

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
May 7, 2020**

**Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

Members Scheduled

Rohit Handa, Presiding Officer
Alex Nagy
Chris Buyze

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

I	9:00 A.M.	SDAB-D-20-035	S. Davies 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	9:00 A.M.	SDAB-D-20-053	Signpatico Outdoor Inc. Install a Minor Digital Off-premises Freestanding Sign (Single Sided Facing West) (SIGNPATICO PRESTIGE QUALITY VEHICLES) 10639 - 82 Avenue NW Project No.: 161550631-003
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III	9:00 A.M.	SDAB-D-20-054	Icewerx Consulting Inc. Install (2) Minor Digital Off-premises Freestanding Signs (ICEWORKS) 5116 – Gateway Boulevard NW Project No.: 343816388-001
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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

FILE: SDAB-D-20-035

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT: S. Davies

APPLICATION NO.: 350300941-001

APPLICATION TO: Erect a fence @ 2.13m 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 it's existing height. See letter from owner to explain rationale.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on March 18, 2020:

“That the appeal hearing be scheduled for May 7, 2020 at the written request of the Appellant.”

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**.

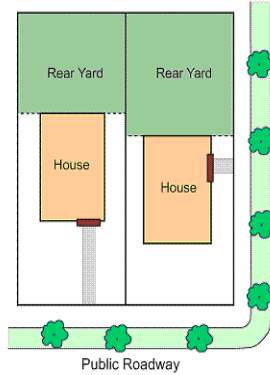
Under section 6.1, **Accessory** means “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.

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.”

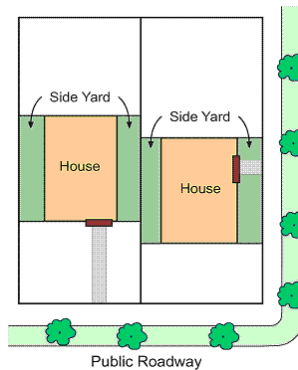
Under section 6.1, **Rear Yard** means:

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:

