

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
May 10, 2017**

**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-17-085	Change the use of a portion of a General Industrial building to a Minor Religious Assembly (255 seats) and to construct additions in the west and south side of the existing building (vestibules, office and storage space). 14705 - 116 Avenue NW Project No.: 240682366-001
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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-17-085

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

APPELLANTS:

ADDRESS OF APPELLANTS:

APPLICATION NO.: 240682366-001

APPLICATION TO: Change the use of a portion of a General Industrial building to a Minor Religious Assembly (255 seats) and to construct additions in the west and south side of the existing building (vestibules, office and storage space)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: March 29, 2017

NOTIFICATION PERIOD: April 4, 2017 through April 18, 2017

DATES OF APPEAL: April 13, 2017 and April 18, 2017

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 14705 - 116 AVENUE NW (two lots)

LEGAL DESCRIPTION: Plan 2570KS Blk 7 Lot 9B (two lots)

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 are counsel for Amity Pro Ltd., which is the owner of Lot 9C, the parcel immediately adjacent to the Property. Our client opposes the approval of a Development Permit for a change in use to Religious Assembly Minor on the Property, as this proposed use is not compatible with the existing uses on our client's and other neighbouring properties.

Our client has three properties in proximity to the Property (including the immediately adjacent parcel), which total 75,200 square feet of buildings on approximately 3.5 acres of land.

Our client has two primary concerns in regard to the proposed Religious Assembly Development Permit which would allow for a religious assembly use on the Property:

1. A religious assembly requires 1 parking stall per 4 seats, which is typical of an IB district land use, while an IM land use requires only 1 parking stall per 100m². Further, by some accounts a religious assembly in Edmonton may in reality require closer to 1 parking stall per seat to operate properly. Our client is very concerned that users of the religious assembly will park on their property and also cause a large increase in parking congestion along 116 Avenue, making access to our client's property very difficult. It does not appear that adequate parking consideration has been made in respect of this proposed development; and
2. The uses associated with a property districted IM, which are specifically prescribed to include nuisances which extend beyond the walls of a building and can extend beyond the property boundary, are not compatible with such high occupancy uses such as a religious assembly. The approved uses on our client's property include processes which utilize some insulation materials containing hydrogen sulphide (H₂S) gas which is released during fabrication. As background information, please see the attached document in regard to hydrogen sulphide. Further odor is released from molten asphalt and various adhesive sprays used in assembly on our client's property. These gaseous substances and odors may escape the building and potentially our client's property. This nuisance factor is acceptable and in fact common in an IM district; as other neighbouring businesses can attest, they have similar hazard and nuisance factors to our client.

As the building on the Property and our client's building are actually abutting, the chance of this nuisance factor spreading to the religious assembly is quite high. What's more the building on the Property's air intake system collects air from our client's property making the risk to occupants of the religious assembly that much higher.

Having a high occupancy religious assembly immediately adjacent to an IM districted parcel, with industrial uses going on and where the buildings adjoin and the uses are already well established would be a grievous planning mistake and a recipe for a great deal of tension between property users. In this situation the religious assembly and the adjoin IM districts are not compatible with each other.

Appellant No. 2

R.W. Gibson Holdings Ltd/R.W. Gibson is the owner of the properties located at 14713 — 116th Avenue, 14715 — 116th Avenue and 14811 — 116th Avenue, all of which are immediately adjacent to the location referenced in the proposed development permit. Further, we own two additional properties located at 11603-149th Street and 14605-116th Avenue which will be directly impacted by the proposed changes. In total, these locations represent approximately 80,000 square feet and 4 acres of land on a relatively short section of 116th Avenue.

We are strictly opposed to the development and/or use of a minor (255 seat) religious assembly and request that the application be denied.

Over the years, we have concentrated our real estate investments in this specific area of West Edmonton, in part due to the medium industrial classification and somewhat complementary businesses in the area. It was our opinion that the City of Edmonton's 2016 decision to rezone this land, from Medium Industrial Zone to Business Industrial Zone, was a significant departure from the intended use of the area and not consistent with the businesses currently operating in the vicinity. Our opinion and rationale has not changed and we oppose the proposed development and discretionary use as a religious assembly.

