

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
May 25, 2016**

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

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

I	9:00 A.M.	SDAB-D-16-128	Construct a Semi-Detached House with front verandas, fireplaces, rear uncovered decks (5.03 metres by 2.29 metres and 5.23 metres by 1.83 metres) and to demolish an existing Single Detached House and accessory building (rear detached garage) 8142 - 78 Avenue NW Project No.: 188620849-001
<hr/>			
II	11:00 A.M.	SDAB-D-16-129	Comply with an order to meet all conditions of Development Permit No. 139511609-001 before April 1, 2016; OR cease the Use (operation of automotive and minor recreation vehicle sales / rentals and any subsequent use) before April 1, 2016 and remove all stored material and equipment associated with the use; including: vehicles, tires and vehicle parts before April 1, 2016. 8115 - 137 Avenue NW Project No.: 172854843-001
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III	11:00 A.M.	SDAB-D-16-130	Comply with an order to remove all advertising signs located on the building before April 1, 2016; OR submit a complete development permit application which reflects the current sign(s) installed on the building before April 1, 2016 8115 - 137 Avenue NW Project No.: 175846220-001

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

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 188620849-001

ADDRESS OF APPELLANT: 8142 - 78 AVENUE NW

APPLICATION TO: Construct a Semi-Detached House with front verandas, fireplaces, rear uncovered decks (5.03 metres by 2.29 metres and 5.23 metres by 1.83 metres) and to demolish an existing Single Detached House and accessory building (rear detached garage)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 20, 2016

DATE OF APPEAL: April 29, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8142 - 78 Avenue NW

LEGAL DESCRIPTION: Plan 1738HW Blk 38 Lot 4

ZONE: RF3-Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

1. Allowed Site Coverage for house is 28 percent and we proposed 28.9 percent reason was functionality of Semi-detached layout but allowed garage is 14 percent Site Coverage and we proposed only 12 percent. Development Officer on 5th floor advised that plan is okay regarding above variance & width variance but new Development Officer rejected/refused those two variances.
2. Width variance: required variance for Semi-detached is 13.4 metres and our lot is 0.6 metres less. Request for variance. Our lot is 12.8 metre wide.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1),
after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit,

General Provisions from the *Edmonton Zoning Bylaw*:

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

Section 140.2(8) states **Semi-detached Housing** is a **Permitted Use** in the RF3 Small Scale Infill Development Zone.

Under Section 7.2(8), **Semi-detached Housing** means development consisting of a building containing only two Dwellings joined in whole or in part at the side or rear with no Dwelling being placed over another in whole or in part. Each Dwelling has separate, individual, and direct access to Grade. This type of development is designed and constructed as two Dwellings at the time of initial construction of the building. This Use Class does not include Secondary Suites or Duplexes.

Section 814.1 states the **General Purpose** of the **Mature Neighbourhood Overlay** is to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

Site Coverage

Section 140.4(10)(d) states the Maximum Site Coverage shall be as follows:

	Principal Dwelling / building	Accessory building	Principal building with attached Garage	Total Site Coverage
Semi-detached Housing - Site area less than 600 square metres	28 percent	14 percent	42 percent	42 percent

Under Section 6.1(94), **Site Coverage** means the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 metres above Grade, including Accessory buildings or Structures, calculated by perpendicular projection onto a horizontal plane from one point located at an infinite distance above all buildings and structures on the Site. This definition shall not include:

- a. steps, eaves, cornices, and similar projections;
- b. driveways, aisles and parking lots unless they are part of a Parking Garage which extends 1.0 metres or more above Grade; or
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 metres above Grade.

The Development Officer has provided the following information:

Site Area:	508.49 square metres
14 percent allowable Site Coverage:	71.19 square metres
28 percent allowable Site Coverage:	142.38 square metres
42 percent allowable Site Coverage:	213.57 square metres
Proposed Principal Building:	147.14 square metres

The maximum allowable Site Coverage for a Principal Building is 142.38 square metres, proposed is 147.14 square metres, which exceeds the maximum allowable Site Coverage for a Principal Building by 4.76 square metres.

Site Width

Section 140.4(3)(b) states on a non-Corner Lot, the minimum Site Width shall be 13.4 metres, except that if the Dwellings are arranged along the depth of the

Site rather than the width, the minimum Site Width may be reduced to 10.0 metres.

The minimum required Side With is 13.4 metres, proposed is 12.80 metres and is deficient by 0.6 metres.