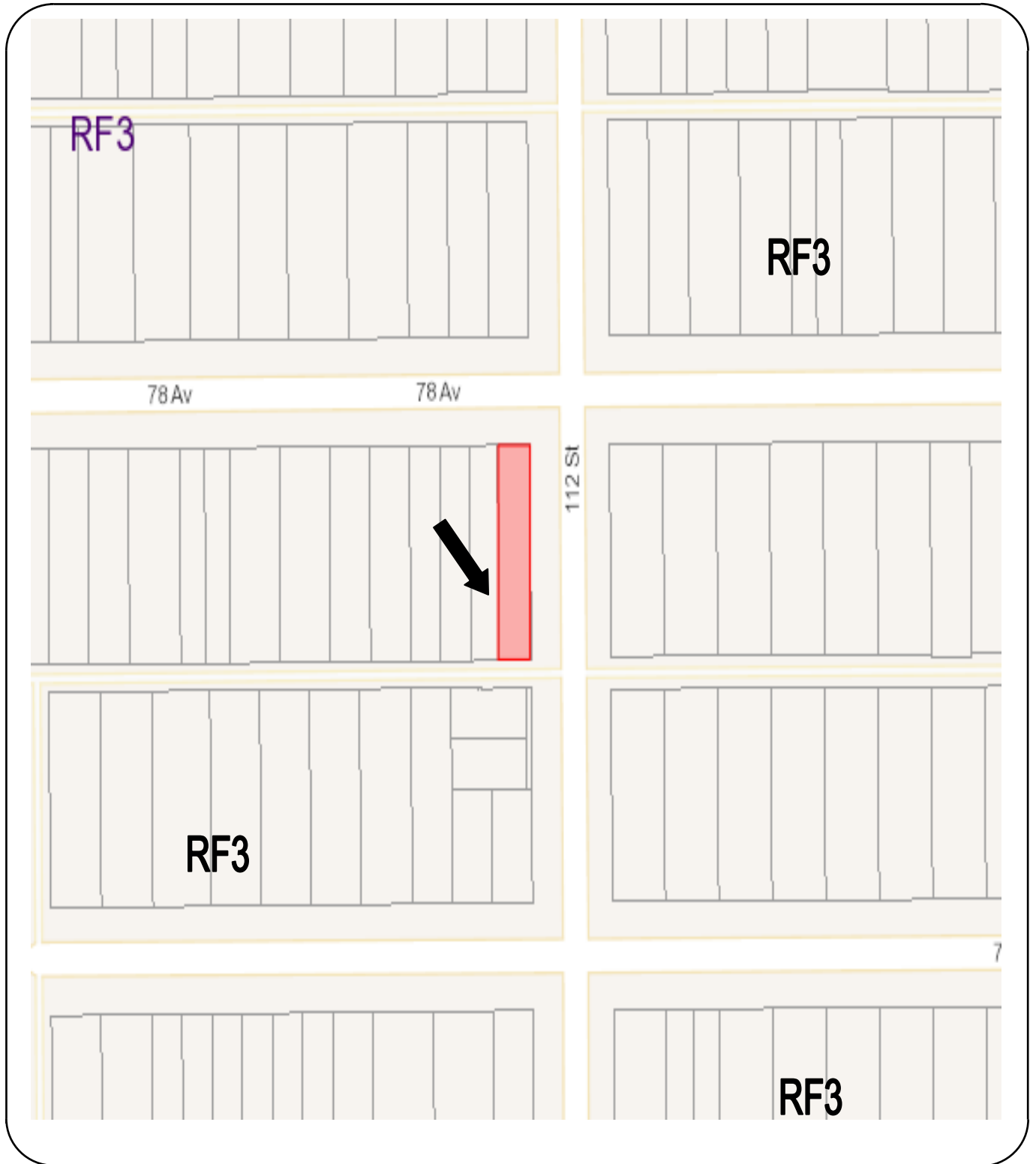
In the case where the permitted Height of a Fence, wall, or gate is 1.2 m, the Development Officer may vary the Height of the Fence, wall, or gate

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; width: 250px; height: 50px; margin: 0 auto;"></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: none;"> Class Of Permit: Stat. Plan Overlay/Annex Area: (none) </td> <td style="width: 50%; border: none;"> 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: none;"> <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

FILE: SDAB-D-20-053

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:	Signpatico Outdoor Inc.
APPLICATION NO.:	161550631-003
APPLICATION TO:	Install a Minor Digital Off-premises Freestanding Sign (Single Sided Facing West) (SIGNPATICO PRESTIGE QUALITY VEHICLES)
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	February 26, 2020
DATE OF APPEAL:	March 16, 2020
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	10639 - 82 Avenue NW
LEGAL DESCRIPTION:	Plan I Blk 64 Lots 9-10
ZONE:	(CB2) General Business Zone
OVERLAY:	Main Streets Overlay
STATUTORY PLAN:	Strathcona Area Redevelopment Plan

<i>Grounds for Appeal</i>

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

With respect to your request to relocate the existing sign 1.2 m south to be outside of the TAC Cone we are requesting a variance to allow the sign to remain at its present location based on the following reasons:

The existing sign has been there for a number of years and we are not aware of any driver distraction or traffic safety issues to date;

The 1.2 m portion of the sign that falls into TAC's restricted area is only 20.6% of the entire length of the existing sign (5.82 m);

The TAC study are guidelines and we are not aware of the TAC study being endorsed by Council and part of the Bylaw regulating signs. In addition based on their comprehensive literature review, survey of Canadian jurisdictions, review of sign by-laws, interviews with international jurisdictions, discussions with advertising and sign industry representatives, and the application of human factors and road safety engineering principles, the Transportation of Canada's findings were such that there was no conclusive evidence that digital displays impacted traffic safety.;

To the west are mature trees and St. Anthony's church building which block the visibility of the existing west display to traffic heading east bound on Whyte Ave. These current obstacles would further hamper the visibility of the display if the sign were to be relocated a further 1.2 m from Whyte Ave.;

Removing and then reinstalling the sign would be disruptive to the operations of the tenant operating its used vehicle business on site; and relocating the sign structure would be costly requiring new pole, new concrete base and construction labour and vehicles.

