference Number: Minor Dev. Application Fee: Accessory Buildings Secondary Suite Included?: N </td> <td style="width: 50%; border: none;"> Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: N/A Stat. Plan Overlay/Annex Area: </td> </tr> </table>		# of Dwelling Units Add/Remove: Client File Reference Number: Minor Dev. Application Fee: Accessory Buildings Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: N/A Stat. Plan Overlay/Annex Area:
# of Dwelling Units Add/Remove: Client File Reference Number: Minor Dev. Application Fee: Accessory Buildings Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: N/A Stat. Plan Overlay/Annex Area:		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Permit Decision Approved Subject to the Following Conditions This Development Permit authorizes a Parking Area in the Front Yard of a Single Detached House and connecting Driveway access to 67 Avenue NW (Front Lot Line). The development shall be constructed in accordance with the stamped and approved drawings. NOTES: 1) Neighbourhood Renewal is scheduled for the Park Allen neighbourhood in 2018. As part of this work, the existing access to 10722 - 67 Avenue NW will be reconstructed. 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 including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2) 3) Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.			
Variances Driveway - The driveway is located off of 67 Avenue (front) instead of the alley (Section 814.3.17). Parking - the Parking Area is located within the Front Yard (Section 54.2.2.e.i).			
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.			



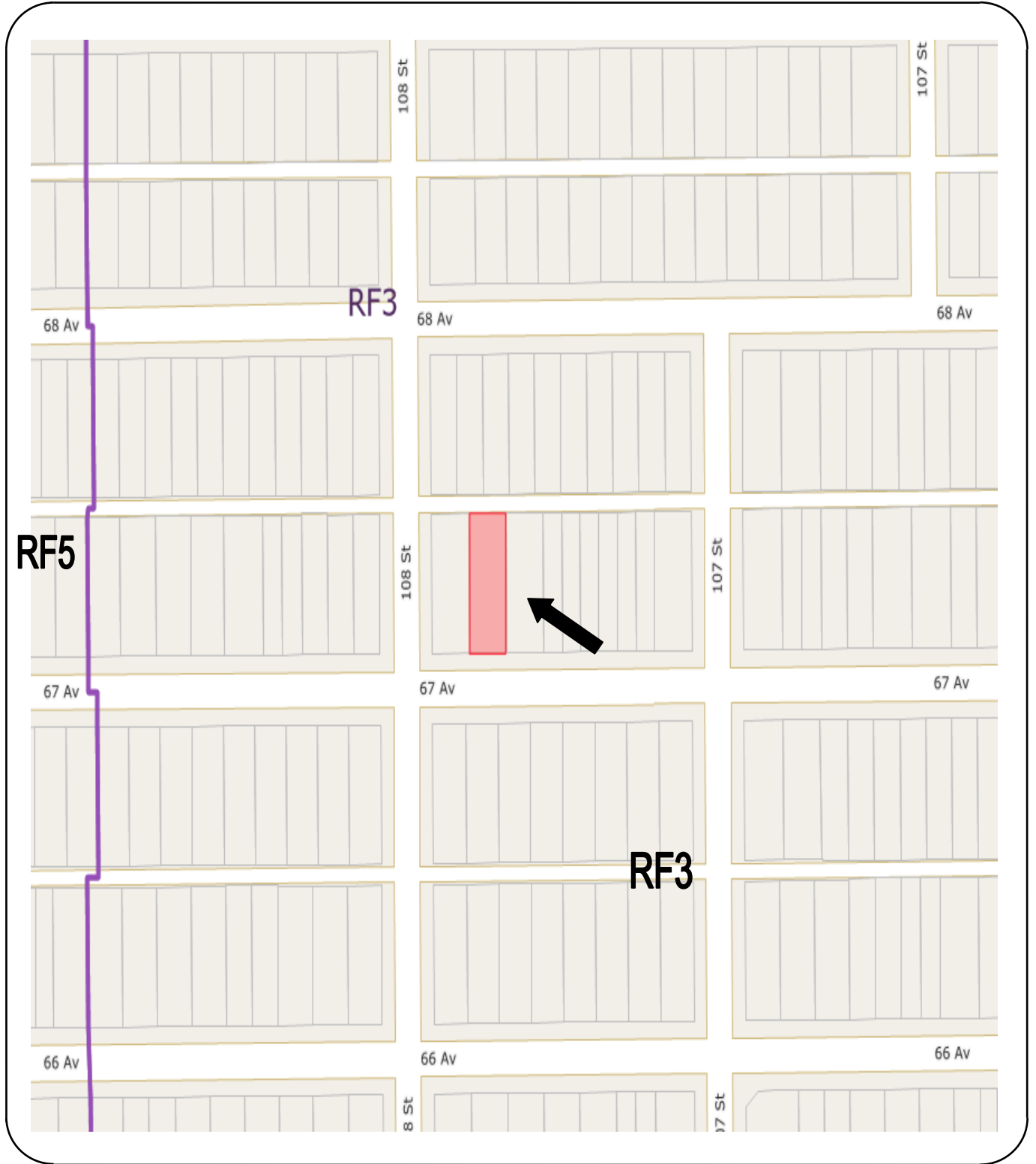
Project Number: **277162378-001**
Application Date: MAR 15, 2018
Printed: May 28, 2018 at 11:47 AM
Page: 2 of 2

