

**SUBDIVISION**  
**AND**  
**DEVELOPMENT APPEAL BOARD**  
**AGENDA**

**Thursday, 9:00 A.M.**  
**November 26, 2020**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

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I 9:00 A.M. SDAB-D-20-164

**POSTPONEMENT REQUEST**

**\*To attend the video conference hearing,  
please register by November 23, 2020 by  
emailing [sdab@edmonton.ca](mailto:sdab@edmonton.ca)**

Operate a Special Event until May 21st, 2021, and  
to place on site two temporary Accessory  
Buildings (13.66m x 3.82m and 10.34m x 3.68m -  
temporary shower trailer)

9935 - 75 Avenue NW  
Project No.: 373652510-002

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

ITEM I: 9:00 A.M.

**POSTPONEMENT REQUEST**

FILE: SDAB-D-20-164

**\*To attend the video conferencing hearing, please register by November 23, 2020 by emailing [sdab@edmonton.ca](mailto:sdab@edmonton.ca)**

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 373652510-002

APPLICATION TO: Operate a Special Event until May 21st, 2021, and to place on site two temporary Accessory Buildings (13.66m x 3.82m and 10.34m x 3.68m - temporary shower trailer)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: October 22, 2020

NOTIFICATION PERIOD: October 29, 2020 through November 19, 2020

DATE OF APPEAL: November 2, 2020

RESPONDENT: Habitat Studio & Workshop Ltd.

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9935 - 75 Avenue NW

LEGAL DESCRIPTION: Plan 5064HW Lot A

ZONE: (IM) Medium Industrial Zone

OVERLAY: N/A

STATUTORY PLAN: Strathcona Junction Area Redevelopment Plan

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***Grounds for Appeal***

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

As a resident living 2 blocks away from Cessco I object to this Development Permit for the following reasons:

- 1) This was decided without consultation with the residential neighbourhood that will be affected, and announced with insufficient time to provide adequate responses by residents.
- 2) Issues of safety of person and property have not been addressed with residents who are already dealing with a spike in crime since the downtown arena and the Mustard Seed Centre on 81 ave. came into being. There is a school within a block of Cessco. The safety of students needs to be addressed as well. What is the safety and security plan? None has been conveyed so perhaps has yet to be created by the Mustard Seed and the City of Edmonton.
- 3) How is it that a Development Permit can be granted that essentially 'rezones'. Is there a due process that was or needed to be followed?

***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 clause (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 420.2(11), **Special Event** is a **Permitted Use** in the **(IM) Medium Industrial Zone**.

Under section 7.8(15), **Special Event** means:

a temporary activity occurring for a limited duration. This Use does not include activities related to Cannabis Lounges, Cannabis Retail Sales, Cannabis Production and Distribution, Body Rub Centres, or Adult Mini-Theatres.

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.”

Section 420.1 states that the **General Purpose** of the **(IM) Medium Industrial Zone** is:

to provide for manufacturing, processing, assembly, distribution, service and repair Uses that carry out a portion of their operation outdoors or

require outdoor storage areas. Any nuisance associated with such Uses should not generally extend beyond the boundaries of the Site. This Zone should normally be applied on the interior of industrial areas adjacent to collector and local industrial public roadways such that Uses are separated from any adjacent residential areas by a higher quality Industrial or Commercial Zone.

### ***Section 7 - Use Definitions***

#### **7.1 General**

1. Uses, as set out in subsections 7.2 through 7.9 inclusive, are grouped according to common functional or physical impact characteristics.
2. Use definitions are used to define the range of Uses, which are Permitted Uses or Discretionary Uses, within the various Zones of this Bylaw.
3. The following guidelines shall be applied in interpreting the Use definitions:
  - a. the typical purposes or activities, which may be listed in the definitions, are not intended to be exclusive or restrictive;
  - b. where specific purposes or activities do not conform to any Use definition or generally conform to the wording of two or more Use definitions, the Development Officer may, at their discretion, deem that the purposes or activities conform to and are included in that Use which they consider to be the most appropriate. In such a case, the Use shall be considered a Discretionary Use, whether or not the Use is listed as a Permitted Use or Discretionary Use within the applicable Zone; and
  - c. the headings such as Residential Uses or Commercial Uses do not mean that the Uses listed under these headings are permitted only in Residential or Commercial Zones of this Bylaw. Reference must be made to the lists of Permitted Uses and Discretionary Uses within each Zone.

