### SUBDIVISION

### AND

### DEVELOPMENT APPEAL BOARD

### AGENDA

Thursday, 9:00 A.M. November 1, 2018

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

# SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING ROOM NO. 3

I	9:00 A.M.	SDAB-D-18-181	Install 4 Satellite Signal Receiving Antennas of the roof of a Minor Impact Utility Service Building
			6720 - 137 Avenue NW Project No.: 286136272-001
П	10:00 A.M.	SDAB-D-18-182	Operate a Major Home Based Business (Personal Service Shop - jewellery and custom dresses, maximum 1 client per day), expires October 1, 2023
			527 – Jellet Way NW Project No.: 280399154-001

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

#### ITEM I: 9:00 A.M. FILE: SDAB-D-18-181

#### AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 286136272-001

APPLICATION TO: Install 4 Satellite Signal Receiving

Antennas on the roof of a Minor Impact

Utility Service Building

**DECISION OF THE** 

DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 14, 2018

DATE OF APPEAL: October 5, 2018

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 6720 - 137 Avenue NW

LEGAL DESCRIPTION: Plan 8722020 Blk 1 Lot 51A

ZONE: PU Public Utility 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:

The application was rejected based on the elevation of the proposed satellite dishes on the roof of the TELUS Londonderry operations building located at 6720 137th Ave NW, Edmonton, Alberta. The area is primarily commercial and adjacent to 137th Avenue which is a major artery for the city. The impact of these dishes on the surrounding area should be considered negligible. We cannot emphasize enough the importance of these dishes to continue to provide reliable telecommunications service to the residents of Edmonton. As technology improves and grows it is important that zoning bylaws adapt and change to accommodate new technologies.

TELUS is mandated to provide telecom services by the Canadian Radio-Television and Telecommunications Commission (CRTC). Other sites in Edmonton, were considered including Lendrum and Edmonton Main Operations centers, and neither could structurally support the dishes.

If the dishes are not built TELUS will not be able to deploy required CRTC content. The size of the dishes is important to transmit and receive at the rate the Edmonton population requires, and to accommodate future growth. We cannot emphasize enough the importance of these dishes

- TELUS Headend Operations Edmonton requires direct access to content collected by satellite through these dishes
- Live content channel map will be limited only to those channels available on fiber without these dishes

The satellite build will create jobs in Edmonton.

The decision was based on Residential planning considerations and should've been based Telecomm Procedures.

#### 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.

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

#### Appeals

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

- (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, [...]
    - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw

#### **Hearing and Decision**

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

. . .

- (a.1) must comply with the land use policies;
- (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 6.1, a Satellite Signal Receiving Antenna means an antenna used for the purpose of receiving television and radio broadcasts transmitted by satellite. Such an antenna (also referred to as a "satellite dish") is usually circular in shape, concave on the receiving side, and may be fixed or rotatable so that it is capable of tracking more than one satellite. This definition does not include an amateur radio, citizens' band, or any other type of antenna, and does not include dishes under 1.0 m in diameter;

Section 520.1, the **General Purpose** of the **(PU) Public Utility Zone** is to provide for a system or works that is used to provide for public consumption, benefit, convenience or use such as water or steam, sewage disposal, public transportation, irrigation, drainage, fuel, electric power, heat, waste management and telecommunications.

#### Height

#### 50.5 Satellite Signal Receiving Antenna

- 1. A Satellite Signal Receiving Antenna shall, except as is provided in subsection 50.5(4):
  - a. be a free-standing, ground-mounted unit;
  - b. be located in a Rear Yard only;
  - c. be located so that no portion, when rotated, is within 0.9 metres of any lot line, with the exception that no portion, when rotated, shall be closer than 4.5 metres to a lot line abutting a flanking public roadway, other than a Lane;