The development and use contemplated in the permit has a real potential of further traffic congestion in an already heavy traffic area with limited parking and compromised turning radius' (refer to photos in Appendix 'A'). It is our opinion that the rezoning decision, which provided for a much broader range of business uses, was an irresponsible decision by the City of Edmonton and the proposal for discretion to be provided to allow a 255 seat religious assembly is not compatible with existing businesses in the area.

Similar to the neighbouring businesses, our tenant's operate 7 days per week and their routine commercial activities, which includes welding, sandblasting, manufacturing and outdoor storage, create dusty and potentially odorous conditions commonly found in industrial areas. Such activity is not conducive to the proposed business nor its patrons.

We also have concerns that parking ratios will not be met and customer spill over into our tenant's parking lot will limit their ability to operate. Appendix 'A' includes photos of the parking lot entrance for Pat's Driveline that must be kept clear in order to accept deliveries, as well as for safety reasons.

Additional pedestrian traffic, which may include children, is of great concern to us and our tenants.

Our tenant's property is further protected by guard dogs and limited pedestrian traffic after normal business hours and/or weekend's is preferential for a variety of reasons.

Further concern for pedestrian safety should also be considered due to the operational rail line that borders the specific property in question.

In summary, we do not support the proposed change and believe the application should be denied on the grounds of incompatibility and direct conflict with existing businesses.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

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

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

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

- (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

- (i) the proposed development would not

- (A) unduly interfere with the amenities of the neighbourhood, or

- (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 400.1 state 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.

Discretionary Use

Under section 400.3(28), a **Religious Assembly**, excluding rectories, manses, dormitories, convents, monasteries and other residential buildings, is a **Discretionary Use** in the **IB Industrial Business Zone**.

Under section 7.8(14), **Religious Assembly** means development used for worship and related religious, philanthropic or social activities and includes Accessory rectories, manses, meeting rooms, food preparation and service facilities, classrooms, dormitories and other buildings. Typical Uses include churches, chapels, mosques, temples, synagogues, parish halls, convents and monasteries. This Use does not include Private Education Services, Public Education Services, and Commercial Schools, even as Accessory Uses.

Development Officer's Determination:

Discretionary Use - The Religious Assembly is approved as a Discretionary Use (Section 400.3).

Religious Assembly**71. Religious Assembly**

A Religious Assembly shall comply with the following special provisions:

1. the minimum Frontage shall be 30.0 metres and the minimum Site area shall be 930 square metres;
2. where a manse, rectory, parsonage or other building for a minister's residence is to be erected on the same Site as the Religious Assembly, the minimum Site area shall be 1 300 square metres;
3. where the a Religious Assembly is to be developed on a Site that is within 60.0 metres of a Site zoned to allow a Single Detached Dwelling as a Permitted Use, the following regulations shall apply:
 - a. the maximum Site area shall be 4 000 square metres;
 - b. the maximum total Site Coverage shall not exceed 40 percent;
 - c. a minimum building Setback of 4.5 metres shall be required along a Side Yard flanking an abutting Site Zoned Residential;
 - d. a minimum building Setback of 7.5 metres along a Rear Yard shall be required where the Rear or Side Lot Line of the Site abuts the lot line of a Site in a Residential Zone or is not separated from it by a public roadway more than 10.0 metres wide;

- e. a minimum building Setback of 6.0 metres shall be required along a Front Yard separated by a public roadway not wider than 20.0 metres from any Site zoned residential. Where the roadway is wider than 20.0 metres, the Front Setback applicable in the relevant Zone shall apply;
 - f. vehicular access to on-site parking and loading spaces shall be provided from an abutting arterial or collector roadway, except that the Development Officer may allow access from a public roadway including a Lane in accordance with the following guidelines:
 - i. access may be allowed from a local roadway that does not abut another Site zoned to allow a Single Detached Dwelling as a Permitted Use, provided such access shall not interfere with access to other Sites abutting the roadway and shall not direct excess traffic onto a local roadway;
 - ii. access may be allowed from a Lane that does not abut another Site zoned to allow a Single Detached Dwelling as a Permitted Use, provided such access shall not interfere with access to other abutting Sites and shall not direct excess traffic onto a local residential roadway; and
 - iii. access to a maximum of five parking spaces may be allowed from a Lane that abuts a Site zoned to allow a Single Detached Dwelling as a Permitted Use.
4. Where a Religious Assembly is a Discretionary Use, the Development Officer may impose conditions intended to reduce the perceived mass of the structure through techniques including, but not limited to, increased Setbacks, articulation of elevations and rooflines, and the colour of finishing materials.

