



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: May 22, 2019
Project Number: 271782938-001
File Number: SDAB-D-19-063

Notice of Decision

[1] On May 8, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **April 16, 2019**. The appeal concerned the decision of the Development Authority, issued April 11, 2019, to refuse the following development:

To install one (1) Minor Digital On-premises Off-premises Freestanding Sign (PATTISON | PETRO-CANADA).

[2] The subject property is on Plan 9424033 Blk 1, located at 5019 - 137 Avenue NW, within the (CB2) General Business Zone. The Major Commercial Corridors Overlay applies to the subject property.

[3] The following documents were received prior to the hearing and form part of the record:

- A copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- A Subdivision Planning (Transportation) Memorandum;
- The Development Officer’s written submission; and
- The Appellant’s written submissions.

[4] The following exhibit was presented during the hearing and forms part of the record:

- Exhibit A – *Newcastle Centre GP Ltd v Edmonton (City)*, 2014 ABCA 295.

Preliminary Matters

[5] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.

[6] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.

- [7] The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

Summary of Hearing

- i) *Position of the Appellant, Mr. J. Murphy, representing Ogilvie LLP and Mr. D. Scott, representing Pattison Outdoor Advertising:*

- [8] The proposed development requires variances to the minimum required separation distances from other digital and freestanding signs.
- [9] The development permit application was submitted in January 2018. The process has taken a long time because in addition to normal delays, Pattison has been working with the Development Officer and Subdivision Planning to find a location for the proposed sign that would work from a transportation safety perspective. Stantec was hired to prepare a safety study for the proposed digital sign at this location. The study found that the proposed sign would not have a negative impact on driver workload which the study estimated to be low. It was noted by Subdivision Planning that the proposed location was extremely close to the exclusion area identified in the Transportation Association of Canada (TAC) guidelines.
- [10] A Minor Digital On-premises Off-premises Sign is a Discretionary Use in the CB2 General Business Zone and must comply with the regulations found in Schedule 59F of the *Edmonton Zoning Bylaw* (the *Bylaw*).
- [11] The proposed sign complies with the maximum allowable height and width regulations and is only 20 square metres in size which is considerably less than the maximum allowable 65 square metres.
- [12] A variance is required in the minimum required separation distance from an existing digital sign (Astral sign) which is located 157 metres away. This Astral sign is 27.38 square metres in area which increases the minimum required separation distance from 100 metres to 200 metres. It was his opinion that while a variance is required, the excess size of the existing sign is proportionate to the deficiency in the separation distance.
- [13] A copy of the SDAB-D-17-109 approval for the existing Astral sign, a Minor Digital On-premises Off-premises Freestanding Sign (3.7 metres by 7.4 metres single sided facing SW) was referenced. The Board approved the development with variances to the maximum allowable height and the minimum required setback.
- [14] Aerial photographs were referenced to illustrate the location of the proposed sign and the distance from the existing Astral sign on 137 Avenue.

- [15] This site is located in the middle of a large transportation interchange which is not close to any residential properties and it was his opinion that granting the variances to allow the sign will not negatively impact the use, enjoyment or value of neighbouring properties or the amenities of the area. He argued that if proliferation were to be allowed anywhere, this was the location for it.
- [16] An aerial photograph was referenced to illustrate the location of a sign advertising gas prices which has resulted in the required variance to section 59.2(21) which states that “any Sign Use that is a Freestanding Sign shall have a minimum of 45.0 metres radial separation distance from any other Sign Use that is a Freestanding Sign on the same Site”. This amendment was made to the *Bylaw* in September 2018, nine months after the development permit application was submitted. Pattison has worked with the Development Officer and Subdivision Planning to explore the possibility of combining the proposed sign with the existing Freestanding Sign on the subject site. However, it was determined that this option would not solve the issue.
- [17] The Development Officer made the decision not to grant the required variances based on her opinion that reducing the separation distance would result in visual clutter and the proliferation of signs even though Subdivision Planning did not identify any safety or planning concerns.
- [18] The test of the Board, pursuant to section 687 of the *Municipal Government Act* is to determine whether or not the required variances will materially impact neighbouring properties or detract from the amenities of the neighbourhood and it was his opinion that the proposed development will not have an impact.
- [19] It was noted that no objections were filed and that no one attended the hearing in opposition to the proposed development.
- [20] Subdivision Planning noted that in addition to detailing an exclusion area, the TAC guidelines also recommend a message hold time of eight seconds which is greater than the six second hold time required by the *Bylaw* regulations. It was their recommendation that a condition be imposed on the proposed sign to meet the TAC recommendations for message hold time. This would result in a huge operational and financial impact on Pattison because their system for all of the digital signs in the city is programmed to operate on six second hold times. Increasing the hold time from six seconds to eight seconds will also impact the revenue model.
- [21] He worked extensively with the City to develop the regulations for digital signs and much consideration was given to the appropriate hold times. The standard across Canada is between five and ten seconds. The development regulations for Digital Signs are currently under review and it was his assumption that the City will move to an eight-second hold time at some point in the future. However, he argued that it is not appropriate to impose this requirement on this development permit application before all of the discussions have been concluded and the *Bylaw* has been amended.