Minor Development Permit

Issue Date: May 01, 2018 **Development Authority:** BACON, KIRK
Notice Period Begins: May 08, 2018 **Ends:** May 29, 2018

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$116.00	\$116.00	04856894	Mar 15, 2018
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$116.00	\$116.00		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-092



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-093

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

APPELLANT:

ADDRESS OF APPELLANT: 12247 Fort Road, Edmonton, AB

APPLICATION NO.: 273692884-003

APPLICATION TO: Add an Automotive and Minor Recreation Vehicle Sales / Rentals Use to an existing General Industrial Use (Anant Motors).

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: May 7, 2018

DATE OF APPEAL: June 4, 2018

NOTIFICATION PERIOD: May 15, 2018 through June 5, 2018

RESPONDENT: 1735236 Alberta Ltd

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12245 - Fort Road NW

LEGAL DESCRIPTION: Plan 0924508 Unit 1, Condo Common Area (Plan 0924508)

ZONE: IB-Industrial Business Zone

OVERLAY: N/A

STATUTORY PLAN: Yellowhead Corridor Area Structure Plan

Grounds for Appeal

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

1. I did not receive any notice of this application either through the Condo Corp. or from the City of Edmonton. The officer's contact information was not supplied.
2. I am certain the permit officer did not attend the property to observe the problems that already exist with this applicant.

3. The applicant already operates a " curbing" operation and does mechanical repairs without accreditation, apparently dumps oil , car washes, tires, brakes, etc. in spite of zoning for a retail store.
4. The owners are hiding this development behind a personal company in Mill Woods, probably not the Bumper to Bumper.
5. The owner has control of the Condominium finances and has not provided proper documentation of such to other owners, in contravention of provincial laws.
6. If this permit was applied for with a personal company and not Bumper to Bumper, then this is again afoul of bylaws. The President of the Condo, owner A. Kunin of Right Move is and has been, in contravention of provincial and municipal bylaws also. Civic bylaw officers already do not do their job, why should other property owners expect better with this new problem?
7. This property address is 12247 Fort Road, next bay in the Condo. I am already affected by Mr. Thind's illicit activity as I was the owner and had to sell due to his malfeasance.

<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

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- (a) in the case of an appeal made by a person referred to in section 685(1)

(i) with respect to an application for a development permit,

(A) within 21 days after the date on which the decision is made under section 642, [...]

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

or

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

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

Hearing and Decision

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

...

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

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

(a.3) subject to clause (d), must comply with any 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 **(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. is to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four Dwellings under certain conditions, and including Secondary Suites and Garden Suites.

