

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Tuesday, 9:00 A.M.
March 31, 2015**

**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-15-064	To remove an existing Fascia Off-premises Sign and install a Roof Off-premises Sign (facing north) 10805 - 124 Street NW Project No.: 167369080-001
---	-----------	---------------	---

LUNCH BREAK – 12:00 P.M. TO 12:30 P.M

II	12:30 P.M.	SDAB-D-15-065	To operate a Major Home Based Business (Chiropractic Clinic with 15 clients a day, 60 clients a week, and 1 non-resident employee) 4607 - 201 Street NW Project No.: 166199855-001
----	------------	---------------	--

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-15-064

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

APPELLANT:

APPLICATION NO.: 167369080-001

APPLICATION TO: Remove an existing Fascia Off-premises
Sign and install a Roof Off-premises Sign
(facing north)

DECISION OF THE
DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: February 23, 2015

DATE OF APPEAL: March 10, 2015

NOTIFICATION PERIOD: February 23, 2015 through March 9,
2015

RESPONDENT: Pattison Outdoor Advertising

ADDRESS OF RESPONDENT: 10707 – 178 Street NW, Edmonton, AB,
T5S 1J6

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 10805 - 124 Street NW

LEGAL DESCRIPTION: Plan RN22 Blk 26 Lot 8

ZONE: CB1 Low Intensity Business Zone

OVERLAY: N/A

STATUTORY PLAN: West Ingle Area Redevelopment Plan

DEVELOPMENT OFFICER'S DECISION

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

Prior to the review and issuance of the building permit and installation of the sign, the applicant shall demonstrate, to the satisfaction of development officer, that the existing fascia off-premises sign located on the north face of building is removed from the site and cleared of all debris.

Roof Off-premises Signs shall be subject to the following regulations:

- 1) Roof Off-premises Sign permit is approved for a period of up to five years. A new permit is required to extend the duration on or before Feb 23, 2020
- 2) The maximum Area of a Roof Off-premises Sign shall be 20 m². (Reference Section 59F.3(4)(a))
- 3) All proposed Roof Off-premises Sign locations shall be reviewed in context with the surrounding development, such as (but not limited to): the architectural theme of the area; any historic designations; the requirements of any Statutory Plan; any streetscape improvements; and proximity to residential development. The Development Officer may require revisions to the application to mitigate the impact of a proposed Freestanding Off-premises Sign or may refuse a permit adversely impacts the built environment. (Reference Section 59F.3(4)(c))
- 4) The combined Height of the Roof Off-premises Sign and building shall not exceed the Height of the Zone. (Reference Section 59F.3(4)(d))
- 5) Any Roof Off-premises Sign shall be located 30.0 m from the property line of a Residential Zone. (Reference Section 59F.3(4)(e))
- 6) Proposed Sign locations shall be separated from Digital Signs greater than 8.0 m² or Off-premises Signs. If the proposed Sign Area is greater than 8.0m² to less than 20m² the minimum separation distance from Digital Signs greater than 8.0 m² or other Off-premises Sign shall be 100m. The separation shall be applied from the larger Off-premises Sign or Digital Sign location. (Reference Section 59F.3(4)(f))
- 7) Roof Off-premises Signs may be illuminated. (Reference Section 59F.3(4)(g))
- 8) Roof Off-premises Signs shall have the structural elements concealed from view. (Reference Section 59F.3(4)(h))

Variance:

Note: Roof Off-Premises sign is a Discretionary Use in CB1 zone.(Reference Section 330.3(42))

APPELLANT'S SUBMISSION

This open appeal letter is submitted on behalf of the St. George's Greek Orthodox Church Board of Directors. Listed below in point form are some of our thoughts regarding the approved application for a roof sign located at 10805 -124th street in Edmonton.

- The 124th street business community has stated that it requires additional signage to better advertise their businesses as there is an apparent lack of usable advertising space.
- The 124 street re-vitalization process has had a positive impact in the area and a roof sign would seem to be counterproductive to the image of this re-vitalization.
- We believe the signs location on a two story roof comes with some safety concerns relative to site lines for drivers on the road as they will have to avert their field of vision to see it. As well there are concerns regarding the signs position directly above our parking lot.
- In our view the current building owners gain the benefit at the expense of the entire 124th street business community with a single purpose sign.

We believe the City of Edmonton Planning and Sustainable Development department may have not considered all options in allowing this to move forward. In January 2015 we contracted, Independent Outdoor Digital Sign Company to do an assessment regarding the feasibility to install a 10 feet by 20 feet digital sign on our property. Independent Outdoor Digital Signs assessment pointed out a need for better advertising of the local businesses in the area as well as possible community event advertising.