- d. be limited to a maximum Height of 5.0 metres. For the purpose of this subsection 50.5 only, the maximum Height of a Satellite Signal Receiving Antenna shall be determined by measuring from the point at which the main support enters the typical ground surface, to the highest point of the Satellite Signal Receiving Antenna, resting in its highest possible position; and
- e. form part of the calculation of total Site Coverage for Accessory structures, to be calculated using the area of the dish circumference.
- 2. A Satellite Signal Receiving Antenna shall not be illuminated, nor shall it have any advertising words or graphics displayed on it.
- 3. A Satellite Signal Receiving Antenna shall be Landscaped to screen the base of the antenna and reduce the negative visual impact on adjacent properties.
- 4. Notwithstanding subsection 50.5(1):
  - a. the Development Officer shall allow a Satellite Signal Receiving Antenna to be mounted on the roof of a non-residential building or on the roof of Apartment Housing containing more than 12 Dwellings, provided that the Satellite Signal Receiving Antenna complies with the provisions of subsections 50.5(4), 50.5(5), and 50.5(6); and
  - b. a roof-mounted Satellite Signal Receiving Antenna shall be allowed where the applicant can demonstrate that a ground-mounted unit would prohibit adequate reception of broadcasts. The impediments to the reception of broadcasts by a typical free-standing, ground-mounted unit shall be clearly identified on a diagram or Site plan, provided in accordance with subsection 13.2 of this Bylaw;
- 5. In the case of a roof-mounted Satellite Signal Receiving Antenna allowed pursuant to subsection 50.5(4)(a), an antenna may exceed the Height of the building on which it is mounted, provided that the maximum Height shall not be greater than that provided in the regulations of the Zone governing the Site.
- 6. In the case of any roof-mounted Satellite Signal Receiving Antenna which is allowed by the Development Officer pursuant to subsection 50.5(4)(b), a Satellite Signal Receiving Antenna shall:
  - a. if mounted on any other Accessory structure, have a maximum Height of 10.0 metres;
  - b. if mounted on the principal building, have a maximum Height of 11.5 metres at its highest point, but in no case shall the Height of the antenna exceed the highest point of the principal building; and
  - c. not be visible from the Front Yard of the Site.

Section 520.4(4) states (in part) the maximum building Height shall be 10.0 metres, except that the maximum building Height shall be 18.0 m on Sites of 0.75 ha or greater. Where a building exceeds 10.0 m in Height, the subject Site shall be designed, landscaped, screened and buffered and the building shall be located so as to minimize and compensate for any objectionable aspects or potential incompatibility with development in abutting Zones.

#### **Development Officer's Determination**

1) The proposed development exceeds the maximum allowable height in the PU-Public Utility Zone (S. 50.5(5)):

Maximum Height Allowed: 10m

Proposed Height: 13.68m

Deficient by: 3.68m

2) The height of the proposed development's antenna exceeds the highest point of the subject building (S. 50.5(6)).

The Development Officer is prohibited from granting variances to the allowable maximum height under Section 11.4(1)(b).

3) The Satellite Signal Receiving Antenna is visible from the Front Yard of the subject Site (S. 50.5(6)).

#### 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.



### Application for Major Development Permit

Project Nur	mber: 286	5136272-001
Application D	ate:	JUN 27, 2018
Printed:	October 9	), 2018 at 9:55 AM
Page:		1 of 1

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

Applicant Property Address(es) and Legal Description(s)

	Applicant	Property Address(es) and Legal Des
		6720 - 137 AVENUE NW
		Plan 8722020 Blk 1 Lot 51A
		Specific Address(es)
		Building: 6720 - 137 AVENUE NW
-		

#### Scope of Application

To Install 4 Satellite Signal Receiving Antennas on the roof of a Minor Impact Utility Service Building.

#### **Permit Details**

Class of Permit: Class A Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):

Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)

Contact Person:

I/We certify that the above noted details are correct.

Applicant signature:

#### Development Application Decision

Refused

Issue Date: Sep 14, 2018 Development Authority: WELCH, IMAI

#### Reason for Refusal

1) The proposed development exceeds the maximum allowable height in the PU-Public Utility Zone (S. 50.5(5)):

Maximum Height Allowed: 10m Proposed Height: 13.68m Deficient by: 3.68m

- 2) The height of the proposed development's antenna exceeds the highest point of the subject building (S. 50.5(6)).
- 3) The Satellite Signal Receiving Antenna is visible from the Front Yard of the subject Site (S. 50.5(6)).

The Development Officer is prohibited from granting variances to the allowable maximum height under Section 11.4(1)(b).

