

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
March 18, 2020**

**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-20-035	Erect a fence @ 2.13m in Height in the Flanking Side Yard abutting 112 Street NW 7728 - 112 STREET NW Project No.: 350300941-001
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II	10:30 A.M.	SDAB-D-20-036	Construct a rear uncovered deck with privacy screen (deck, 4.88m x 4.44m @ 1.73m in Height and Privacy Screening @ 2.44m in Height), existing without permit. 8312 - ROWLAND ROAD NW Project No.: 350840055-001
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TO BE RAISED

III	1:30 P.M.	SDAB-D-20-027	Change the Use from Professional, Financial and Office Support Services to a Personal Service Shop (operating as Body Rub Centre) 16872 - 111 AVENUE NW, 16904C - 111 AVENUE NW Project No.: 348590018-002
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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-20-035

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 350300941-001

APPLICATION TO: Erect a fence @ 2.13 metres in Height in the Flanking Side Yard abutting 112 Street NW

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 13, 2020

DATE OF APPEAL: January 30, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7728 - 112 STREET NW

LEGAL DESCRIPTION: Plan 1723573 Blk 11 Lot 35B

ZONE: RF3-Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: McKernan/Belgravia Station Area Redevelopment Plan

Grounds for Appeal

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

Owner would like to keep fence at its existing height. See letter from owner to explain rationale.

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,

- (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 written decision is given under section 642, [...]

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 clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (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(8), **Single Detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development Zone**.

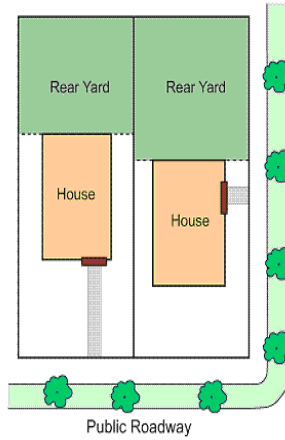
Under section 6.1, **Accessory** means “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.

Under section 6.1, **Fence** means “a structure constructed at ground level, used to prevent or restrict passage, provide visual screening, noise attenuation, Landscaping, or to mark a boundary.”

Under section 6.1, **Height** means “a vertical distance between two points.”

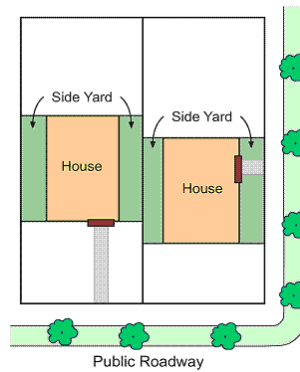
Under section 6.1, **Rear Yard** means:

the portion of a Site abutting the Rear Lot Line extending across the full width of the Site, situated between the Rear Lot Line and the nearest wall of the principal building, not including projections.



Under section 6.1, **Side Yard** means:

that portion of a Site abutting a Side Lot Line extending from the Front Yard to the Rear Yard. The Side Yard is situated between the Side Lot Line and the nearest wall of principal building, not including projections.



Section 140.1 states that the **General Purpose** of the **(RF3) Small Scale Infill Development Zone** is “to provide for a mix of small scale housing”.

Fences, Walls, Gates, and Privacy Screening in Residential Zones

Section 49.1 states the following with respect to *Fences, walls and gates*:

- a. The regulations contained within Section 49.1 of this Bylaw apply to:
 - i. the Height of the material used in the construction of a Fence, wall, or gate, such as but not limited to boards, panels, masonry, ornamental iron, and chain link, plus any additional elements used for screening, such as, but not limited to, lattice.

- b. Notwithstanding subsection 49(1)(a), the regulations for Fences, walls, and gates contained within this Section do not apply to the Height of the posts or other supporting material used to anchor the Fence, wall, or gate.
- c. The Height of a Fence, wall, or gate shall be measured from the general ground level 0.5 m back from the property line of the Site on which the Fence, wall, or gate is to be constructed.
- d. On an Interior Site, the Height of a Fence, wall, or gate shall not exceed:
 - i. 1.2 m for the portion of the Fence, wall, or gate constructed in the Front Yard, and
 - ii. 1.85 m in all other Yards.
- e. **On a Corner Site, the Height of a Fence, wall, or gate shall not exceed:**
 - i. 1.2 m for the portion of the Fence, wall, or gate constructed in the Front Yard,
 - ii. **1.2 m for the portion of the Fence, wall, or gate situated between the flanking Side Lot Line and the foremost side Façade of the principal structure, and extending from the Front Lot Line to the Rear Lot Line, and**
 - iii. 1.85 m in all other Yards.
- f. **In the case where the permitted Height of a Fence, wall, or gate is 1.2 m, the Development Officer may vary the Height of the Fence, wall, or gate to a maximum of 1.85 m, in order to provide additional screening from public roadways or incompatible adjacent Uses,**
- g. In the case where the permitted Height of a Fence, wall, or gate is 1.85 m, the Development Officer may vary the Height of the Fence, wall, or gate to a maximum of 2.44 m, in order to provide additional screening from public roadways or incompatible adjacent Uses,
- h. Notwithstanding subsection 49.1(f) and subsection 49.1(g) of this Bylaw, in the case of Double Fronting Sites, the Development Officer may grant a variance to allow a Fence, wall, or gate of up to 1.85 m in Height in one of the Front Yards, and allow a Fence, wall, or gate of up to 2.44 m in Height in the other Front Yard, having regard to the location of Fences, walls, and gates in the surrounding area and the requirement for screening.