With respect to adjusting the sign height our initial application submission relating to the measurements of the existing sign were in error. We purchased this sign a number of years ago and were not given any documents pertaining to the sign so we made assumptions the sign was industry standard size and height. Since we received this email we sent a crew out to measure the existing sign and it was determined the total height from grade to top of the top of the freestanding sign is in fact 267" (6.78 m). Based on this we are requesting a variance 0.78 m (approximately 30 inches) in relation to the height.

With respect to the east side of the sign abutting Residential Use, we have turned the display off and is no longer part of Signpatico's inventory to sell. In addition Signpatico will remove the east display of the sign structure as a condition of a new permit renewal.

It is our opinion that the variance requests are minor in nature and that should the existing sign structure remain, with one west facing display, it will have no negative impact to the surrounding area and uses.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board ("SDAB") made and passed the following motion on March 25, 2020:

“That the appeal hearing be rescheduled to a date to be determined.”

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 340.3(40), a **Minor Digital Off-premises Sign** is a **Discretionary Use** in the **(CB2) General Business Zone**.

Under section 7.9(6), **Minor Digital Off-premises Signs** means:

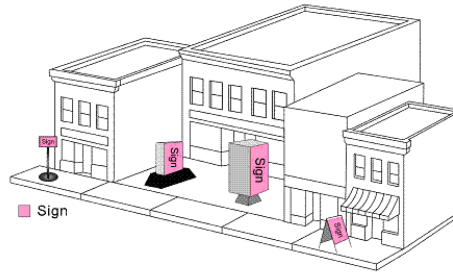
a Freestanding or Fascia Sign that contains Digital Copy, is a Permanent Sign, displays Off-premises Advertising, and does not include moving effects, message transition effects, video images, or animation.

Under section 6.2, **Digital Copy** means:

the portion of a Sign that contains Copy that is remotely changed on or off Site and incorporates a technology or method allowing the Sign to change Copy without having to manually or mechanically replace the Sign face or its components.

Under section 6.2, a **Freestanding Sign** means:

a Sign supported independently of a building.



Under section 6.2, **Off-Premise 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.

Section 340.1 states that the **General Purpose** of the **(CB2) General Business Zone** is “to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.”

Section 819.1 states that the **General Purpose** of the **Main Streets Overlay** is:

to encourage and strengthen the pedestrian-oriented character of Edmonton’s main street commercial areas that are located in proximity to residential and transit-oriented areas, by providing visual interest, transparent storefront displays, and amenities for pedestrians.

Main Streets Overlay - Height

Section 819.5(2) states:

Signs shall complement the pedestrian-oriented commercial environment and shall be provided in accordance with Schedule 59E of this Bylaw, except that:

- a. **the maximum Height of a Freestanding Sign shall be 6.0 m, as measured from Grade to the top of the Freestanding Sign.**

...

Under section 6.2, **Height Signs** means “the vertical distance measured from the finished ground surface directly under the Sign to the highest point of the Sign.”

Development Officers Determination

1. **Section 819.3(13(a)) - The maximum Height of a Freestanding Sign shall be 6.0 m.**

Proposed Height: 6.8 m
Exceeds by: 0.8 m
[unedited]

Main Streets Overlay – Community Consultation

Section 819.5(3) states “When the Development Officer determines that a Development Permit application does not comply with the regulations contained in this section of the Overlay the notification process outlined in subsection 819.4(15) shall apply.”