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: **188620849-001**
 Application Date: MAR 14, 2016
 Printed: April 29, 2016 at 2:43 PM
 Page: 1 of 1

Application for Minor Development Permit

This document is a Development Permit Decision for the development application described below.

Applicant	Property Address(es) and Legal Description(s) 8142 - 78 AVENUE NW Plan 1738HW Blk 38 Lot 4
	Specific Address(es) Entryway: 8142 - 78 AVENUE NW Entryway: 8144 - 78 AVENUE NW Building: 8142 - 78 AVENUE NW

Scope of Application

To construct a Semi-Detached House with front verandas, fireplaces, rear uncovered decks (5.03m x 2.29m and 5.23m x 1.83m) and to demolish an existing Single Detached House and accessory building (rear detached garage)

Permit Details

# of Dwelling Units Add/Remove: 1 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N	Class of Permit: Class A Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area:
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision

Refused

Reason for Refusal

- 1) The maximum Site Coverage of a principal building is 28% (Reference Section 140.4(10)).
- 2) For a Semi-detached Housing on a non-Corner Lot, the minimum Site Width shall be 13.4 m (Reference Section 140.4(3)(b)).

Rights of Appeal

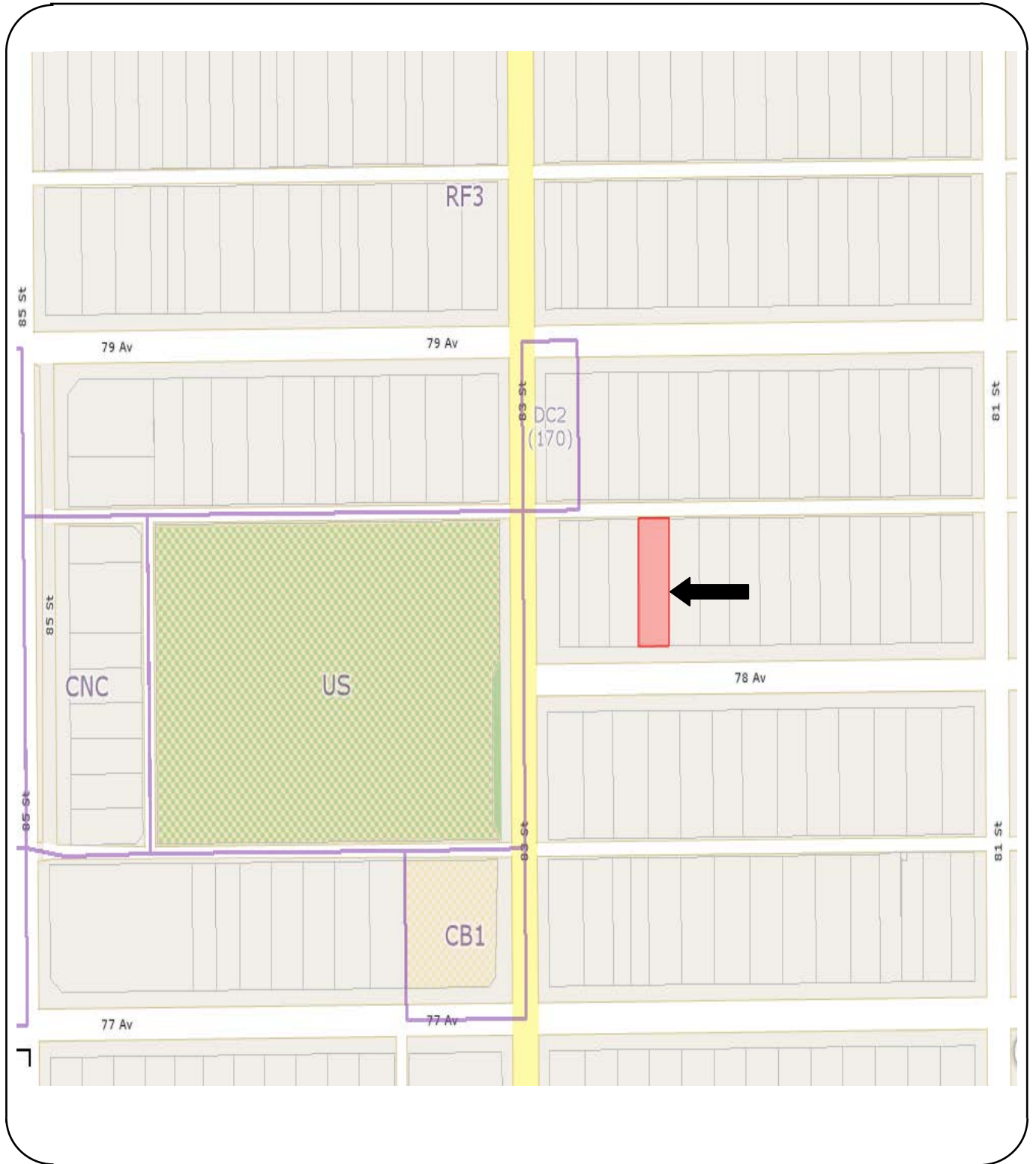
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Apr 20, 2016 **Development Authority:** LANGILLE, BRANDON **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$456.00	\$456.00	03128880	Mar 14, 2016
Lot Grading Fee	\$135.00	\$135.00	03128880	Mar 14, 2016
Sanitary Sewer Trunk Fund	\$1,566.00	\$1,566.00	03128880	Mar 14, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,157.00	\$2,157.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-128