- [22] A standard condition is always imposed which requires the owner/applicant to immediately address any safety concerns identified by removing the sign, de-energizing the sign or changing the message conveyed on the sign and or address the concern in another manner that is acceptable to the City.
- [23] It was his opinion that the current hold time of six seconds should apply to the proposed sign.
- [24] Mr. Murphy provided the following information in response to questions from the Board:
- a) He could not confirm whether or not the commercial uses located west of the subject site had signage but indicated that signage would be permitted for those businesses.
 - b) The safety study considered the requirement for a six second hold time and did not identify any safety concerns.
 - c) All digital signs in the City are currently operating at six second hold times.
 - d) If more ads roll through a digital sign in a minute the revenue generated increases.
 - e) It was his assumption that the development regulations for digital signs will be amended to incorporate the TAC guidelines. This will require the hold time for all digital signs in the city to be changed to eight seconds. However, no rationale has been provided to support the change.
 - f) A copy of *Newcastle Centre GP Ltd v Edmonton (City)*, 2014 ABCA 295 was submitted, and (marked as *Exhibit A*) to address the use of the word “may” in section 687 of the *Municipal Government Act*. This decision dealt with a permitted use but it is the closest that the Court of Appeal has come in terms of answering the question of the discretionary power of the Board. “May” is included in section 687 to advise the Board that they are expected to exercise some judgement especially when dealing with a Discretionary Use. Does the Board have to issue a permit if the test is met? The answer is yes for a permitted use. For a discretionary use the development permit can be refused if it is not the right use. However, the test for a permitted use is not a hard “you have to” because all land use planning law “ebbs and flows” with the circumstances and the Court of Appeal has still not made an ultimate decision on this matter. There are several cases currently before the Court that deal with this issue and leave to appeal is automatically granted based on this issue. The question as the Court puts it is if you meet all the tests does the Board still have residual discretion to refuse the development permit application. In the leave applications, the strong suggestion is that there is nothing left. Justice Cote in the *Newcastle* decision determined that for a permitted use, there had to be a good planning reason to refuse the development and that the Board cannot rely on the fact that the *Bylaw* sets the standard of harm when dealing with a permitted use. In the case of a discretionary use the inclusion of the word “may” allows the Board to refuse the development even if a variance was granted but the planning reasons to support the refusal would be limited.

- g) Signs are discretionary in nature. The issue is the propriety of having these signs in proximity one to the other and it is the discretionary use question, and not so much the required variances. You have to look at the area in general to determine if it is appropriate. When dealing with a discretionary use and variances, the word “may” becomes important but the Court of Appeal has still not provided a definitive answer on this matter.
- h) The safety study reviewed this sign, at this location, as well as the dwell time. The Engineers were instructed to review the dwell time.
- i) They would rather have the sign with an eight second dwell time than no sign at all even though it will require a lot of work. However, the City is trying to implement new rules before the *Bylaw* is amended without any justification.
- j) The possibility of developing a combined sign was discussed with Petro Canada but they were not supportive and the City indicated that the development permit would not be approved.
- k) Subdivision Planning suggested that the dwell time be increased to eight seconds to align with the TAC Guidelines. However, the Development Officer departed from that reasoning and indicated that it was her opinion that increasing the dwell time would address traffic safety issues without any evidence or the support of Subdivision Planning.

ii) *Position of the Development Officer, Ms. K. Mercier:*

[25] Ms. Mercier did not attend the hearing but provided a written submission that was considered by the Board.