Section 819.5(15) states:

When the Development Officer determines that a Development Permit application does not comply with the regulations contained in this Overlay:

- a. the Development Officer shall send notice to the municipal address and assessed owners of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development, and the President of each affected Community League and each Business Improvement Area Association operating within the distance described above to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been mailed, unless the Development Officer receives feedback from all specified recipients; and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit application in accordance with Section 11.3.

Section 59 – General Sign Provisions

Section 59.2(2) states:

Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located such that the Sign does not obscure a driver decision point. The Development Officer and Transportation Services shall be satisfied that each Copy Area:

- a. does not physically obstruct the sightlines or view of a traffic

- control device or traffic control signal for oncoming vehicle traffic;
- b. is not located in the field of view near or past the traffic control device or traffic control signal in the sightlines of oncoming vehicle traffic;
 - c. is not located in the field of view near or past other traffic conflict points such as intersections, merge points, exit ramps, or curved roadways; and
 - d. illumination does not compete with or dull the contrast of the traffic control device or traffic control signal for oncoming vehicle traffic.

Development Officer's Determination

2. Section 59.2(2) - Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located such that the Sign does not obscure a driver decision point .

The proposed digital sign is within the Digital and Projected Advertising Displays restriction area, as defined by the Transportation Association of Canada (the TAC Cone), for the traffic signal at the intersection of 82 Avenue and 107 Street. A digital sign in this location will backlight the traffic signal, increasing driver distraction and reducing traffic safety. Subdivision Planning OBJECTS to the proposed Digital Sign. [unedited]

Section 59.2(7) states:

For all Sign Applications for Major Digital Sign, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs, the Development Officer shall review the application 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; proximity to residential development; driver decision points; and traffic conflict points. The Development Officer may require application revisions to mitigate the impact of a proposed Sign, and may refuse a permit that adversely impacts the built environment.

Development Officer's Determination


3. Section 59.2(7) - For all Sign Applications for Minor Digital Off-premises Signs, the Development Officer shall review the application 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; proximity to residential development;


driver decision points; and traffic conflict points. The Development Officer may require application revisions to mitigate the impact of a proposed Sign, and may refuse a permit that adversely impacts the built environment.