Development Officer's Determination


Fence Height - The fence is 2.1m in height, instead of 1.2m. (Section 49.1.e(ii))

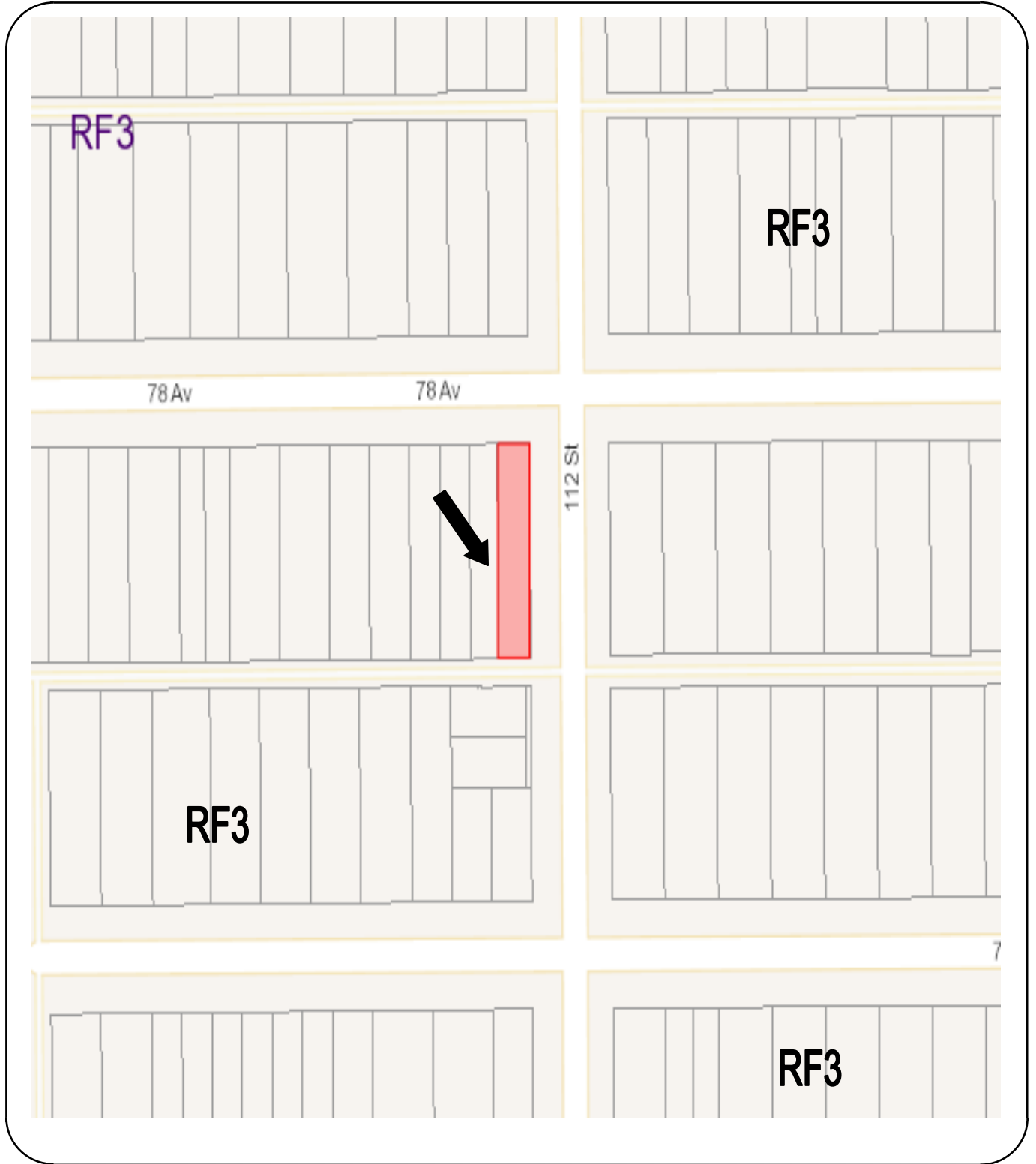
Note:

In the case where the permitted Height of a Fence, wall, or gate is 1.2 m, the Development Officer may vary the Height of the Fence, wall, or gate to a maximum of 1.85 m, in order to provide additional screening from public roadways or incompatible adjacent Uses.