Decision

[26] The appeal is **DENIED** and the decision of the Development Authority **CONFIRMED**. The development is **REFUSED**.

Reasons for Decision

[27] The proposed development, a Minor Digital On-premises Off-premises Sign is a Discretionary Use in the (CB2) General Business Zone.

[28] The proposed development requires variances to Schedule 59F.3(6)(e) and section 59.2(21) of the *Edmonton Zoning Bylaw*. Schedule 59F.3(6)(e) states:

Proposed Sign locations shall be separated from Signs with Digital Copy greater than 8.0 square metres or Off-premises Signs 20 square metres to 40 square metres by 200 metres.

The proposed separation distance is 157 metres and is deficient by 43 metres.

[29] Section 59.2(21) states:

Any Sign Use that is a Freestanding Sign shall have a minimum 45.0 radial separation distance from any other Sign use that is a Freestanding Sign on the same Site.

The proposed separation distance is 7 metres and is deficient by 38 metres.

[30] The Board's authority to grant the two required variances is found in Section 687(3)(d) of the *Municipal Government Act*. The relevant portion of section 687(3)(d) states:

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

(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, [...]

[31] The Board considered several factors pertaining to the proposed location of the Sign.

[32] First, the subject Site is at the intersection of two major transportation corridors, in a non-residential area that is not yet fully developed.

[33] Second, while the Sign will be extremely close to the exclusion area identified in the Transportation Association of Canada guidelines, the Appellant submitted a safety study which did not identify any traffic concerns with the location.

[34] Third, Subdivision Planning (Transportation) reviewed the proposed location and the submitted safety study acknowledging it indicated that the proposed Sign would not have a negative impact on driver workload (which was estimated to be low in the study). After this review, Subdivision Planning (Transportation) did not object to the proposed location, but did indicate that even though the minimum required setback requirements were met, the dwell time should be increased to 8 seconds in accordance with the national guidelines which is over and above the 6 second dwell time required under the *Bylaw*.

- [35] The Board noted that there is no mention of any concern specific to the two required variances in the response from Subdivision Planning (Transportation).
- [36] The Board then considered the submitted plans and the photographic evidence of the subject Site and the surrounding area in deciding whether the separation distance variances would create any adverse effects.
- [37] The photographic evidence provided by the Development Officer shows that even though the Astral Sign is less than the maximum allowed Sign Area and located on the north side of 137 Avenue, it is a Digital Sign which changes Copy based on a 6 second dwell time and it is clearly visible contemporaneously with the location of the proposed Sign to motorists traveling eastbound on 137 Avenue approaching the subject Site.
- [38] Of greater concern, the proposed Sign will also be located 7.0 (rather than the required 45 metres) southwest of a large existing Freestanding On-premises Business Identification Sign with multiple faces for Petro Canada and other associated businesses. Given the proposed 7 metre separation, all three Signs will be contemporaneously visible to motorists travelling east along 137 Avenue and crossing Manning Drive/Fort Road.
- [39] In addition, the photos show that the two signs on the Site which are to be 7 metres apart will also be visible contemporaneously to motorists passing south of the Site along Manning Drive/Fort Road and crossing 137 Avenue. At the same time, these motorists will also be in view of a third large existing Freestanding On-premises business identification sign with multiple faces for Petro Canada and other associated businesses which is also located on the subject Site albeit at more than 45 metres to the south.
- [40] Based on this evidence, the Board concurs with the opinion of the Development Officer. The Board finds that approving the addition of the proposed Sign and allowing the two required variances to the minimum required separation distances from two existing Signs will create a proliferation of Digital Copy and Off-premises Signs and will also add materially to the visual clutter on this portion of the subject Site at a busy intersection.
- [41] For this reason, the Board confirms the decision of the Development Officer to decline the required variances and the development is refused.