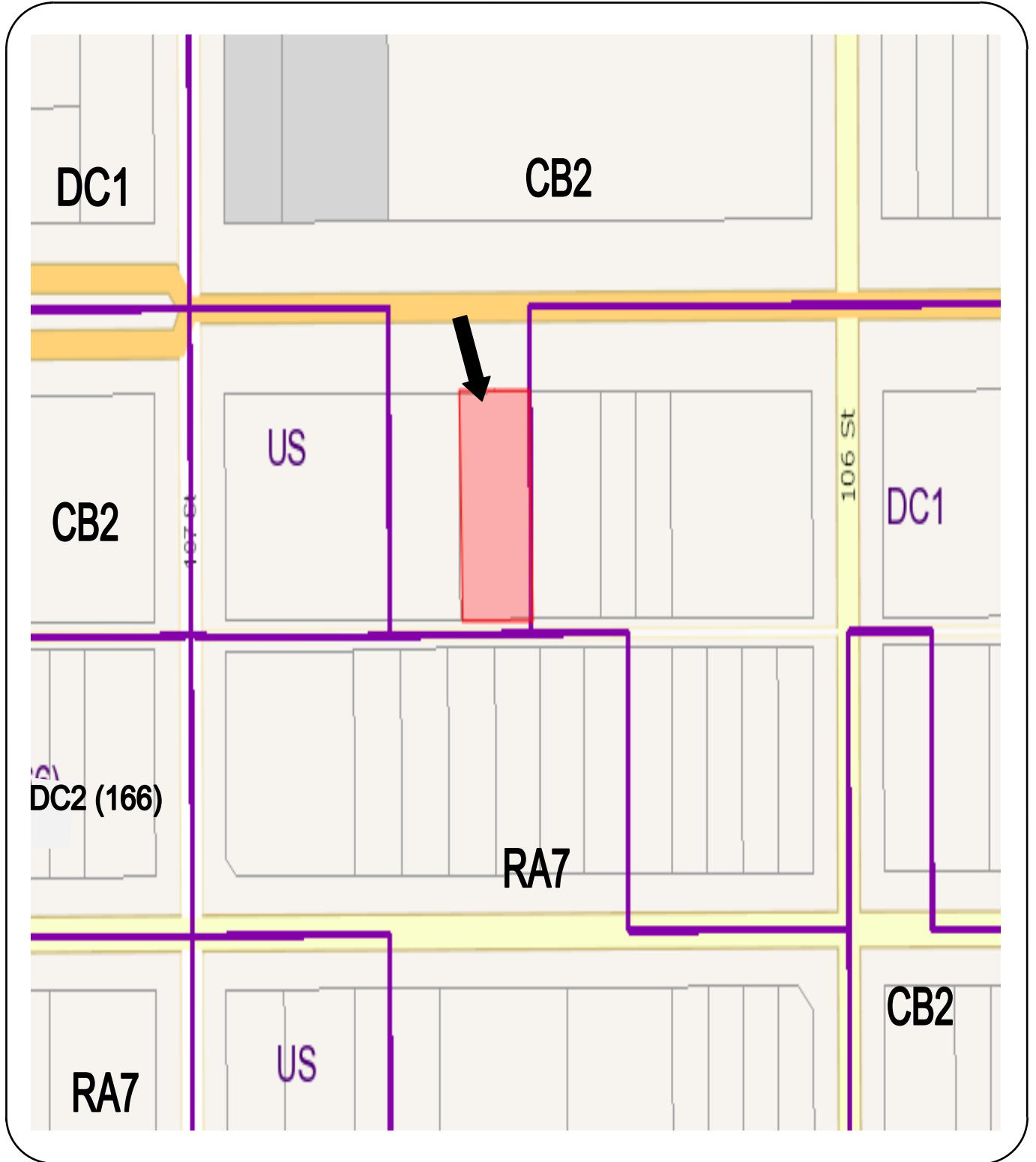
In the opinion of the Development Officer the location of the proposed Sign will impact the residential development at 10631 - 82 AVENUE NW, because of the Signs scale in proximity residential windows, and the intrusion of of unwanted light within the residential units located to directly to the east of the Sign. [unedited]

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.

	<h2>Application for Sign Combo Permit</h2>		<p>Project Number: 161550631-003 Application Date: NOV 28, 2019 Printed: March 19, 2020 at 9:25 AM Page: 1 of 2</p>
<p>This document is a Development Permit Decision for the development application described below.</p>			
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 10639 - 82 AVENUE NW Plan I Blk 64 Lots 9-10</p>		
<p>Scope of Application To install a Minor Digital Off-premises Freestanding Sign (Single Sided Facing West) (SIGNPATICO PRESTIGE QUALITY VEHICLES).</p>			
<p>Permit Details</p>			
<p>ASA Sticker No./Name of Engineer: Construction Value: 0</p>	<p>Class of Permit: Expiry Date:</p>		
<p>Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 1 Minor Digital On/Off-premises Sign: 0</p>	<p>Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0</p>		
<p>Development Application Decision Refused Issue Date: Feb 26, 2020 Development Authority: MERCIER, KELSEY</p>			
<p>THIS IS NOT A PERMIT</p>			