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: 350300941-001 Application Date: DEC 18, 2019 Printed: January 13, 2020 at 10:47 AM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Overheight Fence Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
Applicant <div style="border: 1px solid black; height: 50px; width: 100%;"></div>	Property Address(es) and Legal Description(s) 7728 - 112 STREET NW Plan 1723573 Blk 11 Lot 35B Location(s) of Work Entryway: 7728 - 112 STREET NW Building: 7728 - 112 STREET NW																				
Scope of Application To erect a fence @ 2.13m in Height in the Flanking Side Yard abutting 112 Street NW.																					
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border-right: 1px solid black; padding-right: 10px;"> Class Of Permit: Stat. Plan Overlay/Annex Area: (none) </td> <td style="width: 50%; padding-left: 10px;"> Site Area (sq. m.): 324.04 </td> </tr> </table>		Class Of Permit: Stat. Plan Overlay/Annex Area: (none)	Site Area (sq. m.): 324.04																		
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I/We certify that the above noted details are correct. Applicant signature: _____																					
Development Application Decision Refused Issue Date: Jan 13, 2020 Development Authority: LAI, ECHO Reason for Refusal Fence Height - The fence is 2.1m in height, instead of 1.2m. (Section 49.1.e(ii)) Note: In the case where the permitted Height of a Fence, wall, or gate is 1.2 m, the Development Officer may vary the Height of the Fence, wall, or gate to a maximum of 1.85 m, in order to provide additional screening from public roadways or incompatible adjacent Uses. Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.																					
Building Permit Decision Refused																					
Fees <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 40%;"></th> <th style="width: 15%; text-align: right;">Fee Amount</th> <th style="width: 15%; text-align: right;">Amount Paid</th> <th style="width: 15%; text-align: right;">Receipt #</th> <th style="width: 15%; text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$179.00</td> <td style="text-align: right;">\$179.00</td> <td style="text-align: right;">06336414</td> <td style="text-align: right;">Dec 18, 2019</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$179.00</td> <td style="text-align: right; border-top: 1px solid black;">\$179.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Development Application Fee	\$179.00	\$179.00	06336414	Dec 18, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$179.00	\$179.00		
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THIS IS NOT A PERMIT																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-035



ITEM II: 10:30 A.M.

FILE: SDAB-D-20-036

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

APPELLANT:

APPLICATION NO.: 350840055-001

APPLICATION TO: Construct a rear uncovered deck with privacy screen (deck, 4.88 metres x 4.44 metres @ 1.73 metres in Height and Privacy Screening @ 2.44 metres in Height), existing without permit.

DECISION OF THE DEVELOPMENT AUTHORITY: Approved

DECISION DATE: January 24, 2020

DATE OF APPEAL: February 20, 2020

NOTIFICATION PERIOD: Jan. 30, 2020 through Feb. 20, 2020

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8312 - ROWLAND ROAD NW

LEGAL DESCRIPTION: Plan 4463RS Blk 52 Lot 9A

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:

- 1. Privacy Screening Height
- 2. Projection of Deck

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 written decision is given under section 642, or
 - (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 clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (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.

Non-conforming use and non-conforming buildings

643(1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

(2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.

(4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.

(5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except (a) to make it a conforming building, (b) for routine maintenance of the building, if the development authority considers it necessary, or (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.2(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 6.1, **Accessory** means “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.

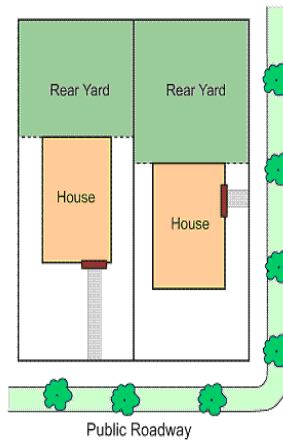
Under section 6.1, **Platform Structure** means an elevated structure intended for use as outdoor Amenity Area that may project and/or be recessed from the wall of a building, may be surrounded by guardrails, parapet walls or similar features. Common examples include: balconies, raised terraces and decks. This definition does not include a Rooftop Terrace.

Under section 6.1, **Privacy Screening** means “a feature that obscures direct and otherwise unimpeded sightlines. Common examples include: vegetative screening, such as shrubs and trees, lattice, masonry or wooden walls, parapet walls, translucent glass or any combination of these or like features. Privacy Screening does not include a balustrade railing or similar railing system.”

Under section 6.1, **Height** means “a vertical distance between two points.”

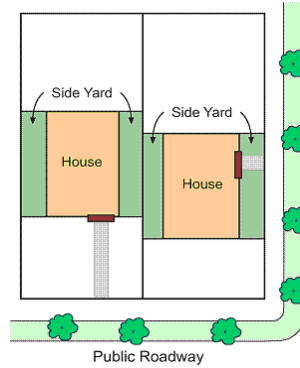
Under section 6.1, **Rear Yard** means:

the portion of a Site abutting the Rear Lot Line extending across the full width of the Site, situated between the Rear Lot Line and the nearest wall of the principal building, not including projections.



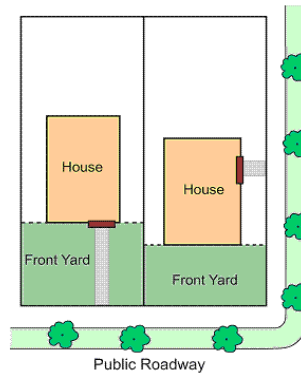
Under section 6.1, **Side Yard** means:

that portion of a Site abutting a Side Lot Line extending from the Front Yard to the Rear Yard. The Side Yard is situated between the Side Lot Line and the nearest wall of principal building, not including projections.



Under section 6.1, **Front Yard** means:

the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



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, Garden Suites, Semi-detached Housing and Duplex Housing.