<i>Discretionary Use</i>

Under section 400.3(4), **Automotive and Minor Recreation Vehicle Sales/Rentals** is a **Discretionary Use** in the **(IB) Industrial Business Zone**.

Under section 7.4(5), **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 does not include dealerships for the sale of trucks with a gross vehicle weight rating of 4 000 kilograms or greater, or the sale of motorhomes with a gross vehicle weight rating greater than 6 000 kilograms or a length of more than 6.7 metres.

Development Officer’s Determination

Discretionary Use - Automotive and Minor Recreation Vehicle Sales/Rentals Use is approved as a Discretionary Use (Section 400.3.4).


<i>Previous Subdivision and Development Appeal Board Decisions</i>

Application Number	Description	Decision
SDAB-D-14-257	To construct an Addition to an existing Commercial / Industrial Use building	October 10, 2014; Development Approved with

	(2nd floor 557.42 sqm General Industrial Use addition for Right Move Transportation).	conditions and variances
SDAB-D-10-333	To operate a Major Alcohol Sales Use	October 22, 2014; that the appeal be ALLOWED and the development GRANTED with conditions and variances

Notice to Applicant/Appellant

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

	<p>Project Number: 273692884-003 Application Date: FEB 26, 2018 Printed: May 7, 2018 at 5:31 PM Page: 1 of 3</p>		
Major Development Permit			
<p>This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.</p>			
<p>Applicant</p> <div style="border: 1px solid black; height: 60px; width: 100%;"></div>	<p>Property Address(es) and Legal Description(s)</p> <p>12245 - FORT ROAD NW Condo Common Area (Plan 0924508)</p> <p>12245 - FORT ROAD NW Plan 0924508 Unit 1</p> <hr/> <p>Specific Address(es)</p> <p>Suite: 12245 - FORT ROAD NW Entryway: 12245 - FORT ROAD NW Building: 12245 - FORT ROAD NW</p>		
<p>Scope of Permit</p> <p>To add an Automotive and Minor Recreation Vehicle Sales / Rentals Use to an existing General Industrial Use (Anant Motors).</p>			
<p>Permit Details</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Class B Gross Floor Area (sq.m.): 602 New Sewer Service Required: N/A Site Area (sq. m.): 4354 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): 602 New Sewer Service Required: N/A Site Area (sq. m.): 4354	Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class B Gross Floor Area (sq.m.): 602 New Sewer Service Required: N/A Site Area (sq. m.): 4354	Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)		
<p>I/We certify that the above noted details are correct.</p> <p>Applicant signature: _____</p>			
<p>Development Permit Decision</p> <p>Approved</p>			



Project Number: 273692884-003
Application Date: FEB 26, 2018
Printed: May 7, 2018 at 5:31 PM
Page: 2 of 3

Major Development Permit

Subject to the Following Conditions

1. All required parking and loading facilities shall only be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the building or Use for which the parking and loading facilities are provided, and the parking and loading facilities shall not be used for driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind. (Reference Section 54.1.1.c)
2. all storage, display or parking areas shall be hardsurfaced. (Reference Sections 400.5.1.a & 54.6)
3. 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).
4. Lighting for the display areas shall be mounted on lamp standards and no exposed bulbs or strings of lights shall be used. (Reference 400.5.1.c)
5. The development shall comply with Section 57 of the Edmonton Zoning Bylaw.

ADVISEMENTS:

- a. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)
- b. This Development Permit is NOT a Business Licence. A separate application must be made for a Business Licence. Please contact the 311 Call Centre (780-442-5311) for further information.
- c. Signs require separate Development Applications.
- d. 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 (780-442-5311) for further information.
- e. 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.
- f. 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 including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2)
- g. Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800 as amended.

Variances

1. Discretionary Use - Automotive and Minor Recreation Vehicle Sales/Rentals Use is approved as a Discretionary Use (Section 400.3.4).