<i>Parking</i>


Section 54.2, Schedule 1(A)(45), states:

Location	Minor
Central Core Neighbourhoods, excluding the Downtown Special Area	<u>1720 m²</u> of Floor Area or less: No minimum parking requirement
Mature Neighbourhoods, excluding the Central Core Neighbourhoods	<u>1400 m²</u> of Floor Area or less: 1 parking space per <u>45.0 m²</u>

Established Neighbourhoods	<u>2500 m²</u> of Floor Area or less: 1 parking space per <u>27.0 m²</u>
Industrial Neighbourhoods	<u>2570 m²</u> of Floor Area or less: 1 parking space per <u>33.0 m²</u>
Developing, Planned and Future Neighbourhoods, and Urban Growth areas.	<u>3760 m²</u> of Floor Area or less: 1 parking space per <u>14.0 m²</u>
Locations are as identified in Edmonton's The Way We Grow: Municipal Development Plan, Bylaw 15100, Maps.	

Notice to Applicant/Appellant

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

	Project Number: 240682366-001 Application Date: FEB 03, 2017 Printed: April 13, 2017 at 1:41 PM Page: 1 of 3		
<h2 style="margin: 0;">Major Development Permit</h2>			
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: 40px; width: 100%;"></div>	Property Address(es) and Legal Description(s) 14705 - 116 AVENUE NW Plan 2570KS Blk 7 Lot 9B 14705 - 116 AVENUE NW Plan 2570KS Blk 7 Lot 9B		
Specific Address(es) Suite: 14705 - 116 AVENUE NW Entryway: 14705 - 116 AVENUE NW Building: 14705 - 116 AVENUE NW			
Scope of Permit To change the use of a portion of a General Industrial building to a Minor Religious Assembly (255 seats) and to construct additions in the west and south side of the existing building (vestibules, office and storage space).			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Class of Permit: Class B Gross Floor Area (sq.m): New Sewer Service Required: N Site Area (sq. m.): 2188 </td> <td style="width: 50%; border: none; vertical-align: top;"> 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.): 2188	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.): 2188	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Permit Decision Approved			
The permit holder is advised to read the reverse for important information concerning this decision.			



Project Number: **240682366-001**
 Application Date: FEB 03, 2017
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Major Development Permit

Subject to the Following Conditions

- 1) This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1).
- 2) The development shall comply to the performance standards for the IB District in accordance to Section 57 of the Edmonton Zoning Bylaw. (Reference Section 400.4(6)).
- 3) Any modification to the existing access requires the review and approval of Transportation Planning and Engineering.
- 4) There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.
- 5) Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. OSCAM permit applications require Transportation Management Plan (TMP) information. The TMP must include:
 - the start/finish date of project;
 - accommodation of pedestrians and vehicles during construction;
 - confirmation of lay down area within legal road right of way if required; and
 - to confirm if crossing the sidewalk and/or boulevard is required to temporarily access the site.

It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at: http://www.edmonton.ca/transportation/on_your_streets/on-street-construction-maintenance-permit.aspx
- 6) Any boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Planning and Engineering, as per Section 15.5(f) of the Zoning Bylaw. The boulevard will be inspected by Transportation Planning and Engineering prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.
- 7) 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.
- 8) 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 of the Edmonton Zoning Bylaw 12800).
- 9) Bicycle parking shall be provided in accordance to Section 54.3 and to the satisfaction of the Development Officer.

NOTES:

- 1) An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.
- 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 (Ref. Section 17.1).
- 3) Signs require separate Development Applications.
- 4) 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

The permit holder is advised to read the reverse for important information concerning this decision.



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Major Development Permit

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.

5) 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 for further information.

6) This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.

Variances

Discretionary Use - The Religious Assembly is approved as a Discretionary Use (Section 400.3).