ITEM II: 11:00 A.M.

FILE: SDAB-D-16-129

AN APPEAL FROM A STOP ORDER ISSUED BY SUSTAINABLE DEVELOPMENT

APPELLANT:

APPLICATION NO.: 172854843-001

ADDRESS OF APPELLANT: 8115 - 137 Avenue NW

ORDER TO: Meet all conditions of Development Permit No. 139511609-001 before April 1, 2016; OR cease the Use (operation of automotive and minor recreation vehicle sales / rentals and any subsequent use) before April 1, 2016 and remove all stored material and equipment associated with the use; including: vehicles, tires and vehicle parts before April 1, 2016.

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: February 26, 2016

DATE OF APPEAL: March 24, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8115 - 137 Avenue NW

LEGAL DESCRIPTION: Plan 1428NY Blk 21 Lots 1,2U

ZONE: CB1- Low Intensity Business Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

We are re-applying for a Development Permit and need a time extension.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit,

The Board is advised that the decision of approval by the Development Officer is dated February 26, 2016. The Notice of Appeal was filed on March 24, 2016.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 330.1 states the **General 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.

Under Section 330.3(3), an **Automotive and Minor Recreation Vehicle Sales/Rentals** is a Discretionary Use in the **CB1 Low Intensity Business Zone**.

Under Section 7.4(5), **Automotive and Minor Recreation Vehicle Sales/Rentals** means development used for the retail sale or rental of new or used automobiles, motorcycles, snowmobiles, tent trailers, boats, travel trailers or similar light recreational vehicles or crafts, together with incidental maintenance services and sale of parts. This Use Class includes automobile dealerships, car rental agencies and motorcycle dealerships. This Use Class does not include dealerships for the sale of trucks with a gross vehicle weight rating of 4 000 kilograms or greater, or the sale of motorhomes with a gross vehicle weight rating greater than 6 000 kilograms or a length of more than 6.7 metres.

Section 645 of the *Municipal Government Act* states:

645(1) Despite Section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

(a) This Part or a land use bylaw or regulations under this Part, or

(b) A development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

(a) Stop the development or use of the land or building in whole or in part as directed by the notice,

(b) Demolish, remove or replace the development, or

(c) Carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Section 687(3) of the *Municipal Government Act* states “in determining an appeal, the subdivision and development appeal board

....

(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.”

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*.

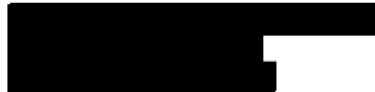


MAILING ADDRESS:
5th Floor, 10250 - 101 Street NW
Edmonton, AB T5J 3P4

REGULAR MAIL

February 26, 2016

Our File: 172854843-001



Dear Sir/Madam:

A check with Land Titles Office discloses that CAPITAL CAR & TRUCK SALES LTD is the registered owner of the property located at 8115 - 137 AVENUE NW, legally described as Plan 1428NY Blk 21 Lots 1 and 2U.

The property was visited by Development Compliance Officer, Richard Williams, on February 25, 2016 as authorised by the City of Edmonton having the authority to exercise development powers under Section 624 of the Municipal Government Act, R.S.A. 2000.

Our investigation on February 25, 2016 revealed that CAPITAL CAR & TRUCK SALES LTD occupy the property located at 8230 - 112 AVENUE NW, legally described as Plan 1428NY Blk 21 Lots 1 and 2U.