	<h2 style="margin: 0;">Application for Sign Combo Permit</h2>	Project Number: 161550631-003 Application Date: NOV 28, 2019 Printed: March 19, 2020 at 9:25 AM Page: 2 of 2																									
<p>Reason for Refusal</p> <p>1. Section 819.3(13(a)) - The maximum Height of a Freestanding Sign shall be 6.0 m.</p> <p>Proposed Height: 6.8 m Exceeds by: 0.8 m</p> <p>2. Section 59.2(2) - Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located such that the Sign does not obscure a driver decision point .</p> <p>The proposed digital sign is within the Digital and Projected Advertising Displays restriction area, as defined by the Transportation Association of Canada (the TAC Cone), for the traffic signal at the intersection of 82 Avenue and 107 Street. A digital sign in this location will backlight the traffic signal, increasing driver distraction and reducing traffic safety. Subdivision Planning OBJECTS to the proposed Digital Sign.</p> <p>3. Section 59.2(7) - For all Sign Applications for Minor Digital Off-premises Signs, the Development Officer shall review the application 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; proximity to residential development; driver decision points; and traffic conflict points. The Development Officer may require application revisions to mitigate the impact of a proposed Sign, and may refuse a permit that adversely impacts the built environment.</p> <p>In the opinion of the Development Officer the location of the proposed Sign will impact the residential development at 10631 - 82 AVENUE NW, because of the Signs scale in proximity residential windows, and the intrusion of of unwanted light within the residential units located to directly to the east of the Sign.</p> <p>Rights of Appeal</p> <p>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.</p>																											
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-053



ITEM III

FILE: SDAB-D-20-054

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:	Icwerx Consulting Inc.
APPLICATION NO.:	343816388-001
APPLICATION TO:	Install (2) Minor Digital Off-premises Freestanding Signs (ICEWORKS)
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	March 23, 2020
DATE OF APPEAL:	April 2, 2020
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	5116 – Gateway Boulevard NW
LEGAL DESCRIPTION:	Plan 6742MC Blk 94 Lot 1
ZONE:	(CB2) General Business Zone
OVERLAY:	Major Commercial Corridors Overlay
STATUTORY PLAN:	N/A

<i>Grounds for Appeal</i>

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

We are solicitors for Icwerx Consulting Inc. Our client appeals the refusal of the above noted development permit for these reasons: 1. A Minor Digital Off Premises Sign is a discretionary use in the CB2 General Business Zone; 2. The proposed signs are not inconsistent with the Calgary Trail Land Use Study; 3. The required variances do not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land; and 4. Such further and other reasons that may be raised during the hearing.

<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.

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.

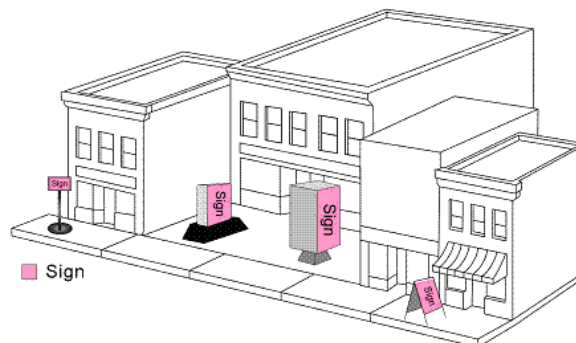
General Provisions from the *Edmonton Zoning Bylaw*:

Under section 340.3(40), **Minor Digital Off-premises Signs** is a **Discretionary Use** in the **(CB2) General Business Zone**.

Under section 7.9(6), **Minor Digital Off-premises Signs** means “a Freestanding or Fascia Sign that contains Digital Copy, is a Permanent Sign, displays Off-premises Advertising, and does not include moving effects, message transition effects, video images, or animation.”

Under section 6.2, **Freestanding Signs** means:

a Sign supported independently of a building.



Under section 6.2, **Off-Premise Signs** 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.

Section 340.4(9) states “Signs shall comply with the regulations found in Schedule 59F.”

Section 340.1 states that the **General Purpose** of the **(CB2) General Business Zone** is “to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.”

Section 813.1 states that the **General Purpose** of the **Major Commercial Corridors Overlay** is “to ensure that development along Major Commercial Corridors is visually attractive and that due consideration is given to pedestrian and traffic safety.”