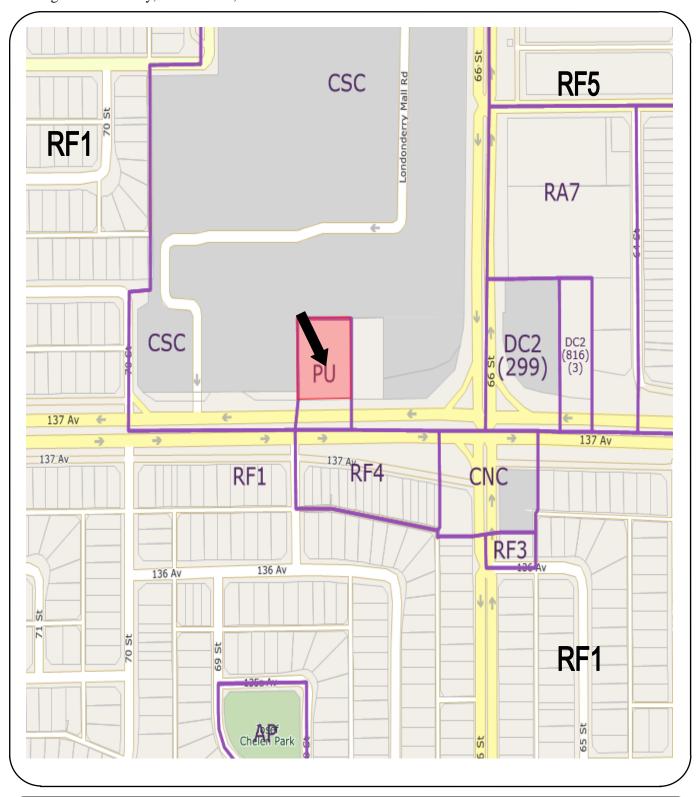
#### Rights of Appeal

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.

_			
н	0	Ω	c

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$362.00	\$362.00	05139386	Jun 27, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$362.00	\$362.00		

#### THIS IS NOT A PERMIT



### SURROUNDING LAND USE DISTRICTS

File: SDAB-D-18-181



Site Location

Ν

#### <u>ITEM II: 10:00 A.M.</u> <u>FILE: SDAB-D-18-182</u>

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

APPELLANT:

APPLICATION NO.: 280399154-001

APPLICATION TO: Operate a Major Home Based Business

(Personal Service Shop - jewellery and custom dresses, maximum 1 client per

day), expires October 1, 2023

**DECISION OF THE** 

DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: October 1, 2018

DATE OF APPEAL: October 5, 2018

NOTIFICATION PERIOD: October 9, 2018 through October 30, 2018

RESPONDENT:

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 527 – Jellett Way NW

LEGAL DESCRIPTION: Plan 9122906 Blk 16 Lot 12

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: Burnewood Neighbourhood Area

Structure

#### Grounds for Appeal

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

I am very concerned if this business is approved the additional traffic and poor parking in our quiet little cul-de-sac will be even worse.

The residents at this address already have a minimum of three of their own vehicles and additional visitors day and night.

So it concerns me that not just customers will contribute to the traffic, parking & noise but also additional persons at this residence to operate this business.

Our cul-de-sac is made up of 19 homes and there is only 6 spots in the whole area that a vehicle can be parked on the street. We have driveways onto the street. This residence is about half way down the cul-de-sac so all their traffic travels all the way to the end where they turn around to exit the cul-de-sac.

We have small children in our cul-de-sac and have already experienced vehicles travelling too fast and frequently with loud stereos and using hand held cell phones while driving. The city police have been advised of this over the years particularly with this address. I am very concerned matters will only be worse if this business is permitted. Thank you for your consideration.

I would suggest you do a google earth search of our neighborhood and you can see the very limited parking.

#### **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.

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

#### **Appeals**

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

- (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, or
    - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

#### **Hearing and Decision**

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

...

- (a.1) must comply with the land use policies;
- (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:

Section 110.3(5) states a **Major Home Based Business** is a **Discretionary Use** in the (RF1) Single Detached Residential Zone.

Under Section 7.3(7), **Major Home Based Business** means:

a development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution.

#### Section 110.1, the General Purpose of the (RF1) Single Detached Residential Zone is:

to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

#### **Development Officer's Determination**

Major Home Based Business is approved as a Discretionary Use (Section 110.3.5).

#### Major Home Based Business regulations – Section 75

#### A Major Home Based Business shall comply with the following regulations:

- 1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
- 2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
- 3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
- 4. the number of non-resident employees or business partners working onsite shall not exceed two at any one time;
- there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;
- 6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;
- 7. a Bed and Breakfast Operation, operating as a Major Home Based Business shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;
- 8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
- 9. the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.

10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

#### **Parking**

Section 54.2 Schedule 1(A)(8) stipulates that a Major Home Based Business requires 1 parking space in addition to parking required for principal Dwelling.

#### 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: 280399154-001

Application Date: APR 25, 2018

Printed: October 1, 2018 at 12:32 PM

Page: 1 of 3

### **Home Occupation**

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)

527 - JELLETT WAY NW
Plan 9122906 Blk 16 Lot 12

Specific Address(es)

Suite: 527 - JELLETT WAY NW
Entryway: 527 - JELLETT WAY NW

Scope of Permit

To operate a Major Home Based Business (Personal Service Shop - jewellery and custom dresses, maximum 1 client per day), expires October 1, 2023.