LAND USE INFRACTION:

This property is zoned CB1 (Low Intensity Business Zone) in accordance with Section 330 of the Edmonton Zoning Bylaw. Our investigation on February 25, 2016 revealed that a Use (Automotive and Minor Recreational Vehicle Sales/Rentals) has not been developed in accordance with Development Permit No. 139511609-001 issued on January 30, 2014. This is contrary to Section 15 of Edmonton Zoning Bylaw 12800 and Section 650 of the Municipal Government Act, R.S.A. 2000, c.M-26.1.

Development Permit No. 139511609-001, issued on January 30, 2014 and the approved conditions are attached to this letter for your reference.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, YOU ARE HEREBY ORDERED TO:

1. COMPLY WITH ALL CONDITIONS OF DEVELOPMENT PERMIT No. 139511609-001, BEFORE APRIL 1, 2016;

OR,

2. CEASE THE USE (OPERATION OF AUTOMOTIVE AND MINOR RECREATION VEHICLE SALES / RENTALS USE AND ANY SUBSEQUENT USE) BEFORE APRIL 1, 2016;

AND,

3. REMOVE ALL STORED MATERIAL AND EQUIPMENT ASSOCIATED WITH THE USE; INCLUDING: VEHICLES, TIRES, AND VEHICLE PARTS BEFORE APRIL 1, 2016.

CONSEQUENCES FOR NON-COMPLIANCE:

This serves as a Violation Notice in accordance with Section 23.3 of Edmonton Zoning Bylaw 12800.

In the event that a person fails to comply with an Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter on the land and take any action necessary to carry out the Order. Section 553(1)(h.1) of the Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to subsection (2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment.

The property will be inspected on April 5, 2016 to determine compliance with this Order.

Failure to comply will result in action as described in Section 646.

YOU ARE HEREBY NOTIFIED that IF YOU DO NOT:

1. COMPLY WITH ALL CONDITIONS OF DEVELOPMENT PERMIT No. 139511609-001, BEFORE APRIL 1, 2016;

OR,

2. CEASE THE USE (OPERATION OF AUTOMOTIVE AND MINOR RECREATION VEHICLE SALES / RENTALS USE AND ANY SUBSEQUENT USE) BEFORE APRIL 1, 2016;

AND,

3. REMOVE ALL STORED MATERIAL AND EQUIPMENT ASSOCIATED WITH THE USE; INCLUDING: VEHICLES, TIRES, AND VEHICLE PARTS BEFORE APRIL 1, 2016.

The City may carry out the Order pursuant to Section 646 by entering onto the land and performing remedial actions, and all the costs and expenses in doing so will be added to the tax roll pursuant to Section 553(1)(h.1) of the Municipal Government Act R.S.A. 2000.



Project Number: **139511609-001**
Application Date: JUN 03, 2013
Printed: January 7, 2015 at 11:44 AM
Page: 1 of 3

Major Development Permit

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

Applicant	Property Address(es) and Legal Description(s) 8115 - 137 AVENUE NW Plan 1428NY Blk 21 Lots 1,2U
	Specific Address(es) Building: 8115 - 137 AVENUE NW

Scope of Permit
To operate an Automotive and Minor Recreational Vehicle Sales/Rentals from and existing building, and construct exterior alterations (landscaping and new accesses).

Permit Details	
Class of Permit: Class B Gross Floor Area (sq.m.): 182 New Sewer Service Required: Y Site Area (sq. m.): 1378.03	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: 0 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: **139511609-001**
 Application Date: JUN 03, 2013
 Printed: January 7, 2015 at 11:44 AM
 Page: 2 of 3

Major Development Permit

Subject to the Following Conditions

- 1) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay the Sanitary Sewer Trunk Fund fee. SSTC is applicable to the proposed development area of 0.1478ha at the rate of \$6,287/ha under the current DP# 139511609-001. For information purposes, the year 2013 rate is \$6,287/ha. However, the final SSTC is based on the prevailing rate at the time the applicant/owner makes payment at the 5th Floor cashiers, Planning and Development Department, 10250 - 101 Street NW.
- 2) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Lot Grading Fee of \$220.00.
- 3) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall provide a guaranteed security to ensure that landscaping is provided and maintained for two growing seasons. The Landscape Security may be held for two full years after the landscaping has been completed. This security may take the following forms:
 - a) cash to a value equal to 100% of the established landscaping costs;
 - or
 - b) an irrevocable letter of credit having a value equivalent to 100% of the established landscaping costs.
 Any letter of credit shall allow for partial draws. If the landscaping is not completed in accordance with the approved Landscape Plan(s) within one growing season after completion of the development or if the landscaping is not well maintained and in a healthy condition two growing seasons after completion of the landscaping, the City may draw on the security for its use absolutely. Reference Section 55.6
- 4) Landscaping shall be in accordance to the approved landscape, Section 55 and to the satisfaction of the Development Officer.
- 5) Bicycle parking shall be provided in accordance to Section 54.3 and to the satisfaction of the Development Officer.
- 6) 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.
- 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 of the Edmonton Zoning Bylaw 12800).
- 8) There shall be no parking, loading, storage, trash collection, outdoor service or display area permitted within the required 3.0m (9.8 ft) yards. (Reference Section 330.4(3) and 330.4(5)).
- 9) The landowner shall not allow any vehicles that are for sale through the Automotive and Minor Recreational Vehicle Sales/Rentals to be stored on the public road rights-of-way at any time.