Ms. K. Cherniawsky, Presiding Officer
Subdivision and Development Appeal Board

Board members in attendance: Ms. S. LaPerle, Mr. D. Fleming, Mr. R. Hachigian, Mr. A. Nagy

Important Information for the Applicant/Appellant

1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under section 688 of the *Municipal Government Act*, RSA 2000, c M-26.
2. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.



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Date: May 22, 2019
Project Number: 303090602-001
File Number: SDAB-D-19-064

Notice of Decision

- [1] On May 8, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **April 16, 2019**. The appeal concerned the decision of the Development Authority, issued on March 19, 2019 to approve the following development:

To change the Use from General Retail Stores to a Personal Service Shop and to construct interior and exterior alterations (new door into Suite 108).

- [2] The subject property is on Condo Common Area (Plan 0322787,0326052, 0620422, 0928401), located at 10303 - 111 Street NW and Plan 0928401 Unit 627, located at 10303 - 111 Street NW and Plan 0928401 Unit 626, located at 108, 10303 - 111 Street NW, within the DC2.472 Site Specific Development Control Provision (“DC2.472”). The Capital City Downtown Plan applies to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- A copy of the Development Permit application with attachments, proposed plans, and the approved Development Permit;
 - The Development Officer’s written submission;
 - The Appellant’s written submission;
 - The Respondent’s written submission; and
 - Thirteen online responses in opposition to the proposed development including a letter in opposition.

Preliminary Matters

- [4] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.

- [5] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [6] The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26.
- [7] The Presiding Officer referenced section 685(4)(b) of the *Municipal Government Act*, which states:
- Despite subsections (1), (2), and (3), if a decision with respect to a development permit application in respect of a direct control district is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.
- [8] The Presiding Officer adjourned the hearing in order to allow everyone in attendance an opportunity to review the development regulations contained in DC2.472 as well as the written submission provided by the Development Officer.
- [9] When the hearing reconvened the Presiding Officer reminded the parties that within the limits of the *Municipal Government Act* and the *Edmonton Zoning Bylaw*, the Board has authority to affirm, revoke or revise the decision of the Development Officer and noted that the applicable Condominium Bylaws are outside the purview of the Board. In view of section 685(4)(b), the Presiding Officer asked the affected parties to explain how the directions of Council were not followed in this application.

Summary of Hearing

i) Position of the Appellant, Mr. A. Boussaada, representing Condominium Corporation No. 0322787 and affected condominium owners in support of the appeal:

- [10] Mr. Boussaada advised the Board that he did not wish to make any verbal remarks in addition to the written reasons for appeal that were initially submitted.

Position of Ms. S. Marchesin, an affected condominium owner in support of the appeal:

- [11] The proposed development will be located in the only commercial space in an otherwise completely residential building.
- [12] After reviewing the plans for the proposed development and the development requirements contained in DC2.472, she expressed concern that the proposed development does not comply with DC2.472.5(k) which states that "Commercial uses

shall only be established in units facing 111 Street. Commercial uses shall only have pedestrian accesses onto 111 Street”.

- [13] The submitted plans were referenced to illustrate that the proposed entrance does not face 111 Street. The proposed entrance faces north onto a common space located between the condominium buildings. This area provides vehicle access from 111 Street to the ground level parking between the two buildings and to the underground parking. The proposed new door for the business provides pedestrian access from the parking area not from 111 Street. Vehicle access to the parking area is from 111 Street.
- [14] In response to a question, she indicated that she has not personally walked through the area but it was her opinion that because vehicles access parking on the site through this space it would create safety issues for pedestrians.

Position of Mr. R. Chow, an affected condominium owner in support of the appeal:

- [15] A photograph was referenced that was submitted with his written letter of objection to illustrate the location of the subject unit, the proposed entrance to the building and the public sidewalk along 111 Street. The proposed entrance faces north and not onto 111 Street. Vehicular access to the three condominium buildings is provided by a driveway from 111 Street. There is a small sidewalk located along the side of the building and it was his opinion that it does not comply with the development requirements contained in DC2.472.5(k).
- [16] In response to a question, he conceded that the main entrance to the building could be used to provide access to the proposed development to meet DC2.472.5(k).