Permit Details

# of businesss related visits/day: 1 Administration Office Only?: N

Class of Permit:

Do you live at the property?: Y
Outdoor storage on site?: N

# of vehicles at one time: 1

Business has Trailers or Equipment?: N

Building: 527 - JELLETT WAY NW

Description of Business: Ny business is a jewellery selling business with custom hand made dresses. This property is owned by my aunt which is the house owner

Expiry Date: 2023-10-01 00:00:00

I/We certify that the above noted details are correct.

Applicant signature:

**Development Permit Decision** 

Approved

Issue Date: Oct 01, 2018 Development Authority: YEUNG, KENNETH



Project Number: 280399154-001

Application Date: APR 25, 2018

Printed: October 1, 2018 at 12:32 PM

Page: 2 of 3

#### **Home Occupation**

#### Subject to the Following Conditions

Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.

- 1. The business owner must live at the site. The business use must be secondary to the residential use of the building and shall not change the residential character of the Dwelling or Accessory Building (Section 7.3(7)).
- 2. There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling (Section 75.1).
- 3. The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located (Section 75.3).
- 4. The number of non-resident employees or business partners working on-site shall not exceed one at any one time.
- 5. The site shall not be used as a daily rendezvous for employees or business partners.
- 6. The site shall not be used by employees or business partners as a parking or storage location.
- Maximum business associated visits shall not exceed 1 per day.
- 8. Client visit must be by-appointment only and appointments shall not overlap.
- There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
- 10. No person shall keep in any part of a Site in any Residential Zone any commercial vehicle, loaded or unloaded, of a maximum gross vehicle weight (G.V.W.) exceeding 4 600 kg. (Reference Section 45.1(a))
- 11. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
- 12. The business use must maintain the privacy and enjoyment of adjacent residences and the characteristic of the neighbourhood.
- 13. All parking for the Dwelling and Home Based Business must be accommodated on site unless a parking variance has been granted for this Major Home Based Business.
- 14. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
- 15. This approval is for a 5 year period from the date of this decision. This Development Permit expires on October 1, 2023. Should the business continue to locate at this location, an extension of Development Permit must be approved prior to October 1, 2023.

#### 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. This Development Permit is not a Business License.
- 3. Subject to the right of appeal. The permit is not valid until the required Notification Period expires (date noted below in accordance with Section 21.1 and 17.1).

#### Variances

Discretionary Use - Major Home Based Business is approved as a Discretionary Use (Section 110.3.5).



Project Number: **280399154-001**Application Date: APR 25, 2018
Printed: October 1, 2018 at 12:32 PM
Page: 3 of 3

### **Home Occupation**

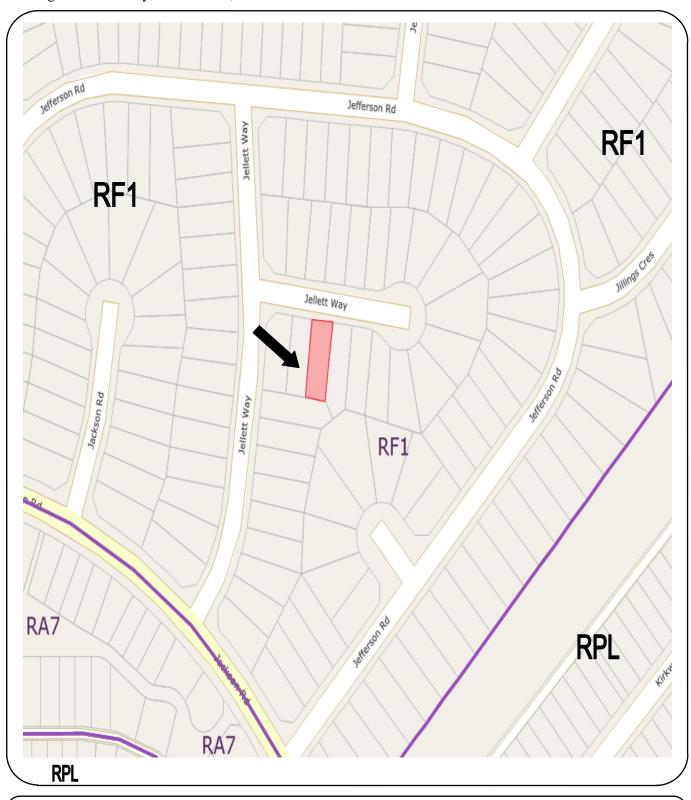
#### Rights of Appeal

This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Notice Period Begins: Oct 09, 2018 Ends: Oct 30, 2018

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$316.00	\$316.00	722872031048001	Apr 25, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$316.00	\$316.00		



### **SURROUNDING LAND USE DISTRICTS**

File: SDAB-D-18-182



Site Location

Ν