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

**Section 7.1.(3)(b): Development Officer deem the Temporary Shelter Services as a Special Event Use.**

[unedited]

***Section 91 - Special Events***

1. Special Event shall be in accordance with the following:
  - a. exterior lighting shall provide a safe lit environment in accordance with Section 51 and 58;
  - b. all outdoor trash collection areas shall be screened or located away from the activity;
  - c. all event structures must be removed after the Special Event and the Site shall be cleared of all debris and returned to its original condition; and
  - d. Notwithstanding Section 50, where a temporary structure is erected as part of the function of an event:
    - i. the maximum Height of the structure above ground level shall not exceed the maximum Height of the Zone;
    - ii. Site Coverage and Floor Area Ratio of the underlying Zone shall not apply; and
    - iii. Setbacks shall only apply to those Setbacks which Abut a Zone where Residential Uses are a Permitted Use, except for Sites within the Special Area Downtown.
2. The maximum duration of a Special Event, inclusive of set-up and take-down, shall:
  - a. be up to 30 consecutive days, and up to a maximum of 30 cumulative days per calendar year; or
  - b. be of unlimited temporary duration between May 01 to August 31 or November 01 to December 31 in the same calendar year, where the Special Event is for the purpose of seasonal plant sales Accessory to a Use other than a Residential or Residential-Related Use.
3. Notwithstanding sections 11.3 and 91.2, the Development Officer may approve a Special Event for a longer duration or a duration other than the dates listed in 91.2(b), only if the Development Officer is satisfied that the Special Event is compatible with the character of the area and the other Uses located on, or Abutting, the Site, having regard for:
  - a. the siting of the event;
  - b. the location, size and height of the associated temporary structures, including Signs;

- c. the location and use of outdoor speakers and amplification systems is sensitive to adjacent Residential Uses;
- d. screening and buffering; and
- e. hours of operation.

In such cases, the development shall be considered a Class B Discretionary Development.

**Development Officer's Determination**

**Section 91.3 - Development Officer approved a Special Event for a duration longer than 30 consecutive days.**

[unedited]

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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.

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	Project Number: <b>373652510-002</b> Application Date: SEP 23, 2020 Printed: October 22, 2020 at 11:23 AM Page: 1 of 5		
<h2>Major Development Permit</h2>			
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.			
<b>Applicant</b>	<table border="1"> <tr> <td data-bbox="820 451 1380 546"> <b>Property Address(es) and Legal Description(s)</b>                      9935 - 75 AVENUE NW                      Plan 5064HW Lot A                 </td> </tr> <tr> <td data-bbox="820 546 1380 672"> <b>Specific Address(es)</b>                      Suite: 9935 - 75 AVENUE NW                      Entryway: 9935 - 75 AVENUE NW                      Building: 9935 - 75 AVENUE NW                 </td> </tr> </table>	<b>Property Address(es) and Legal Description(s)</b> 9935 - 75 AVENUE NW Plan 5064HW Lot A	<b>Specific Address(es)</b> Suite: 9935 - 75 AVENUE NW Entryway: 9935 - 75 AVENUE NW Building: 9935 - 75 AVENUE NW
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<b>Specific Address(es)</b> Suite: 9935 - 75 AVENUE NW Entryway: 9935 - 75 AVENUE NW Building: 9935 - 75 AVENUE NW			
<b>Scope of Permit</b> To operate a Special Event until May 21st, 2021, and to place on site two temporary Accessory Buildings (13.66m x3.82m and 10.34m x 3.68m - temporary shower trailer).			
<b>Permit Details</b> <table border="1" style="width: 100%;"> <tr> <td data-bbox="259 829 803 934">                     Class of Permit: Class B                      Gross Floor Area (sq.m.):                      New Sewer Service Required: N                      Site Area (sq. m.): 3410.59                 </td> <td data-bbox="820 829 1380 934">                     Contact Person:                      Lot Grading Needed?: N                      NumberOfMainFloorDwellings:                      Str. Plan Overlay/Annex Area: (none)                 </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 3410.59	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Str. Plan Overlay/Annex Area: (none)
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 3410.59	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Str. Plan Overlay/Annex Area: (none)		
<b>Development Permit Decision</b> Approved Issue Date: Oct 22, 2020 Development Authority: LI, CINDY			