We moved ahead with them and submitted an application for a permit on February 11, 2015. About a week later we were informed by Independent Outdoor Digital that the City of Edmonton Planning and Sustainable Development had a permit application already in to move the current board to the roof of our neighbor located at 10805-124st in Edmonton AB.

What we propose is a very modern and strategically located Digital Billboard to go up on our parking lot that would service the 124 street business and community more effective both visibly and have superior sight lines to the oncoming traffic.

As well this billboard would generate much needed revenue for our church to keep growing within the 124th street community.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This is an application to remove an existing Fascia Off-premises Sign and install a Roof Off-premises Sign (facing north).

The site is located east of 124 Street and north 108 Avenue and is zoned CB1 Low Intensity Business Zone, Section 330 of the Edmonton Zoning Bylaw 12800. The site is within the West Ingle Area Redevelopment Plan, Bylaw 7469, as amended, approved by Council on May 14, 1985.

Roof Off-premises Signs is a Discretionary Use in the CB1 Low Intensity Business Zone, Section 330.3(42).

Under Section 7.9(11), **Roof Off-premises Signs** means any Sign erected upon, against, or above a roof, or on top of or above, the parapet of a building displaying Copy that directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, entertainment or service provided on the premises or Site where the Sign is displayed.

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

The decision of approval by the Development Officer has been appealed by an adjacent property owner located at 10815 - 124 Street.

The submitted plans indicate the proposed Sign has a horizontal dimension of 6.10 metres and a vertical dimension of 3.05 metres. The proposed Sign has a Height of 9.75 metres from Grade to the top of the Sign. The plans indicate the proposed Sign is located 3 metres from the (north) Side Lot Line and 3 metres from the (west) Front Lot Line, and is single-sided facing north. The proposed Sign faces southbound traffic on 124 Street.

Section 330.4(10) states Signs shall comply with the regulations found in Schedule 59F.

Schedule 59F.3(4) states Roof Off-premises Signs shall be subject to the following regulations:

- a. the maximum Area of a Roof Off-premises Sign shall be 20 square metres;
- b. Roof Off-premises Sign permits may be approved for a period of up to five years;
- c. all proposed Roof Off-premises Sign locations shall be reviewed in context with the surrounding development, such as (but not limited to): the architectural theme of the area; any historic designations; the requirements of any Statutory Plan; any streetscape improvements; and proximity to residential development. The Development Officer may require revisions to the application to mitigate the impact of a proposed Roof Off-premises Sign or may refuse a permit adversely impacts the built environment;
- d. the combined Height of the Roof Off-premises Sign and building shall not exceed the Height of the Zone;
- e. any Roof Off-premises Sign shall be located 30.0 metres from the property line of a Residential Zone;
- f. proposed Sign locations shall be separated from Digital Signs greater than 8.0 m² or Off-premises Signs as follows:

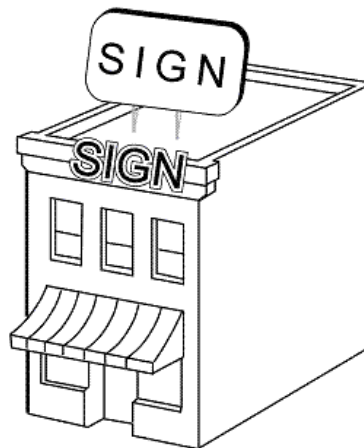
Proposed Sign Area	Minimum separation distance from Digital Signs greater than 8.0 m ² or other Off-premises Sign
less than 20 m ²	100 m
20 m ² to 40 m ²	200 m
Greater than 40 m ²	300 m

The separation shall be applied from the larger Off-premises Sign or Digital Sign location.

- g. Roof Off-premises Signs may be illuminated; and
- h. Roof Off-premises Signs shall have the structural elements concealed from view.

Under Section 6.2(18) **Off-premises Sign** means any sign displaying Copy that directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, service or entertainment provided on the premises or Site where the Sign is displayed.

Under Section 6.2(21), **Roof Signs** means any Sign erected upon, against, or above a roof, or on top of or above, the parapet of a building.