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 this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or

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



Project Number: **139511609-001**
 Application Date: JUN 03, 2013
 Printed: January 7, 2015 at 11:44 AM
 Page: 3 of 3

Major Development Permit

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

1) Variance of landscaping requirements from Section 55.4:

- From 24 shrubs to 23 shrubs

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: Jan 30, 2014 **Development Authority:** WELCH, IMAI **Signature:** _____
Notice Period Begins: Feb 04, 2014 **Ends:** Feb 17, 2014

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$0.00			
Major Dev. Application Fee	\$400.00	\$400.00	00935992	Jun 03, 2013
Lot Grading Fee	\$220.00	\$220.00	01475509	Feb 20, 2014
Sanitary Sewer Trunk Fund 2012+	\$929.22	\$929.22	01475509	Feb 20, 2014
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,549.22	\$1,549.22		

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-129



ITEM III: 11:00 A.M.

FILE: SDAB-D-16-130

AN APPEAL FROM A STOP ORDER ISSUED BY SUSTAINABLE DEVELOPMENT

APPELLANT:

APPLICATION NO.: 175846220-001

ADDRESS OF APPELLANT: 8115 - 137 AVENUE NW

ORDER TO: Remove all advertising signs located on the building before April 1, 2016; OR submit a complete development permit application which reflects the current sign(s) installed on the building before April 1, 2016

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: February 26, 2016

DATE OF APPEAL: March 24, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8115 - 137 Avenue NW

LEGAL DESCRIPTION: Plan 1428NY Blk 21 Lots 1,2U

ZONE: CB1-Low Intensity Business Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

We are re-applying for a Development Permit and need a time extension

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit,

The Board is advised that the decision of approval by the Development Officer is dated February 26, 2016. The Notice of Appeal was filed on March 24, 2016.

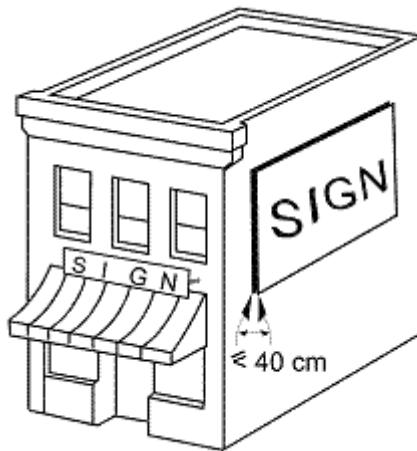
General Provisions from the *Edmonton Zoning Bylaw*:

Section 330.1 states the **General 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.

Under Section 330.2(17), a **Fascia On-premises Signs** is a Permitted Use in the **CB1 Low Intensity Business Zone**.

Under Section 7.9(2), **Fascia On-premises Signs** means any Sign painted on or attached to an exterior building wall, or any other permitted structure, on which a two dimensional representation may be placed. The Copy on such a Sign identifies or advertises a business, activity, service or product located on the premises or Site where the Sign is displayed.

Under Section 6.2(7), **Fascia Signs** means any Sign painted on or attached to an exterior building wall, or any other permitted structure, on which a two dimensional representation may be placed, so that the Sign does not extend more than 40 centimeters out from the wall or structure nor beyond the horizontal limits of the wall. Fascia Signs may or may not be permanent. This definition includes banners or any other two dimensional medium.



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

Section 59.2(9) states the Development Officer shall not approve an application for an On-premises Sign for a business that does not have a valid development approval to operate from the Site.