	Project Number: <b>373652510-002</b> Application Date: SEP 23, 2020 Printed: October 22, 2020 at 11:23 AM Page: 2 of 5
<h2>Major Development Permit</h2>	
<p><b>Subject to the Following Conditions</b></p>	
<p>Zoning Conditions:</p>	
<ol style="list-style-type: none"> <li>1. This Development Permit expires on May 21st, 2021, at which time this operation shall discontinue, the temporary Accessory Buildings shall be removed, and the site shall be cleared of all debris. Any extension in duration shall require separate development approval.</li> <li>2. Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.</li> <li>3. All access locations and curb crossings shall require the approval of Transportation Services. (Reference Section 53(1))</li> <li>4. All new Signs require separate Development Applications. More information about Permanent Signs can be found on the City of Edmonton's website: <a href="https://www.edmonton.ca/programs_services/permanent-signs.aspx">https://www.edmonton.ca/programs_services/permanent-signs.aspx</a></li> <li>5. All outdoor trash collection areas shall be screened or located away from the activity. (Reference Section 91.1(b))</li> <li>6. No loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback. (Reference Section 420.4(3))</li> </ol>	
<p>Environmental Planning Conditions:</p>	
<ol style="list-style-type: none"> <li>1. An Environmental Site Assessment report(s) will be required during land use changes and/or if this special event is proposed to be extended beyond May 21, 2021.</li> </ol>	
<p>EPCOR Conditions:</p>	
<ol style="list-style-type: none"> <li>1. An Infill Fire Protection Assessment (IFPA) has been conducted and supported in lieu of EPCOR Water improvements to the site for this development. Refer to EPCPR Advisement (#8).</li> <li>2. Any party proposing construction involving ground disturbance to a depth exceeding 2m within 5m of the boundary of lands or rights-of-way (ROW) containing EPCOR Water facilities is required to enter into a Facility Proximity Agreement with EWWSI, prior to performing the ground disturbance. Additional information and requirements can be found in the City of Edmonton Bylaw 17698 (EPCOR Water Services and Wastewater Treatment). The process can take up to 4 weeks. More information can be requested by contacting <a href="mailto:waterlandadmin@epcor.com">waterlandadmin@epcor.com</a>.</li> </ol>	
<p>Fire Rescue Services Conditions:</p>	
<ol style="list-style-type: none"> <li>1) Ensure approval from the City of Edmonton has been obtained for the temporary change of use.</li> <li>2) Ensure all emergency lights are installed as per NBC-2019 (AE) and operable during a power outage for a minimum duration of 30 minutes and illuminate the path of exit travel.</li> <li>3) Ensure smoke alarms have been installed in all sleeping areas.</li> <li>4) Ensure a fire watch program conducted by attending staff is in place at all times the building(s) are occupied as a shelter.</li> <li>5) Ensure a comprehensive Operational Fire Safety Plan has been developed and reviewed by the attending staff while the building (s) are being used as a shelter.</li> <li>6) Ensure the layout of the mats provide adequate access aisle widths and egress paths leading to all exits.</li> <li>7) Ensure all exits leading to the outside are accessible and unobstructed at all times while occupied.</li> <li>8) Ensure all storeys have at least 1 serviced and maintained 2A-10BC multi-purpose portable fire extinguisher that is wall mounted near the exit(s).</li> <li>9) Ensure non-combustible containers are provided in the designated smoking area(s) to safely dispose of all smoking material and</li> </ol>	



Project Number: **373652510-002**  
Application Date: SEP 23, 2020  
Printed: October 22, 2020 at 11:23 AM  
Page: 3 of 5