Non-Conforming Building

Section 11.3(2) states the Development Officer may approve, with or without conditions as a Class B Discretionary Development, an enlargement, alteration or addition to a non-conforming building if the non-conforming building complies with the Uses prescribed for that land in this Bylaw and the proposed development would not, in their opinion:

- a. unduly interfere with the amenities of the neighbourhood; or
- b. materially interfere with or affect the use, enjoyment or value of neighbouring properties.

Development Officer's Determination

Non-Conforming Building - This house no longer conforms to current zoning rules, which may have changed since it was originally constructed (Section 11.3.3).

Projection into Setbacks and Separation Spaces

Section 44 states the following features may project into a required Setback or Separation Space as provided for below:

3. a) Platform Structures provided such projections do not exceed 2.5 m into a Front Setback;
- b) Platform Structures provided such projections do not exceed 2.0 m into any other Setbacks or Separation Spaces with a depth of at least 4.0 m;
- c) Platform Structures provided such projections do not exceed 0.6 m into any other Setbacks or Separation Spaces with a depth of less than 4.0 m; and
- d) Notwithstanding subsection 44(3)(b) and subsection 44(3)(c), Platform Structures 0.6 m or less in Height may be constructed to the Lot lines Abutting an interior Side Yard and Rear Yard;

Development Officer's Determination

Projection - The distance from the deck to the back property line (rear lot line) is 2.3m, instead of 4.8m (Section 44.3).

Fences, Walls, Gates, and Privacy Screening in Residential Zones

Section 49.2 states the following with respect to *Privacy Screening*:

- a. The regulations contained within Section 49.2 of this Bylaw apply to:
 - i. the Height of the material used in the construction of Privacy Screening such as but not limited to lattice, wooden or masonry walls, parapet walls or translucent glass.
- b. Notwithstanding subsection 49(2)(a), the regulations for Privacy Screening contained within this Section do not apply to the Height of the posts or other supporting material used to anchor the Privacy Screening.
- c. **Privacy Screening, excluding vegetative screening, constructed on a Platform Structure located within a Front Yard, required Side Setback or within 2.5 m of a Rear Lot Line shall not exceed 1.2 m in Height, and 1.85 m in Height in all other Yards, when measured from the surface of a Platform Structure.**

- d. Privacy Screening, excluding vegetative screening, constructed on a Rooftop Terrace shall be a minimum Height of 1.5 m and shall not exceed 1.7 m in Height, when measured from the surface of a Rooftop Terrace.
- e. Privacy Screening, excluding vegetative screening, constructed on a Rooftop Terrace shall conform with the Stepback regulations of Section 61 of this Bylaw.
- f. The Height of Privacy Screening constructed at ground level shall be measured from the average ground level 0.5 m back from the Privacy Screening.
- g. On an Interior Site, the Height of Privacy Screening, excluding vegetative screening, constructed at ground level, shall not exceed:
 - i. 1.2 m for the portion of the Privacy Screening constructed in the Front Yard, and
 - ii. 1.85 m in all other Yards.
- h. On a Corner Site, the Height of Privacy Screening, excluding vegetative screening, constructed at ground level, shall not exceed:
 - i. 1.2 m for the portion of the Privacy Screening constructed in the Front Yard,
 - ii. 1.2 m for the portion of Privacy Screening situated between the flanking Side Lot Line and the foremost side Façade of the principal structure, and extending from the Rear Lot Line to the Front Lot Line, and
 - iii. 1.85 m in all other Yards.
- i. In the case where the permitted Height of Privacy Screening is 1.2 m, the Development Officer may vary the Height of Privacy Screening to a maximum of 1.85 m, in order to prevent visual intrusion and provide additional screening from adjacent properties.
- j. In the case where the permitted Height of Privacy Screening is 1.85 m, the Development Officer may vary the Height of Privacy Screening to a maximum of 3.05 m, in order to prevent visual intrusion and provide additional screening from adjacent properties.**
- k. Notwithstanding subsection 49.2(i) and subsection 49.2(j) of this Bylaw, in the case of Double Fronting Sites, the Development Officer may grant a variance to allow Privacy Screening, excluding vegetative screening, of up to 1.85 m in Height in one of the Front Yards, and allow Privacy Screening, excluding vegetative screening, of up to 3.05 m in Height in the other Front Yard, having regard to the location of Fences, walls, gates and Privacy Screening in the surrounding area and the requirement for screening.

Development Officer's Determination

Privacy Screening Height - The privacy screening on the deck is 2.44m high, instead of 1.85m (Section 49.2.c & Section 49.2.j).

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: **350840055-001**
Application Date: DEC 27, 2019
Printed: January 24, 2020 at 11:03 AM
Page: 1 of 3

Uncovered Deck Permit

This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.

Applicant 	Property Address(es) and Legal Description(s) 8312 - ROWLAND ROAD NW Plan 4463RS Blk 52 Lot 9A
	Location(s) of Work Entryway: 8312 - ROWLAND ROAD NW Building: 8312 - ROWLAND ROAD NW

Scope of Permit
To construct a rear uncovered deck with privacy screen (deck, 4.88m x 4.44m @ 1.73m in Height and Privacy Screening @ 2.44m in Height), existing without permit.