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 07, 2018 Development Authority: ADAMS, PAUL

Notice Period Begins: May 15, 2018 Ends: Jun 05, 2018

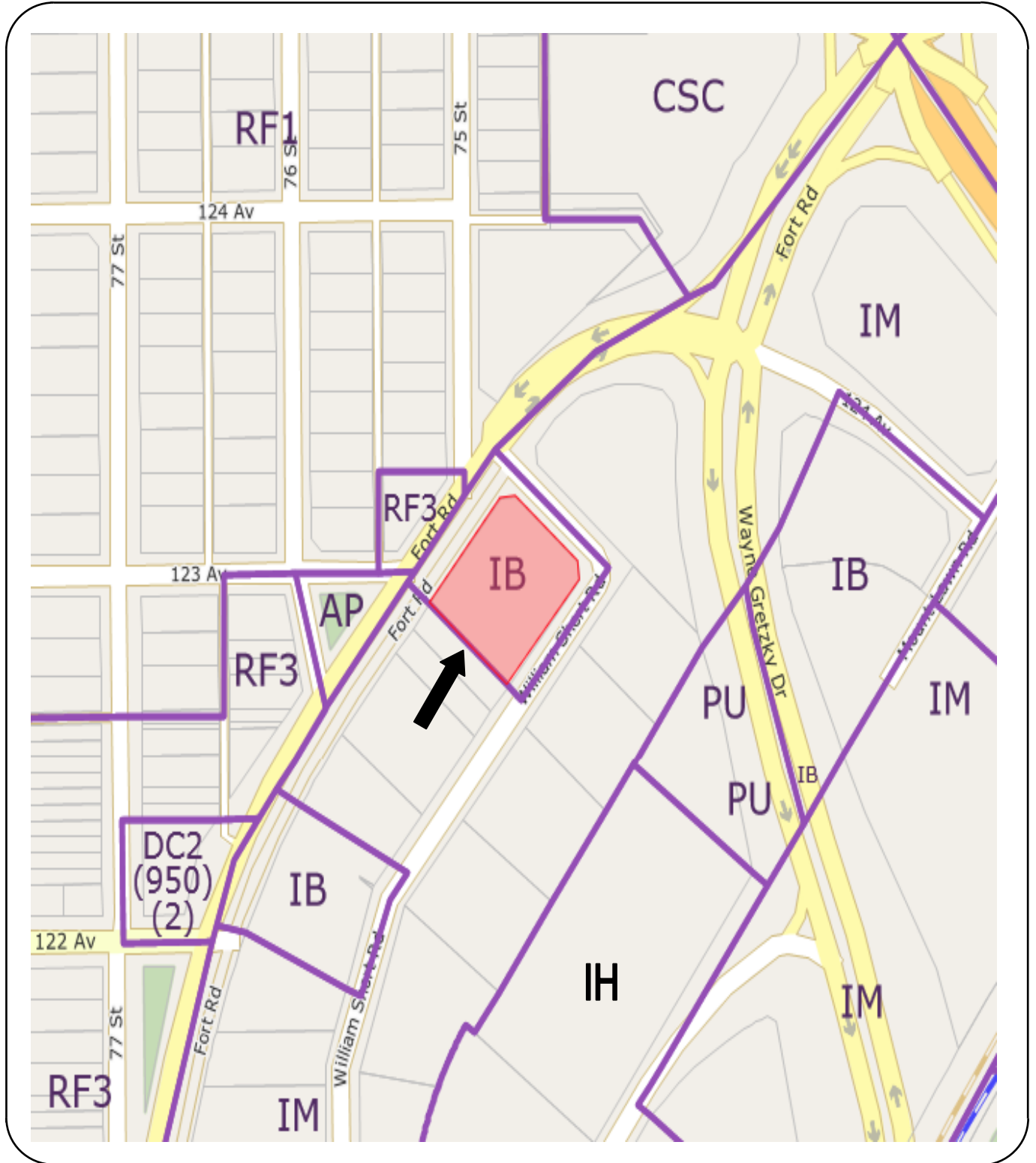


Project Number: **273692884-003**
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Page: 3 of 3

Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$510.00	\$510.00	04818428	Feb 26, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$510.00</u>	<u>\$510.00</u>		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-093