## Major Development Permit

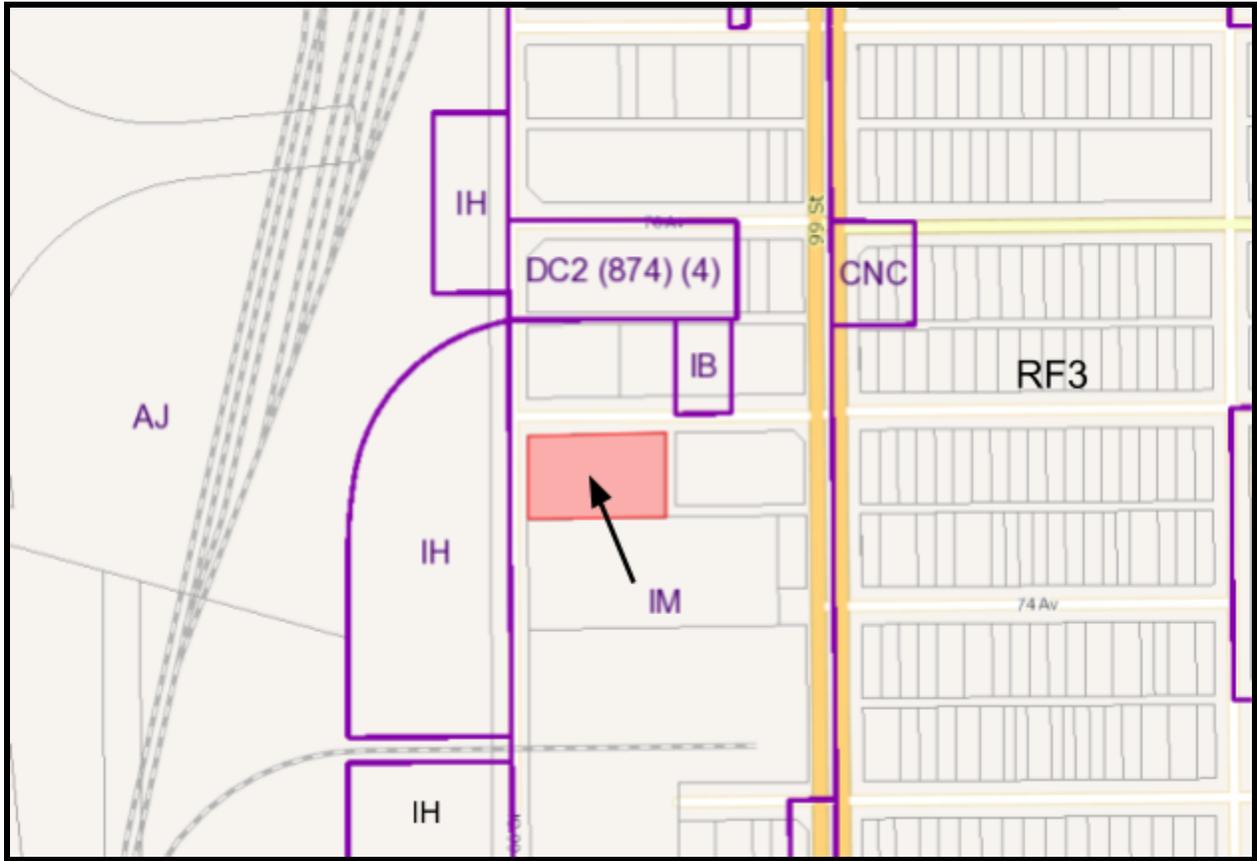
emptied daily.

10) Ensure the correct swing and hardware for the doors in the temporary shelter are compliant with occupant load requirements.

For more information, please contact Karen Faryna, FSCO Group B, Level II, [cmsfpts@edmonton.ca](mailto:cmsfpts@edmonton.ca)