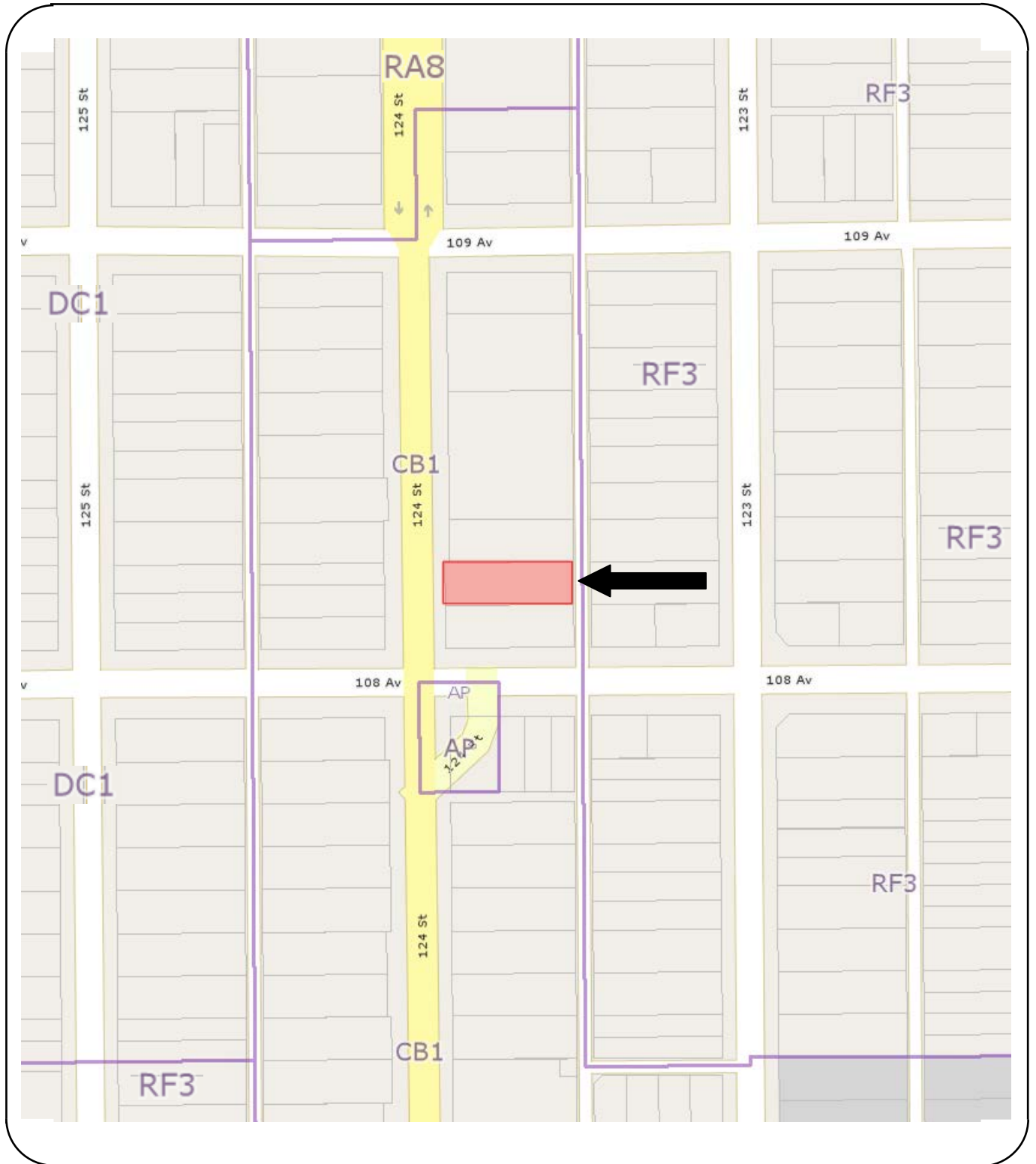
Section 330.1 states the purpose of the CB1 Low Intensity Business Zone is to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

The following permit application is listed in the Sustainable Development POSSE system:

Application Number	Description	Decision
158699601-001	To install 3 On-Premises Fascia Signs (Michael Anthony Jewellers/The Apartment)	August 20, 2014; Approved with conditions.

NOTICE TO APPLICANT/APPELLANT

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



SURROUNDING LAND USE DISTRICTS

 Site Location

File: SDAB-D-15-064



ITEM II: 12:30 P.M.

FILE: SDAB-D-15-065

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 166199855-001

APPLICATION TO: Operate a Major Home Based Business
(Chiropractic Clinic with 15 clients a day,
60 clients a week, and 1 non-resident
employee)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 5, 2015

DATE OF APPEAL: March 9, 2015

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 4607 - 201 Street NW

LEGAL DESCRIPTION: Plan 0623976 Blk 7 Lot 2

ZONE: RSL Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: The Grange Area Structure Plan

DEVELOPMENT OFFICER'S DECISION

REFUSED - The proposed development is refused for the following reasons:

1. Section 75(3) - the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located.

Proposed: 15 visitors a day, 60 a week, and 3 at one time. It is the opinion of the Development Authority that the proposed Major Home Based Business will generate vehicular traffic and parking requirements in excess of that which is characteristic of the RSL Zone.