Position of Mr. J. Knight, an affected condominium owner in support of the appeal:

- [17] He indicated his support for all of the concerns raised by the Condominium Corporation and the other condominium owners.

ii) Position of the Development Officer, Mr. C. Kennedy:

- [18] Mr. Kennedy did not attend the hearing but provided a written submission that was considered by the Board.

iii) Position of the Respondent, Christenson Equities, represented by Ms. C. Jersak and Mr. J. Bazinet. Ms. J. Lee, the owner of the proposed business was also in attendance:

- [19] The Development Authority followed the directions of Council in approving this development permit application.

- [20] DC2.472 was approved by Council in 1998 as a mixed use zone. The purpose of the zone is to create a mixed housing district which includes row housing, low/medium/high rise apartment and limited commercial uses onto the Civic Space Corridor and 111 Street. Listed uses within the zone are a mix of residential and commercial.
- [21] DC2.472.4(c)(v) lists a Personal Service Shop as a Use in the zone.
- [22] The Board does not have the authority to overturn the application pursuant to section 685(4)(b) of the *Municipal Government Act*.
- [23] Ms. Jersak provided the following information in response to questions from the Board:
- a) The proposed new door was located on the side of the building to be less intrusive.
 - b) Photographs were referenced to support her opinion that the proposed development does comply with DC2.472.5(k). Pedestrian access is provided from 111 Street through a gate onto a gravel path and then a sidewalk onto the site.
 - c) The area located adjacent to the side of the building is a drive aisle, not a through road.
 - d) Pedestrians can walk along the side of the building to the rear but whether or not there was access from the north to the rear of the building could not be confirmed.

iv) *Rebuttal of the Appellant:*

- [24] Mr. Boussada reiterated the concern that pedestrians will be able to cut across the parking lot to access the proposed development.

Decision

- [25] The appeal is **DENIED** and the decision of the Development Authority is **CONFIRMED**. The development is **GRANTED** as approved by the Development Authority with the **CONDITIONS** imposed.

Reasons for Decision

- [26] Condominium Corporation No. 0322787 appealed the decision of the Development Officer approving an application to change the Use of one ground floor unit within the building from General Retail Store to a Personal Service Shop and to construct interior and exterior alterations (new door into suite 108).

[27] The subject site falls within DC2.472 Site Specific Development Control Provision. Pursuant to DC2.472.4(c)(v) a Personal Service Shop is a listed use in this direct control district.

[28] The Appellant did not provide oral representations at the hearing but re-affirmed the concerns outlined in the written reasons for appeal which included:

- a. The complex was built and designed as a residential-only community. Owners purchased units based on the understanding that commercial uses would not be allowed as stated in the Condominium Bylaws.
- b. The addition of a door on the side of the building which is in close proximity to a roadway creates a safety hazard for pedestrians and vehicles in the area.
- c. The proposed business (beauty salon) will use chemicals in much higher concentrations than normally seen in a residential complex which may have adverse effects on the health of residents especially those with underlying medical conditions.
- d. Additional traffic will be problematic and potentially dangerous.
- e. Visitor parking for the complex is already at a premium and there are no extra parking stalls beyond what is required for visitors.
- f. There is little to prevent the owner/developer, once established and invested, from changing to a different type of business which may be less desirable.
- g. Should this permit be approved there is a risk that similar applications could be made.
- h. Neither the developer nor the business owner consulted with the property owners.

[29] The Board also received 13 online responses from affected property owners in opposition to the proposed development which echoed the concerns raised by the Appellant. Six property owners attended the hearing to oppose the proposed development.

[30] Section 685(4)(b) of the *Municipal Government Act* states that:

Despite subsections (1), (2), and (3), if a decision with respect to a development permit application in respect of a direct control district is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

[31] Therefore, the Board first considered whether or not the Development Authority followed the directions of Council by approving this development permit and finds that they were followed.

[32] The Board first considered DC2.472.1 which states the General Purpose of this direct control district is:

To create a mixed housing district which includes row housing, low/medium/high rise apartment and limited commercial uses onto the Civic Space Corridor and 111 Street. These residential developments will provide an additional residential population within the Downtown and with unique open space corridor create a vibrant downtown community.