Permit Details	
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 578.99

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

Applicant signature: _____

Development Permit Decision
Approved
Issue Date: Jan 24, 2020 **Development Authority:** PAYNE, KYLE



Project Number: **350840055-001**
Application Date: DEC 27, 2019
Printed: January 24, 2020 at 11:03 AM
Page: 2 of 3

Uncovered Deck Permit

Subject to the Following Conditions

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21. (Reference Section 17.1)

This Development Permit authorizes the development of a rear uncovered deck with privacy screen (deck, 4.88m x 4.44m @ 1.73m in Height and Privacy Screening @ 2.44m in Height), existing without permit. The development shall be constructed in accordance with the stamped and approved drawings.

Any future deck enclosure or cover requires a separate development and building permit approval.

The deck structure must be a stand-alone structure, not rigidly attached to the foundations or superstructure of the house.

No swimming pool or comparable water retention structure should be constructed at the site, and permanent sprinkler or irrigation systems should also not be constructed or installed.

Excessive watering of lawns, trees, shrubs or other vegetation should not be permitted. Roof leaders, downspouts, and sump pump discharge spouts should be connected to the storm sewer system, where possible, or discharge must be directed away from the slopes.

Any proposed re-grading of the site must be undertaken only in accordance with the recommendations of a qualified geotechnical consultant. Grading must not involve any attempt to direct or channel water toward the slopes. Water must also not be allowed to accumulate or pond on the property.

The retention of existing vegetation during site development is considered highly desirable, and all vegetation on the ravine slopes must be maintained. No dumping of any type of fill, grass cuttings or construction debris adjacent to or on/over the crest of the slopes shall be permitted.

The failure to comply with any of these geotechnical recommendations could either hasten or increase the severity of any slope instability which could threaten the property and proposed development. Such restrictions are proposed not to be punitive, but rather to improve the long term viability of the property and reduce risk.

ADVISEMENTS

The resident must recognize the possible consequences of building adjacent to the top of bank. The resident must be aware that there remains some risk of instability of the slopes below the subject property that could lead to a loss of property within the life span of any proposed development. The City of Edmonton will assume all erosion and regression of the slope to be of natural origin and that we will not undertake any remedial repairs, irrespective of the ownership of the land between the residence and the valley slopes.

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)

Any proposed change from the original approved drawings is subject to a revision/re-examination fee. The fee will be determined by the reviewing officer based on the scope of the request and in accordance with current fee schedules. A review fee may be collected for each change request.

Unless otherwise stated, all references to section numbers refer to the Edmonton Zoning Bylaw 12800.



Project Number: **350840055-001**
 Application Date: DEC 27, 2019
 Printed: January 24, 2020 at 11:03 AM
 Page: 3 of 3

Uncovered Deck Permit

Variances

Non-Conforming Building - This house no longer conforms to current zoning rules, which may have changed since it was originally constructed (Section 11.3.3).

Projection - The distance from the deck to the back property line (rear lot line) is 2.3m, instead of 4.8m (Section 44.3).

Privacy Screening Height - The privacy screening on the deck is 2.44m high, instead of 1.85m (Section 49.2.c & Section 49.2.j).

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.

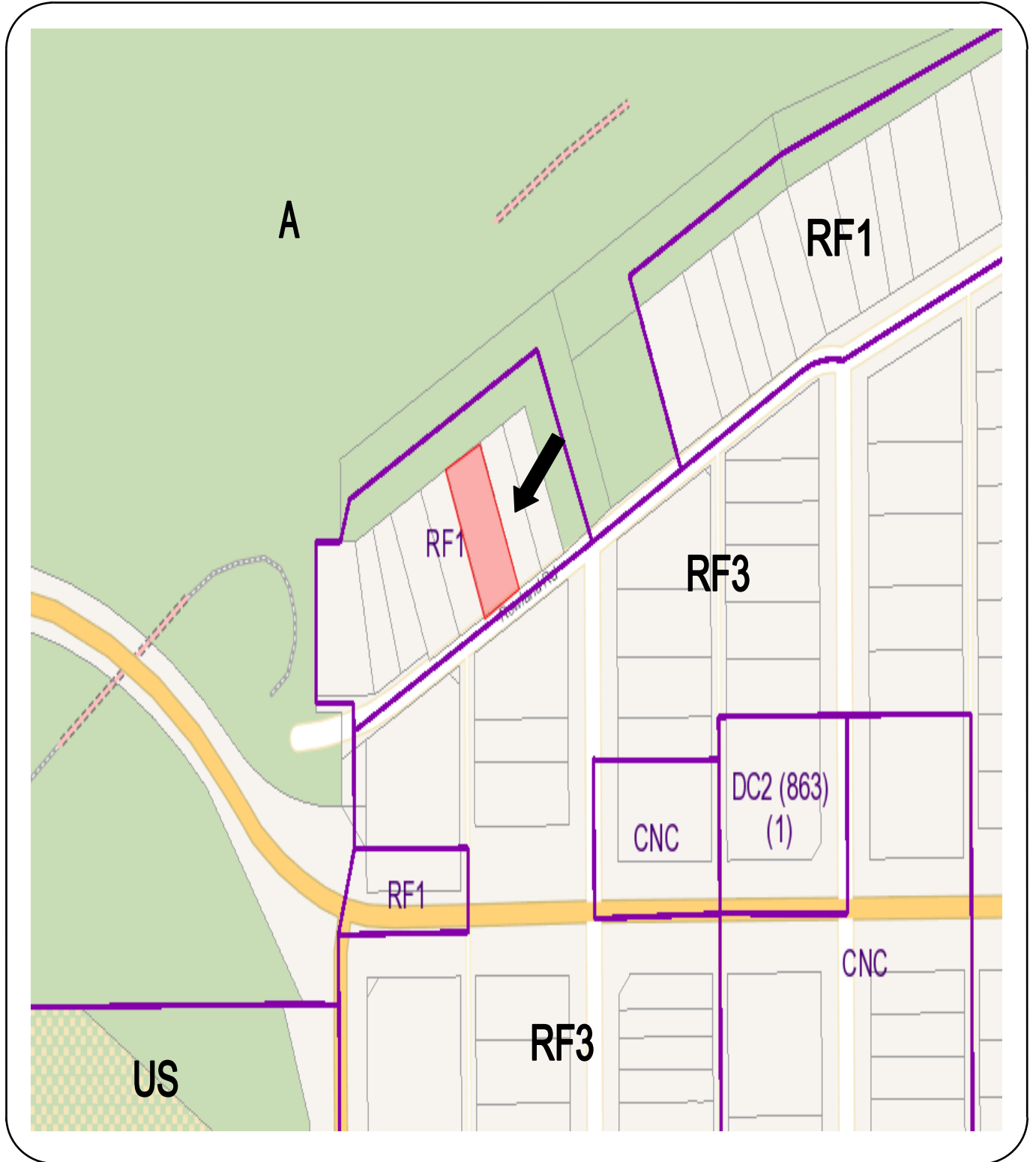
Notice Period Begins: Jan 30, 2020 **Ends:** Feb 20, 2020