	Project Number: <b>373652510-002</b> Application Date: SEP 23, 2020 Printed: October 22, 2020 at 11:23 AM Page: 4 of 5
<h2>Major Development Permit</h2>	
<b>Subject to the Following Advisements</b>	
<p>EPCOR Advisements:</p> <ol style="list-style-type: none"> <li>1. The site is currently serviced by a 20mm copper service located approximately 8.1m west of the west property line of the lane west of 99 Street NW off of a water main on 75 Avenue NW. The applicant is to contact EPCOR's Water Meter Inspector at 780-412-4000 a minimum of four weeks prior to commencing any work on the site, including demolition, excavation, or grading for direction on the correct process to follow to have the service isolated and meter removed.</li> <li>2. A new water service may be constructed for this lot directly off EPCOR's water 150mm/200mm PVC water main along 75 Avenue NW.</li> <li>3. The existing service may not be of sufficient size for the proposed development. The owner/applicant must review the total on-site water demands and service line capacity with a qualified engineer to determine the size of service required and ensure adequate water supply to the proposed development.</li> <li>4. For information on service abandonments and the provisioning of a new water service contact EPCOR Infill Water and Sewer Servicing at <a href="mailto:wass.drainage@epcor.com">wass.drainage@epcor.com</a> or at 780-496-5444.</li> <li>5. The applicant must submit bacteriological test results to EPCOR Water Dispatch, and must have a water serviceman turn on the valve. Contact EPCOR Water Dispatch at 780-412-4500 for more information on how to provide the test results. Water Dispatch can provide information on the tie-in and commissioning procedure.</li> <li>6. There is a deficiency in on-street hydrant spacing (distance between fire hydrants) adjacent to the property. City of Edmonton Standards requires hydrant spacing of 90) for the current zoning. Hydrant spacing in the area is approximately 99m (actual spacing) and does not meet the spacing requirement.</li> <li>7. EPCOR water must review and approve all proposed water infrastructure upgrade designs.</li> <li>8. Edmonton Fire Rescue Services (EFRS), Fire Protection Engineer has performed an Infill Fire Protection Assessment (IFPA) at development permit application to alter or lessen on-street fire protection infrastructure upgrades, assuming certain criteria are met, in lieu of the following EPCOR requirement: The applicant is required to construct one new hydrant on 75 Avenue NW and one new hydrant on 100 Street NW more or less as shown in the attachment (DP373652510-002_EPCOR Water Enclosure) at their expense. This work can be undertaken either under a City of Edmonton servicing agreement or under EPCOR Water Services, Inc.'s New Water Distribution Mains capital program. For more information on the EPCOR New Water program, please contact EPCOR New Water at <a href="mailto:waterdinfrastucture@epcor.com">waterdinfrastucture@epcor.com</a>.</li> <li>9. The depth of the site means that on-street fire protection will be unable to provide coverage over the complete site area. The applicant is advised to contact Fire Rescue Services for additional on-site fire protection requirements.</li> <li>10. No contractor or private developer may operate any EPCOR valves and only an EPCOR employee or EPCOR authorized agent can remove, operate or maintain EPCOR infrastructure.</li> <li>11. The advisements and conditions provided in this response are firm and cannot be altered.</li> </ol>	
<p>Zoning Advisements:</p> <ol style="list-style-type: none"> <li>1. The Development Permit shall NOT be valid unless and until the conditions of approval, save those of a continuing nature, have been fulfilled; and no notice of appeal from such approval has been served on the Subdivision and Development Appeal Board within the time period specified in subsection 21.1 (Ref. Section 17.1).</li> <li>2. This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.</li> <li>3. A Building Permit is required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.</li> </ol>	

	Project Number: <b>373652510-002</b> Application Date: SEP 23, 2020 Printed: October 22, 2020 at 11:23 AM Page: 5 of 5																				
<h2>Major Development Permit</h2>																					
<p>4. The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.</p> <p>5. 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.</p> <p><b>VariANCES</b>                  Section 7.1.(3)(b): Development Officer deem the Temporary Shelter Services as a Special Event Use.                   Section 91.3 - Development Officer approved a Special Event for a duration longer than 30 consecutive days.</p> <p><b>Rights of Appeal</b>                  This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.  <b>Notice Period Begins:</b> Oct 29, 2020      <b>Ends:</b> Nov 19, 2020</p>																					
<b>Fees</b>																					
	<table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 40%;"></th> <th style="text-align: right; width: 15%;">Fee Amount</th> <th style="text-align: right; width: 15%;">Amount Paid</th> <th style="text-align: left; width: 15%;">Receipt #</th> <th style="text-align: left; width: 15%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$375.00</td> <td style="text-align: right;">\$375.00</td> <td>0049850050710010</td> <td>Sep 24, 2020</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;">\$375.00</td> <td style="text-align: right; border-top: 1px solid black;">\$375.00</td> <td></td> <td></td> </tr> </tbody> </table>		Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$375.00	\$375.00	0049850050710010	Sep 24, 2020	Total GST Amount:	\$0.00				Totals for Permit:	\$375.00	\$375.00		
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**SURROUNDING LAND USE DISTRICTS**

Site Location ←      File: SDAB-D-20-164      ▲  
N