Section 59 – General (Sign) Provisions

Section 59.2(21) states:

Any Sign Use that is a Freestanding Sign shall have a minimum 45.0 m radial separation distance from any other Sign Use that is a Freestanding Sign on the same Site. This separation distance does not apply to different Sign Uses that are co-located on the same Freestanding Sign structure.

Development Officer’s Determination

1. (Section 59.2(21) Any Sign Use that is a Freestanding Sign shall have a minimum 45.0 m radial separation distance from any other Sign Use that is a Freestanding Sign on the same Site. This separation distance does not apply to different Sign Uses that are co-located on the same Freestanding Sign structure

**PROPOSED: East Sign 34 m From Existing Best Western Sign
Deficient By: 11 m [unedited]**

Schedule 59F - Separation Distance

Schedule 59F.3(6)(j) states “proposed Signs with an Area greater than 8.0 m² shall not be located within any Setback;”

Under section 6.1, **Setback** means “the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or

Separation Space.”

The Board is advised that there are Setback requirements in the (CB2) General Business Zone and the Major Commercial Corridors Overlay.

Development Officer’s Determination

2. (Section 59F.3(6)(j)) proposed Signs with an Area greater than 8.0 m² shall not be located within any Setback;

**Required West: 4.5 m
PROPOSED WEST: 0.61 m
Deficient West: 3.89 m**

**Required East: 4.5 m
PROPOSED EAST: 0.9 m
Deficient East: 3.6 m [unedited]**

<i>Calgary Trail Land Use Study</i>

The *City of Edmonton Charter*, 2018 Regulation, Alta Reg 39/2018 states the following:

(31) In section 616 of the Act,

(e) clause (dd) is to be read as follows:

(dd) “statutory plan” means

- (i) an intermunicipal development plan,
- (ii) a municipal development plan,
- (iii) an area structure plan,
- (iv) an area redevelopment plan, and
- (v) an additional statutory plan under section 635.1

adopted by the City under Division 4;

Development Officer’s Determination

3. (Calgary Trail LUS Section 3.5(b)(ii) Greater attention shall be given to improving the location, siting, Signage comprehensibility and design of signage in the corridor by discouraging the use of portable signs and free-standing billboards (billboards are considered Off-premises signs).


PROPOSED: 2 Digital Billboards
The proposed Minor Digital Off-Premises Freestanding Signs are
contrary to Section 3.4.b.ii of the Calgary Trail Land Use Study.
 [unedited]