Building Permit Decision

No decision has yet been made.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Application Fee	\$118.00	\$118.00	06348140	Dec 27, 2019
Existing Without Permit Dev Application Penalty Fee	\$118.00	\$118.00	06348140	Dec 27, 2019
Existing Without Permit Building Penalty Fee	\$110.00	\$110.00	06348140	Dec 27, 2019
Building Permit Fee (Uncovered Deck)	\$110.00	\$110.00	06348140	Dec 27, 2019
Safety Codes Fee	\$4.50	\$4.50	06348140	Dec 27, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	\$460.50	\$460.50		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-036



TO BE RAISED

ITEM III: 1:30 P.M.

FILE: SDAB-D-20-027

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY TWO ADJACENT PROPERTY OWNERS

APPELLANT (No. 1):
APPELLANT (No. 2):

APPLICATION NO.: 348590018-002

APPLICATION TO: Change the Use from Professional, Financial and Office Support Services to a Personal Service Shop (operating as Body Rub Centre)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: January 16, 2020

DATE OF APPEAL (No.1): February 3, 2020
DATE OF APPEAL (No. 2): February 10, 2020

NOTIFICATION PERIOD: January 23, 2020 through February 13, 2020

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 16872 - 111 Avenue NW, 16904C - 111 Avenue NW

LEGAL DESCRIPTION: Plan 9724094 Unit 28, Condo Common Area (Plan 9724094)

ZONE: (IB) Industrial Business Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

Appellant (No. 1)

We do not feel that this is a good location to house a body rub Centre that is proposed for this location.

This location is too close to a family oriented gaming centre, as well as our other tenants do not wish to have such a facility this close to their business. We do not think that other business owners that may have facilities in this area or next to this proposed location would be in favor of this either.

Appellant (No. 2)

We respectfully ask that the SDAB leave the designated use of this location: 16872 – 111 Avenue NW, as Professional, Financial and Office Support Services. This designation fits with the business development of the West Sheffield Industrial area and the neighbouring businesses in the condominium complex in which it is located.

- Parking: this unit should remain designated as "Professional, Financial and Office Support Services" so that parking for employees and the occasional visitor can be accommodated without putting undue pressure on neighbouring businesses.

- According to the Zoning Bylaw, Section 7.4 (42): "Personal Service Shops 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 of personal effects. This Use includes barbershops, hairdressers, beauty salons, tailors, dressmakers, shoe repair shops, and city cleaning establishments and laundromats. This Use does not include Health Services." [Source: [https://webdocs.edmonton.ca/zoningbylaw/ZoningBylaw/Part2/Industrial/400 \(IB\) Industrial Business Zone.htm](https://webdocs.edmonton.ca/zoningbylaw/ZoningBylaw/Part2/Industrial/400%20(IB)%20Industrial%20Business%20Zone.htm)]. Why has a development permit been issued for a Personal Services shop operating as a Body Rub Centre when this type of service is not included in the definition?

- Personal Safety:

1. The business licence requirements for a Body Rub Centre include a "patron management plan" that anticipates that patrons of the establishment may be: "intoxicated, under the influence of drugs, quarrelsome, riotous, disorderly, involved in illegal activities or convicted of an indictable criminal offence". If this establishment has to provide a plan to deal with these patrons, it stands to reason that these are the types of patrons that will be frequenting the business. The rest of the businesses in our complex should not have the burden of having to also deal with these patrons.

2. A body rub centre is allowed to remain open until 11:00 pm, which compromises the security of the other businesses in the complex and neighbouring area which are generally closed by 6:00 pm. Individual businesses who do remain open later will have to retain additional staff to ensure personal safety for their employees and customers.