Section 645 of the *Municipal Government Act* states:

645(1) Despite Section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) This Part or a land use bylaw or regulations under this Part, or
- (b) A development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) Stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) Demolish, remove or replace the development, or

- (c) Carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

- (3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Section 5.1 of the *Edmonton Zoning Bylaw* states:

No Person:

1. shall commence, or cause or allow to be commenced, a Development without a development Permit therefore issued under the provisions of Section 12 of this Bylaw; or
2. shall carry on, or cause or allow to be carried on a development without a Development Permit therefore issued under Section 12 of this Bylaw.

Section 687(3) of the *Municipal Government Act* states “in determining an appeal, the subdivision and development appeal board

....

- (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.”

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*.



MAILING ADDRESS:
5th Floor, 10250 - 101 Street NW
Edmonton, AB. T5J 3P4

REGULAR MAIL

February 26, 2016

Our File: 175846220-001



Dear Sir/Madam:

A check with Land Titles Office discloses that CAPITAL CAR & TRUCK SALES LTD is the registered owner of the property located at 8115 - 137 AVENUE NW, legally described as Plan 1428NY Blk 21 Lots 1 and 2U.

The property was visited by Development Compliance Officer, Richard Williams, on February 25, 2016 as authorised by the City of Edmonton having the authority to exercise development powers under Section 624 of the Municipal Government Act, R.S.A. 2000.

Our investigation on February 25, 2016 revealed that CAPITAL CAR & TRUCK SALES LTD occupy the property located at 8230 - 112 AVENUE NW, legally described as Plan 1428NY Blk 21 Lots 1 and 2U.

LAND USE INFRACTION:

This property is zoned CB1 (Low Intensity Business Zone) in accordance with Section 330 of the Edmonton Zoning Bylaw. Our investigation on February 25, 2016 revealed that Fascia On-Premise Sign(s) are attached to the building. One sign is located on the side of building and faces 82 Street NW displaying 'Capital Car & Truck Sales LTD. [;] Phone: 780.476.1332 - 8115 - 137 Avenue NW'. One sign is located on the chimney structure and faces 82 Street NW displaying '100% Approved [;] Apply Today [;] Drive Today'. One sign is on the front of the building and faces 137 Avenue NW displaying 'Capital Car & Truck Sales [;] 780 476 1332'. The City of Edmonton has not issued a Development Permit to install the sign(s), which is contrary to Section 5.1 of the Edmonton Zoning Bylaw and Section 683 of the Municipal Government Act, R.S.A. 2000, c.M-26.1.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, YOU ARE HEREBY ORDERED TO:

1. REMOVE ALL ADVERTISING SIGNS LOCATED ON THE BUILDING BEFORE APRIL 1, 2016;

OR,

2. SUBMIT A COMPLETE DEVELOPMENT PERMIT APPLICATION WHICH REFLECTS THE CURRENT SIGN(S) INSTALLED ON THE BUILDING BEFORE APRIL 1, 2016.

CONSEQUENCES FOR NON-COMPLIANCE:

This serves as a Violation Notice in accordance with Section 23.3 of Edmonton Zoning Bylaw 12800.

In the event that a person fails to comply with an Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter on the land and take any action necessary to carry out the Order. Section 553(1)(h.1) of the Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to subsection (2), a person who is found guilty of an offence under this Act is liable to a fine of not more that \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment.

The property will be inspected on April 5, 2016 to determine compliance with this Order.

Failure to comply will result in action as described in Section 646.

YOU ARE HEREBY NOTIFIED that IF YOU DO NOT:

1. REMOVE ALL ADVERTISING SIGNS LOCATED ON THE BUILDING BEFORE APRIL 1, 2016;

OR,

2. SUBMIT A COMPLETE DEVELOPMENT PERMIT APPLICATION WHICH REFLECTS THE CURRENT SIGN(S) INSTALLED ON THE BUILDING BEFORE APRIL 1, 2016.

The City may carry out the Order pursuant to Section 646 by entering onto the land and performing remedial actions, and all the costs and expenses in doing so will be added to the tax roll pursuant to Section 553(1)(h.1) of the Municipal Government Act R.S.A. 2000.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-130



BUSINESS LAID OVER

SDAB-D-16-114	An appeal by Spasation Spa & Salon to install 3 Fascia On-Premises Signs (Spasation), existing without permits. <i>June 1 or 2, 2016</i>
SDAB-D-16-120	An appeal by <u>The House Company</u> to construct a Single Detached House with attached Garage, veranda, fireplace, rear balcony (irregular shape, 4.25 m by 2.22 m) and basement development (NOT to be used as an additional Dwelling) <i>June 9, 2016</i>