

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
November 24, 2016**

**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-16-301	Install (1) Fascia On-premises Sign (Full Force Fitness) 4150 - 101 Street NW Project No.: 232705755-001
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II	10:30 A.M.	SDAB-D-16-302	Kennedy Agrios LLP Change the use from a Flea Market Use to a Night Club and Major Amusement Establishment (1757m2 of Public space) 10251 - 109 Street NW Project No.: 188283359-001
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WITHDRAWN

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-16-301

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 232705755-001

ADDRESS OF APPELLANT: 4150 - 101 Street NW

APPLICATION TO: Install (1) Fascia On-premises Sign (Full Force Fitness)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 24, 2016

DATE OF APPEAL: October 27, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4150 - 101 Street NW

LEGAL DESCRIPTION: Plan 4984NY Blk 1 Lot 1

ZONE: IB Industrial Business Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

Please be advised that Permit Masters will be representing the property owner on the appeal of the above Development Permit. An application was submitted and subsequently refused for a Fascia Sign located at 4120 101 Street NW.

The reasons for refusal outlined Bylaw relaxations required. However, all the relaxations required are minor in nature and do not create negative impacts. Additionally, the proposed sign fits with the land use characteristics of the surrounding area which is largely industrial.

Additional information in support of the appeal will be presented at the hearing.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

...

The decision of the Development Officer is dated October 24, 2016. The Notice of Appeal was filed on October 27, 2016.

Determining an Appeal

Hearing and decision

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

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

...

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

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

(i) the proposed development would not

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

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

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Section 400.1 states that the **General Purpose** of the **IB Industrial Business Zone** is:

... to provide for industrial businesses that carry out their operations such that no nuisance is created or apparent outside an enclosed building and such that the Zone is compatible with any adjacent non-industrial Zone, and to accommodate limited, compatible non-industrial businesses. This Zone should normally be located on the periphery of industrial areas and adjacent to arterial or major collector roadways.

Under Section 400.2(13), **Fascia On-premises Signs** are a **Permitted Use** in the IB Industrial Business Zone.

Section 7.9(2) states:

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

Requirement to Face Public Roadway

Section 59F.2(1)(a) states that “Fascia On-premises Signs shall only face a public roadway other than a Lane”.

Section 6.1(57) defines **Lane** as “an alley as defined in the Traffic Safety Act”.

Subsection 1(1)(a) of the Alberta's *Traffic Safety Act*, RSA 2000, c T-6, states: "'alley' means a narrow highway intended chiefly to give access to the rear of buildings and parcels of land".

Subsection 1(1)(p) of the *Traffic Safety Act* states:

"highway" means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place or any part of any of them, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use for the passage or parking of vehicles and includes

- (i) a sidewalk, including a boulevard adjacent to the sidewalk,
- (ii) if a ditch lies adjacent to and parallel with the roadway, the ditch, and
- (iii) if a highway right of way is contained between fences or between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be,

but does not include a place declared by regulation not to be a highway;

Development Officer's Determination

The Development Officer referenced section 59F.2(1)(a) and made the following determination:

The proposed Fascia On-premises Sign faces West across two properties, a railway line and the parking lot of a hotel, and does not face a public roadway, contrary to Section 59F.2(1)(a).

Discretion of Development Officer

Section 59.2(6) states: "For all Sign Applications, the Development Officer shall have regard for the scale and architectural character of the building and the land use characteristics of surrounding development. The Development Officer shall refuse any Sign Application that may adversely impact the amenities or character of the Zone."

Development Officer's Determination

The Development Officer referenced section 59.2(6) and made the following determination:



The size of the Fascia On-premises Sign is significantly larger so that it could be viewed from Gateway Boulevard across two properties. As such the proposed Fascia On-premises Sign dominates the rear/west elevation

and is not in scale or have regards to architectural character with the building.

The large illuminated area of the proposed Fascia On-premises Sign would negatively impact and be a nuisance to the adjacent Hotel and their guest rooms, as well as interfere with the use, enjoyment and value of neighbouring properties.