3. The body rub centre is compelled to have a minimum of two employees, one of whom is a manager, on site at all times during open hours. This indicates that the patrons visiting the business must be supervised or it puts a lone employee at risk. The other employers in our complex feel that these regulations put us at risk as well, necessitating an unfair financial burden in having to ensure the personal safety of ourselves, our staff and our customers. [Source: Bylaw 13138: <https://vwww.edmonton.ca/documents/Bylaws/C13138.pdf>]

- A number of the businesses in our complex are operated/attended by women. Many of us occupy our spaces alone and must keep the doors unlocked due to the walk-in nature of our business. With a Body Rub Center in the complex, women will be at increased risk on a daily basis for simply running our businesses. One shop holds classes in the evening and the owner (female) or a member of her staff (usually female) may be on site alone, to finish closing up. The presence of a Body Rub Center would directly compromise our safety and, as a result, negatively affect our ability to effectively function as required to serve the demands of our work.

- A number of businesses in our complex and our neighbouring complex offer classes, programs and services to children. Allowing a development permit and licence for a Body Rub Centre will negatively impact the customer base for these businesses.

- The City of Edmonton and the Edmonton City Police have established a Body Rub Centre Task Force. The need for the city to have a full time task force devoted to Body Rub Centres also indicates that this type of business brings with it an undesirable security issue for neighbouring businesses.

- City Council debate: City Council is preparing to debate "the merits of a five year exit strategy on licensing Body Rub Centres". The report by City Administration is due in June, 2020. We feel that, at the very least, no development permits should be approved until the City has had a chance to review the report and make a decision on its current licensing practice for Body Rub Centres. [Source: <http://sirepub.edmonton.ca/sirepub/mtgviewer.aspx?doctype.Minutes&meetid=2283>]

- The location of this particular business: 16872 - 111 Avenue NW is a middle unit in a business condominium complex. It was previously occupied by a professional services company (Dynatax). Changing the permitted use of this middle unit, with limited parking, shared walls and late night hours is not consistent with the neighbouring businesses. The other business owners in this complex and in the neighbouring complexes feel that the development permit should not have been approved. The use as Professional, Financial and Office Support is the appropriate designation for this space.

- Unfair financial burden and loss of customer base: for all of the reasons above, we believe that the other owners of Condominium Corporation #972 4094 and our neighbouring businesses will have to provide additional security for our staff and for our customers, that we will have difficulty retaining staff and we will lose customers. We feel that the parking situation and the security and safety issues will result in disputes and loss of business. This would not be the case if the use of the space remains as "Professional, Financial and Office Support Services".

General Matters

The Subdivision and Development Appeal Board made and passed the following motion on February 27, 2020:

“That the appeal hearing be tabled to March 18, 2020 at the verbal request of the Appellants.”

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 written decision is given under section 642, or
 - (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;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (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 400.3(23), **Personal Service Shops** is a **Discretionary Use** in the **(IB) Industrial Business Zone**.

Under section 7.4(42), **Personal Service Shops** 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 of personal effects. This Use includes barbershops, hairdressers, beauty salons, tailors, dressmakers, shoe repair shops, and dry cleaning establishments and laundromats. This Use does not include Health Services.

Under section 6.1, **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.

Section 400.1 states that the **General Purpose** of the **(IB) Industrial Business Zone** is:

to provide for industrial businesses that carry out their operations such that no nuisance is created or apparent outside an enclosed building and such that the Zone is compatible with any adjacent non-industrial Zone, and to accommodate limited, compatible non-industrial businesses.

This Zone should normally be located on the periphery of industrial areas and adjacent to arterial or major collector roadways.

<i>Body Rub Centres</i>

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 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 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.

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: 348590018-002 Application Date: NOV 29, 2019 Printed: February 3, 2020 at 3:11 PM Page: 1 of 3</p>		
<h2 style="margin: 0;">Major Development Permit</h2>			
<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>	<p>Property Address(es) and Legal Description(s) 16904C - 111 AVENUE NW Condo Common Area (Plan 9724094) 16872 - 111 AVENUE NW Plan 9724094 Unit 28</p>		
	<p>Specific Address(es) Suite: 16872 - 111 AVENUE NW Entryway: 16872 - 111 AVENUE NW Building: 16840 - 111 AVENUE NW</p>		
<p>Scope of Permit To change the Use from Professional, Financial and Office Support Services to a Personal Service Shop (operating as Body Rub Centre).</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.): New Sewer Service Required: N Site Area (sq. m.): 8589.56 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 8589.56	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 8589.56	Contact Person: Lot Grading Needed?: N 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 Approved Issue Date: Jan 16, 2020 Development Authority: SHAH, NIKHIL</p>			



Project Number: **348590018-002**
 Application Date: NOV 29, 2019
 Printed: February 3, 2020 at 3:11 PM
 Page: 2 of 3

Major Development Permit

Subject to the Following Conditions

"The proposed Personal Service Shop (operating as Body Rub Centre) is listed as a Discretionary Use and is subject to the right appeal in accordance to Section 21. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

- 1) The applicant or landowner shall take all reasonable measures to fully implement the recommendations of the CPTED report for the proposed development.
- 2) Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.
- 3) 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 (Reference Section 97.3(c)).
- 4) Any types of the signed are required separate development and building permits. Signs placed on or within a Personal Service Shop Use 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.
- 5) No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback.
- 6) Immediately upon demolition/ alterations of the building, the site shall be cleared of all debris.
- 7) 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)

NOTES :

This Development Permit is not a Business Licence. A separate application must be made for a Business Licence. You may require Building permit approvals prior to issue a Business Licence.