[33] While the parties in opposition argued that the Building was built and designed as residential only, the Board finds that the proposed development is consistent with the General Purpose DC2.472.1 which provides that limited commercial uses will be available onto the Civic Space Corridor and 111 Street. Further, Personal Service Shop is one of the listed Commercial Uses pursuant to DC2.472.4(c)(v).

[34] After reviewing the development regulations contained in DC2.472, the affected property owners in attendance raised a concern that the proposed development did not comply with DC2.472.5(k) which states:

Commercial uses shall only be established in units facing 111 Street.
Commercial uses shall only have pedestrian accesses onto 111 Street.

[35] The Board finds that DC2.472.5(k) is a mandatory regulation for which a variance cannot be granted. Based on a review of the submitted plans and the photographic evidence provided by all parties, the Board finds that the proposed development complies with DC2.472.5(k) for the following reasons:

- a. The proposed development is a commercial use specifically listed in DC2.472.4(c)(v).
- b. The subject unit, unit 108, is located on the ground floor at the northwest corner of the building. It has two external facades, one along the north facing elevation and one along the west facing elevation of the building towards 111 Street. This west facing façade includes the main common entrance that faces onto 111 Street. The Board finds that proposed development satisfies the requirement that it be located in a unit facing 111 Street.

- c. The proposed development includes a new exterior entrance that opens to the north, directly onto a pedestrian sidewalk which continues to the west across a small portion of the drive aisle and through a gate onto a sidewalk that leads directly onto 111 Street. The Board notes that DC2.472.5(k) refers to pedestrian access, there is no mention of the entrance to the unit or its orientation. Based on the plans and photos, the Board finds that the proposed development satisfies the requirement that it only has pedestrian accesses onto 111 Street.
- [36] While the opposing parties cited parking concerns, the proposed development complies with development regulations related to parking, no parking space variance is required. The Board finds no failure to follow the directions of Council with respect to parking requirements.
- [37] The approved Development Permit authorizes a Personal Service Shop Use only. Any future change in Use will require a new Development Permit and be subject to the usual review by the Development Officer. The Board is not persuaded that this concern is a reason to deny the appeal.
- [38] Some of the parties in opposition objected to the proposed development due to a lack of consultation. The Board notes that there was no requirement for the applicant or developer to consult with property owners prior to making an application for a development permit. As the proposed development is a listed Use in DC2.472 with no variances, the affected property owners were notified of the issuance of the permit in accordance with section 12.4(1) of the *Bylaw* only because the subject site is designated Direct Control. The Board is not persuaded that lack of consultation is a reason to deny the appeal.
- [39] Many of the other concerns outlined in the Appellant's written reasons for appeal and the letters of opposition deal with issues such as compliance with Condominium Bylaws, Building and Safety Code matters that are addressed in other legal forums and are outside the purview of the Board. These concerns do not relate to the issue of compliance with the directions of Council.
- [40] The Board notes that Development Permits merely confirm compliance with the applicable Zoning Bylaw. Development Permits do not relieve the applicant from the requirements of any other applicable federal, provincial or municipal legislation, the conditions of any caveat, covenant, easement or other instrument, including any the applicable condominium bylaws. In other words, although the Development Permit is issued, the Applicant may be precluded from proceeding with the development for other legal reasons.

[41] For the reasons above, the Board finds that the Development Authority followed the directions of Council in approving this development permit application for a Listed Use, fully compliant with all applicable development regulations. Given this finding, pursuant to section 685(4) of the *Municipal Government Act*, the appeal must be dismissed.

Ms. K. Cherniawsky, Presiding Officer
Subdivision and Development Appeal Board

Board members in attendance: Ms. S. LaPerle, Mr. D. Fleming, Mr. R. Hachigian, Mr. A. Nagy

Important Information for the Applicant/Appellant

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
 - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
 - b) the requirements of the *Alberta Safety Codes Act*,
 - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
 - d) the requirements of any other appropriate federal, provincial or municipal legislation,
 - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a 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.