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: Mar 29, 2017 **Development Authority:** WELCH, IMAI

Signature: _____

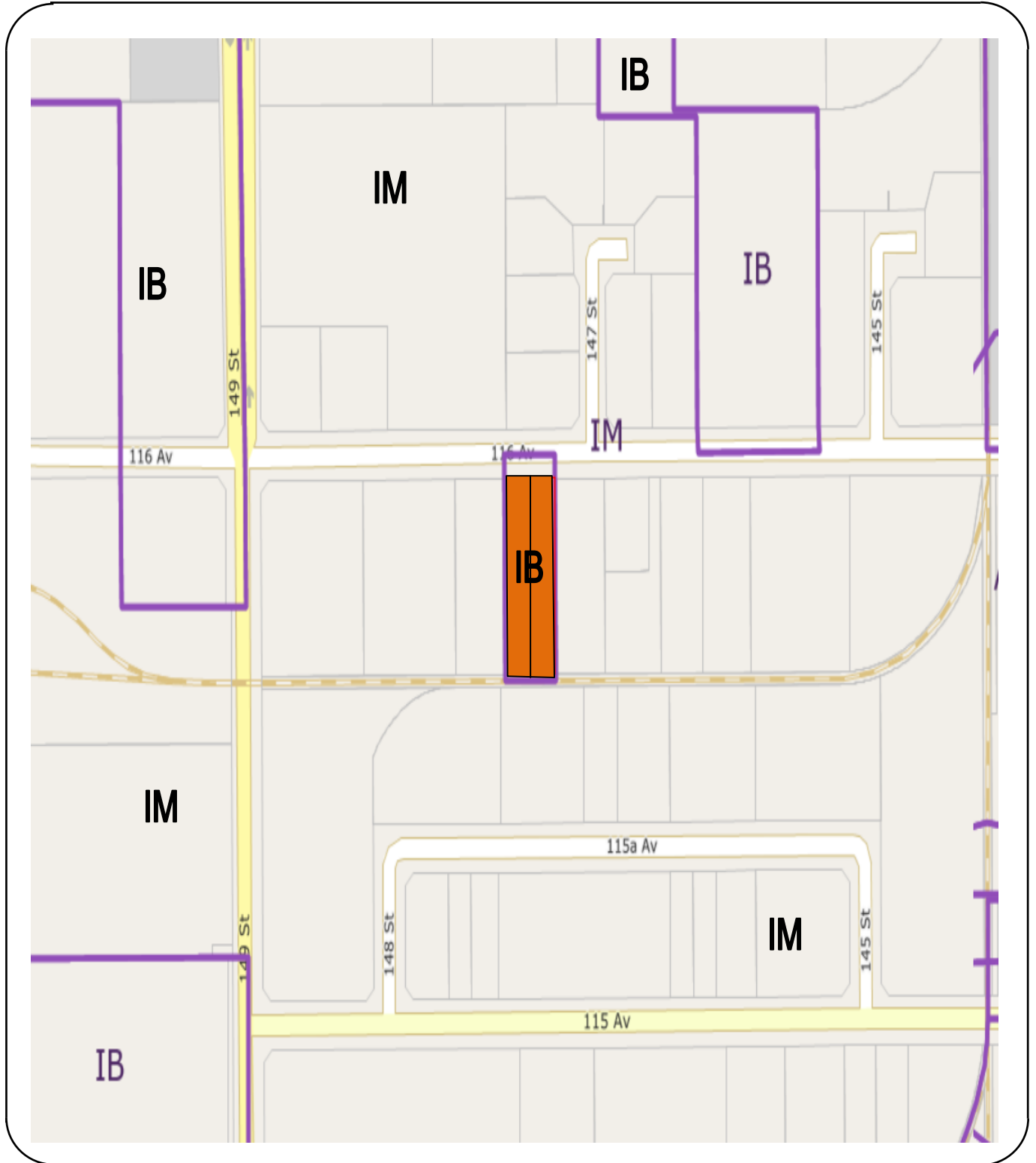
Notice Period Begins: Apr 04, 2017

Ends: Apr 18, 2017

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$500.00	\$500.00	03906841	Feb 06, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$500.00	\$500.00		

The permit holder is advised to read the reverse for important information concerning this decision.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-085