Any proposed Signs shows under this development permit applications, if any, are not reviewed or approved. Signs require separate Development Applications. A separate application must be made for all types of Signs. You must require Development and Building permit approvals prior to installing /construct any Signs.

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 ERCB Directive 079, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2)

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 (Reference Section 17.1).

A subject development permit will expire in accordance with the provision of Section 22 of the Edmonton Zoning Bylaw 12800 as amended.

A Building Permit is required for any construction or change in the 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.

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



Project Number: **348590018-002**
Application Date: NOV 29, 2019
Printed: February 3, 2020 at 3:11 PM
Page: 3 of 3

Major Development Permit

the presence or absence of any environmental contaminants on the property.

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

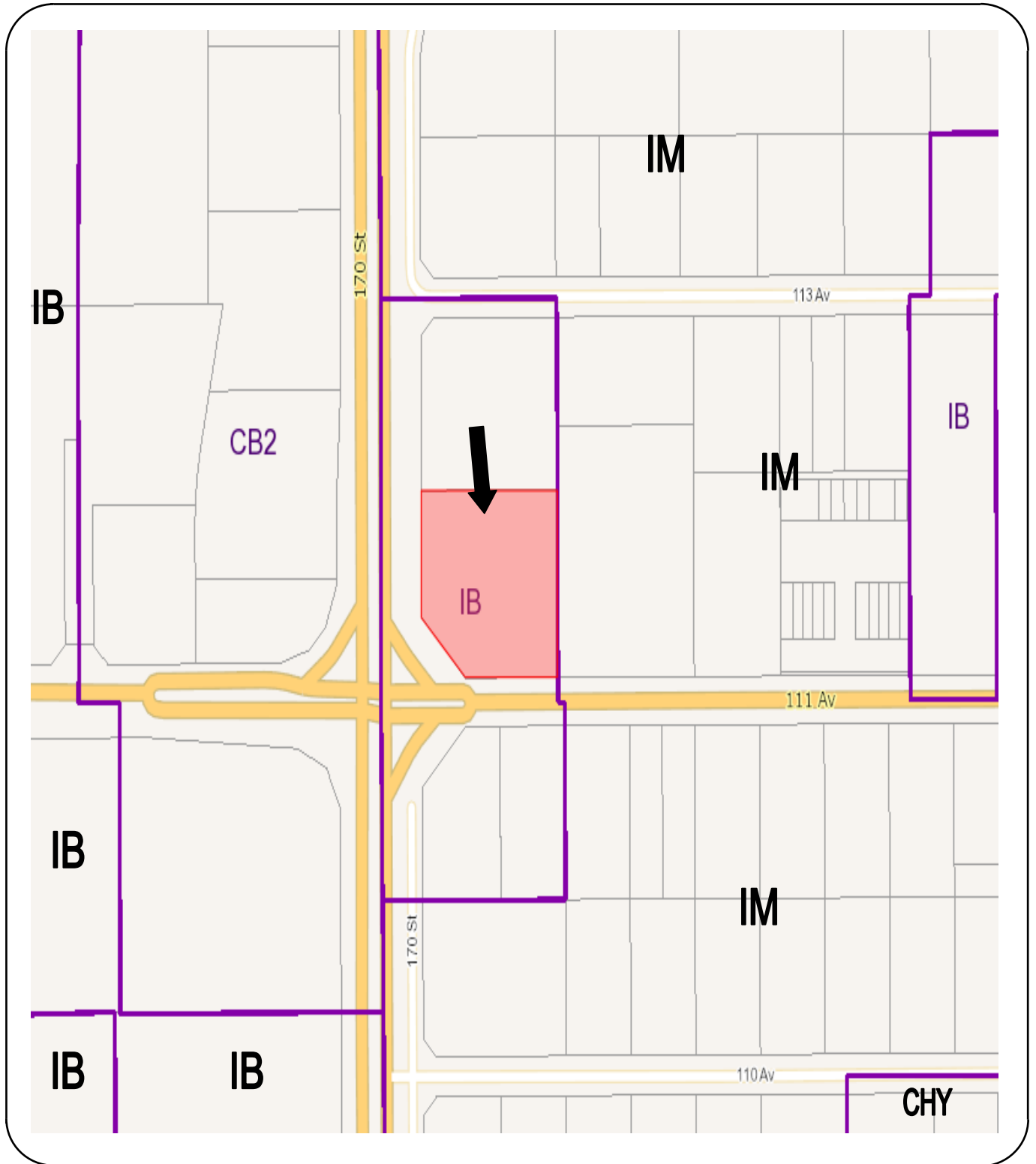
Rights of Appeal

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

Notice Period Begins: Jan 23, 2020 **Ends:** Feb 13, 2020

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$518.00	\$518.00	06306377	Nov 29, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$518.00</u>	<u>\$518.00</u>		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-027