Notice to Applicant/Appellant

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

	Project Number: 232705755-001 Application Date: OCT 14, 2016 Printed: November 15, 2016 at 11:03 AM Page: 1 of 2		
<h2 style="margin: 0;">Application for Sign Combo Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
Applicant 	Property Address(es) and Legal Description(s) 4150 - 101 STREET NW Plan 4984NY Blk 1 Lot 1 Location(s) of Work Suite: 4120 - 101 STREET NW Entryway: 4120 - 101 STREET NW Building: 4110 - 101 STREET NW		
Scope of Application To install (1) Fascia On-premises Sign (Full Force Fitness)			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> ASA Sticker No./Name of Engineer: 6219 Construction Value: 18632 </td> <td style="width: 50%; border: none;"> Class of Permit: Class A Expiry Date: </td> </tr> </table>		ASA Sticker No./Name of Engineer: 6219 Construction Value: 18632	Class of Permit: Class A Expiry Date:
ASA Sticker No./Name of Engineer: 6219 Construction Value: 18632	Class of Permit: Class A Expiry Date:		
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 1 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 0 Minor Digital On/Off-premises Sign: 0	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		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused			
THIS IS NOT A PERMIT			



Project Number: **232705755-001**
 Application Date: OCT 14, 2016
 Printed: November 15, 2016 at 11:03 AM
 Page: 2 of 2

Application for Sign Combo Permit

Reason for Refusal

1. Fascia On-premises Signs shall only face a public roadway other than a Lane. (Reference Section 59F.2(1)(a))

The proposed Fascia On-premises Sign faces West across two properties, a railway line and the parking lot of a hotel, and does not face a public roadway, contrary to Section 59F.2(1)(a).

2. For all Sign Applications, the Development Officer shall have regard for the scale and architectural character of the building and the land use characteristics of surrounding development. The Development Officer shall refuse any Sign Application that may adversely impact the amenities or character of the Zone. (Reference Section 59.2(6))

The size of the Fascia On-premises Sign is significantly larger so that it could be viewed from Gateway Boulevard across two properties. As such the proposed Fascia On-premises Sign dominates the rear/west elevation and is not in scale or have regards to architectural character with the building.

The large illuminated area of the proposed Fascia On-premises Sign would negatively impact and be a nuisance to the adjacent Hotel and their guest rooms, as well as interfere with the use, enjoyment and value of neighbouring properties.

Rights of Appeal

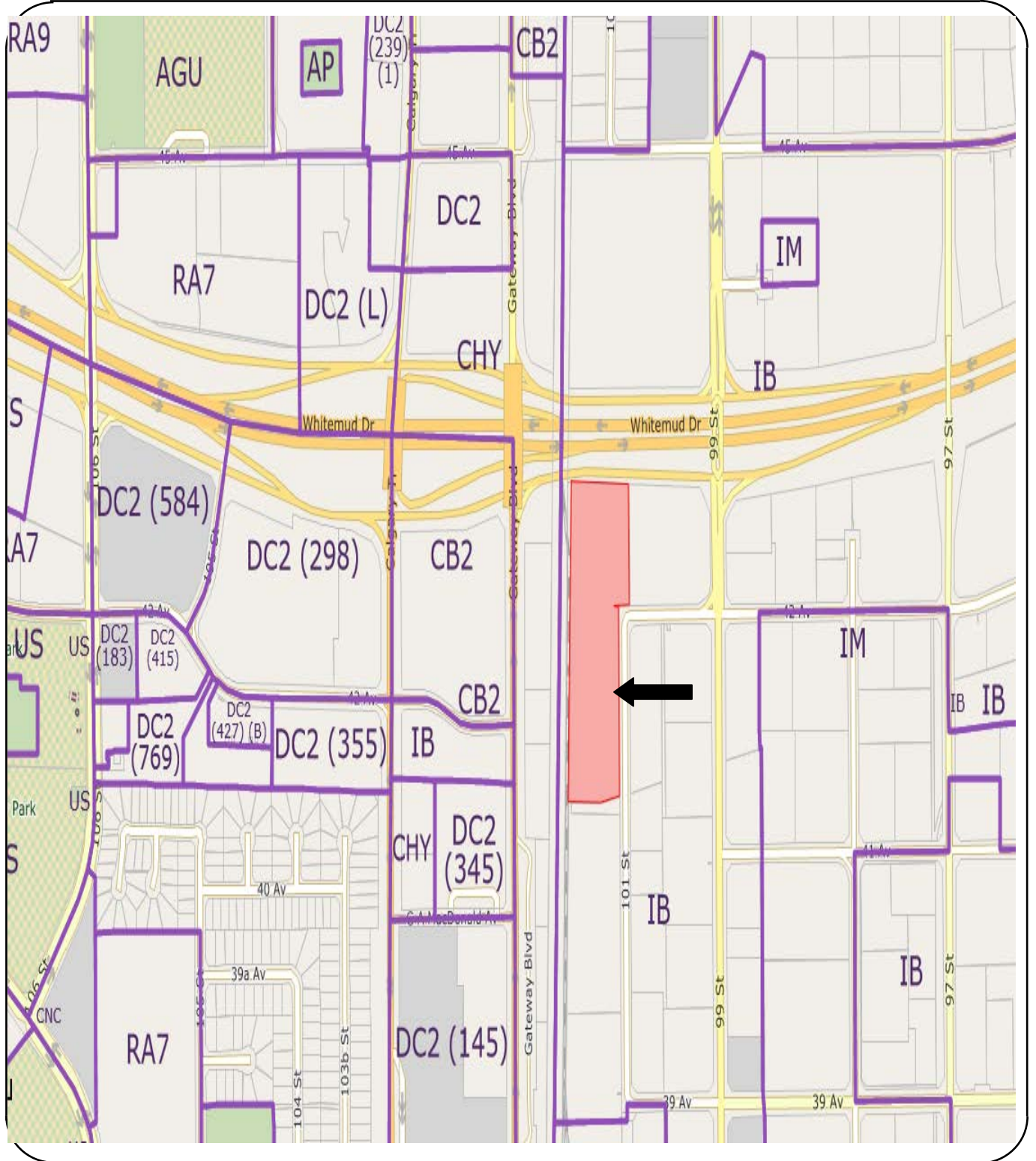
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Oct 24, 2016 **Development Authority:** DAUM, JENNA **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sign Building Permit Fee	\$190.00	\$190.00	03677036	Oct 14, 2016
Sign Development Application Fee	\$87.00	\$87.00	03677036	Oct 14, 2016
Safety Codes Fee	\$7.60	\$7.60	03677036	Oct 14, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$284.60	\$284.60		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-301