Previous Subdivision and Development Appeal Board Decision

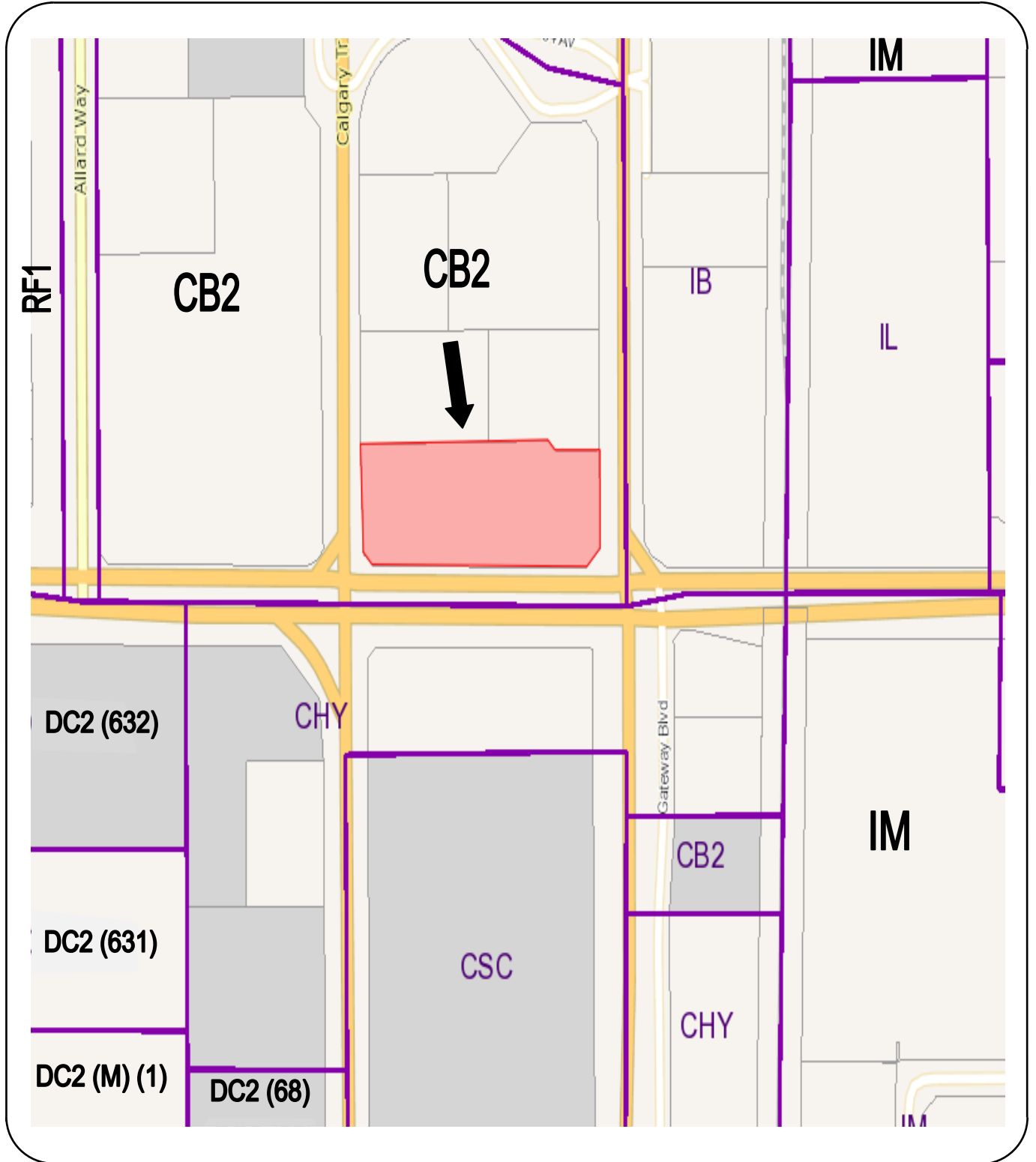
Application Number	Description	Decision
SDAB-D-10-389	Construct an Off-premises Freestanding Sign (3 metres by 6 metres Animation Sign single-sided facing North)	December 10, 2010; Refused.

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: 343816388-001 Application Date: OCT 15, 2019 Printed: April 3, 2020 at 3:06 PM Page: 1 of 2</p> <h2 style="margin: 0;">Application for Sign Combo Permit</h2>
<p>This document is a Development Permit Decision for the development application described below.</p>	
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 5116 - GATEWAY BOULEVARD NW Plan 6742MC Blk 94 Lot 1</p>
<p>Scope of Application To install (2) Minor Digital Off-premises Freestanding Signs (ICEWORKS).</p>	
<p>Permit Details</p>	
<p>ASA Sticker No./Name of Engineer: Construction Value: 25000</p>	<p>Class of Permit: Expiry Date:</p>
<p>Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 3 Minor Digital On/Off-premises Sign: 0</p>	<p>Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0</p>
<p>Development Application Decision Refused Issue Date: Mar 23, 2020 Development Authority: MERCIER, KELSEY</p>	
<p>THIS IS NOT A PERMIT</p>	

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SURROUNDING LAND USE DISTRICTS

Site Location ←

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