2. Section 75(9) - the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.

Proposed: It is the opinion of the Development Authority that the proposed Major Home Based Business (chiropractic clinic) is not compatible with the general purpose or intent of the RSL Zone and would be more appropriately located in a Commercial Zone.

Therefore, it is the opinion of the Development Authority that the proposed Major Home Based Business (chiropractic clinic) would interfere with or affect the use, enjoyment or value of neighbouring properties (Reference Section 11.2(6)).

APPELLANT'S SUBMISSION

I am appealing the decision made by David Johnston as he provided absolutely no empirical evidence to back up his claims. As the nature of this appeal is to conflict his decision, I once again am requesting that empirical evidence be made transparent to back up his "discretionary decision".

Firstly, he has used section 75(8) as a prime example of refusal, however what he has argued gives him carte blanche power, is not what City Council intended... Standards and evidence are required for a decision of this nature.

Further, my argument for section 75(3) was that the increase in traffic he spoke of was insignificant when compared to the current, and parking was absolutely no issue as I have sufficient personal stalls. All of our neighbors were also communicated with in writing, and everyone was very supportive of the business. This was completely ignored, and no backup was provided as to why.

Lastly, as Mr. Johnston formed his opinion based on his personal actions, that means he was biased when making his decision. Once it became apparent that he was biased, he should have removed himself, or his supervisor should have removed him immediately from this file. I have filed a complaint against him separate to this appeal.

My wife both has an economic right to pursue her career and also has federal legislation protecting the rights of her patients to seek her services as a chiropractor. I would like to point out that if the decision was found to be based on an opinion solely, it would cause baseless economic loss and also become a serious legal issue due to the breach of federal and provincial legislation.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This is an application to operate a Major Home Based Business (chiropractic clinic with 15 clients a day, 60 clients a week, and 1 non-resident employee).

The site is located in a cul-de-sac on the east side of 201 Street and north of 46 Avenue and is zoned RSL Residential Small Lot Zone, Section 115 of the Edmonton Zoning Bylaw 12800. The site is within The Grange Area Structure Plan, Bylaw 11749, as amended, approved by Council May 25, 1998.

A **Major Home Based Business** is a Discretionary Use in the RSL Residential Small Lot Zone, Section 115.3(6).

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.

The Permit Detail indicates that the proposed business activities performed on site include the provision of chiropractic services until the commercial clinic is open in March / April 2015. There are 10 to 15 client visits per day; 50 to 60 client visits per week; 1 person lives at the site and participates in the business; there are 2 vehicles registered to the property and there is 1 vehicle associated with the business kept at the property; there will be a maximum of 3 client and employee vehicles on Site at one time; and there are 2 Driveway parking spaces.

Section 75(3) states the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located.

The Development Officer determined that the proposed Major Home Based Business will generate vehicular traffic and parking requirements in excess of that which is characteristic of the RSL Residential Small Lot Zone.

Section 75(9) states the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.

The Development Officer determined that the proposed Major Home Based Business is not compatible with the general purpose or intent of the RSL Residential Small Lot Zone and would be more appropriately located in a Commercial Zone.

Section 75 states that a Major Home Based Business shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 centimetres by 30.5 centimetres in size located on the Dwelling;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
3. ...
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. 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;
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling of Accessory buildings;
7. ...
8. in addition to the information requirements of subsection 13.2 of this Bylaw, each application for a Development Permit for the Use Class Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
9. ...
10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garage Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

Section 115.1 states the purpose of the RSL Residential Small Lot Zone is to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites.

NOTICE TO APPLICANT/APPELLANT

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



SURROUNDING LAND USE DISTRICTS

 Site Location

File: SDAB-D-15-065



BUSINESS LAID OVER***APPEAL HEARINGS TO BE SCHEDULED***

84287777-004	An appeal to convert an existing Semi-Detached House into a 4 Dwelling Apartment (existing without permits) <i>April 1, 2015</i>
166420267-001	An appeal to construct a Single Detached House with a front attached Garage, front balcony, front veranda, fireplace, Secondary Suite development in the Basement, rear partially covered balcony and rear uncovered deck (3.05 metres by 7.62 metres) <i>April 9, 2015</i>
168199400-001	An appeal to construct a Semi-detached House with a fireplace, rear balcony and rear uncovered deck (1.83m x 12.19m) and to demolish an existing Single Detached House and rear Detached Garage <i>April 15 or 16, 2015</i>
164242106-004	An appeal by Homes to construct a Single Detached House with rear attached Garage, front veranda (3.35m x 1.47m), front balcony above (irregular shape 4.57m x 3.15m) side covered deck (5.03m x 3.66m), and Basement development (not to be used as an additional Dwelling) <i>April 16, 2015</i>