ITEM II: 10:30 A.M.

FILE: SDAB-D-16-302

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 188283359-001

ADDRESS OF APPELLANT: 10251 - 109 Street NW

APPLICATION TO: Change the use from a Flea Market Use to a Night Club and Major Amusement Establishment (1757m2 of Public space)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 10, 2016

DATE OF APPEAL: August 24, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10251 - 109 Street NW

LEGAL DESCRIPTION: Parcel B2 Blk 8 Lots 111-112

ZONE: W Urban Warehouse Zone

OVERLAY: Special Area Development Overlay

STATUTORY PLAN: Capital City Downtown Plan

WITHDRAWN



BUSINESS LAID OVER

SDAB-D-16-273	An appeal by <u>Olga Hagodnik</u> to construct an addition (3.33m x 7.39m carport) to a Single Detached House, existing without permits. <i>November 30 or December 1, 2016</i>
SDAB-D-16-144	An appeal by <u>Kiewit Energy Canada Corp</u> construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>November 30 or December 1, 2016</i>
SDAB-D-16-144	An appeal by <u>Anna Bashir</u> to erect a Privacy Screen 8ft in height along the Southwest portion of the property, along a Required Side Yard. <i>December 7, 2016</i>
SDAB-D-16-263	An appeal by <u>Alexander Tilley</u> to erect a fence higher than 1.2 m in a Side Yard abutting a public roadway other than a lane. <i>December 7 or 8, 2016</i>
SDAB-D-16-293	An appeal by <u>Vishal Aggarwal</u> to change the Use of a General retail Store to a Major Alcohol Sales. <i>January 11, 2017</i>
SDAB-S-14-001	An appeal by <u>Stantec Consulting Ltd.</u> to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 <i>January 25, 2017</i>

APPEAL HEARINGS TO BE SCHEDULED

000413016-003	An appeal by <u>Wigalo Holding Ltd. / Kennedy Agrios</u> to Comply with a Stop Order to Cease the Non-Accessory Parking, REMOVE all meters, signage and material related to parking and REFRAIN from allowing Non-Accessory Parking. <i>To Be Determined</i>
000413016-004	An appeal by <u>Wigalo Holding Ltd. / Kennedy Agrios</u> to Comply with a Stop Order to Cease the Non-Accessory Parking, REMOVE all meters, signage and material related to parking and REFRAIN from allowing Non-Accessory Parking. <i>To Be Determined</i>
228839673-001	An appeal by <u>C. Jorritsma</u> to park a Recreational Vehicle in the Front Yard of a Single Detached House. <i>December 7 or 8, 2016</i>
182548244-007	An appeal by <u>D. and T. Nekolaichuk</u> to construct an Accessory Building (Shed, 3.20 m x 3.12 m), existing without permits. <i>December 7 or 8, 2016</i>