

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
November 15, 2017**

**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-17-220

To construct a Semi-detached House with
Unenclosed Front Porch and rear uncovered
decks

4238 - 114 Avenue NW
Project No.: 262394021-001

II 10:30 A.M. SDAB-D-17-221

To install (1) Freestanding Minor Digital Off-
premises Sign (7.6 metres by 3.7 metres facing
SW) (PATTISON-HOLIDAY INN)

4485 - Gateway Boulevard NW
Project No.: 258162485-001

TO BE RAISED

III 2:00 P.M. SDAB-S-17-006

To create 99 single detached residential lots,
168 semi-detached residential lots, two (2)
Municipal Reserve (non-credit) lots, one (1)
multiple family residential lot and three (3)
Public Utility Lots

3304 - 91 Street SW
Project No.: 168014476-001

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-17-220

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 262394021-001

APPLICATION TO: Construct a Semi-detached House with Unenclosed Front Porch and rear uncovered decks

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 20, 2017

DATE OF APPEAL: October 25, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4238 - 114 Avenue NW

LEGAL DESCRIPTION: Plan 2668HW Blk 21 Lot 10

ZONE: RF1-Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

Edmonton - Strathcona County Joint Planning Study Area Secondary and Garage Suites Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

With reference to your letter advising us on the reasons for refusal of our above referred application, we would like to appeal your decision on the following grounds:

- Noting that our intended development calls for a Discretionary ruling, we approached the planning office and discussed our intended proposal prior to the purchase of the property with an officer namely Mr. Luke. He advised us that he doesn't foresee any problems in the development and that we should continue with our planning to purchase and proceed with the development process. This discussion was also held with the planning office with other independent designers appointed by the owner competing for the award of the job.

- On acquisition of the said property and after completing the design and drawings of the development, the application was submitted to the planning office where it was prior checked by the officer before the fees and all other application details were completed. At that time the officer did not raise the issue of a discretionary approval and advised us that he does not foresee any problems and that we should pay the required application and processing fee and give the regulatory time for processing of the application and obtain a development permit.

- It hence now comes as surprise to us that the application has been refused as the discretionary use clause has not been applied. We as planners, have been put in an embarrassing situation for not only has the owner acquired a property for which his intended development cannot proceed but we have also had a considerable hit on our reputation and see this stand as a direct break in our business relationship with our client.

I look forward to reconsideration of the decision and an ultimate approval to proceed with the development.

<i>General Matters</i>

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.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

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 decision is made 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 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 110.1 states that 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.

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

... to regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Discretionary Use

Under Section 110.3(8), **Semi-detached Housing** is a **Discretionary** in (RF1) Single Detached Residential Zone.

Section 7.2(7) states:

Semi-detached Housing means development consisting of a building containing only two Dwellings joined in whole or in part at the side or rear with no Dwelling being placed over another in whole or in part. Each Dwelling has separate, individual, and direct access to Grade. This type of development is designed and constructed as two Dwellings at the time of initial construction of the building. This Use does not include Secondary Suites or Duplexes.

Development Officer's Determination

Section 12.4 and Section 110.3.8 - Semi-detached Housing is refused as a Discretionary Use.

Locational Criteria

Section 110.4(4) states Semi-detached Housing and Duplex Housing shall only be located:


- a. on Corner Sites;
- b. on Sites abutting an arterial or service road;
- c. where both Side Lot Lines abut existing Duplex or Semi-detached Housing; or
- d. where a minimum of one Side Lot Line:
 - i. abuts a Site where Row Housing, Apartment Housing, or a commercial Use is a Permitted Use, or
 - ii. is not separated from a Site where Row Housing, Apartment Housing or a commercial Use is a Permitted Use by a public roadway, including a Lane, more than 10.0 metres wide.

Development Officer's Determination

The Site does not meet the location criteria for a Semi-detached House development.

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: 262394021-001 Application Date: SEP 18, 2017 Printed: October 25, 2017 at 11:24 AM Page: 1 of 2		
<h2 style="margin: 0;">Application for Minor Development Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
Applicant <div style="border: 1px solid black; width: 100%; height: 50px;"></div>	Property Address(es) and Legal Description(s) 4238 - 114 AVENUE NW Plan 2668HW Blk 21 Lot 10 Specific Address(es) Entryway: 4238 - 114 AVENUE NW Entryway: 4240 - 114 AVENUE NW Building: 4238 - 114 AVENUE NW		
Scope of Application To construct a Semi-detached House with Unenclosed Front Porch and rear uncovered decks.			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> # of Dwelling Units Add/Remove: 1 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N </td> <td style="width: 50%; border: none;"> Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		# of Dwelling Units Add/Remove: 1 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N	Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
# of Dwelling Units Add/Remove: 1 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N	Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused Reason for Refusal Development Permit application for a Semi-detached House is refused for the following reasons: Section 12.4 and Section 110.3.8 - Semi-detached Housing is refused as a Discretionary Use. Section 110.4.4 - Semi-detached Housing shall only be located: (a) on Corner Sites; (b) on Sites abutting an arterial or service road; (c) where both Side Lot Lines abut existing Duplex or Semi-detached Housing; or (d) where a minimum of one Side Lot Line: i. abuts a Site where Row Housing, Apartment Housing, or a commercial Use is a Permitted Use, or ii. is not separated from a Site where Row Housing, Apartment Housing or a commercial Use is a Permitted Use by a public roadway, including a Lane, more than 10.0 m wide. - The Site does not meet the location criteria for a Semi-detached House development.			
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 20, 2017 Development Authority: YEUNG, KENNETH Signature: _____			
THIS IS NOT A PERMIT			



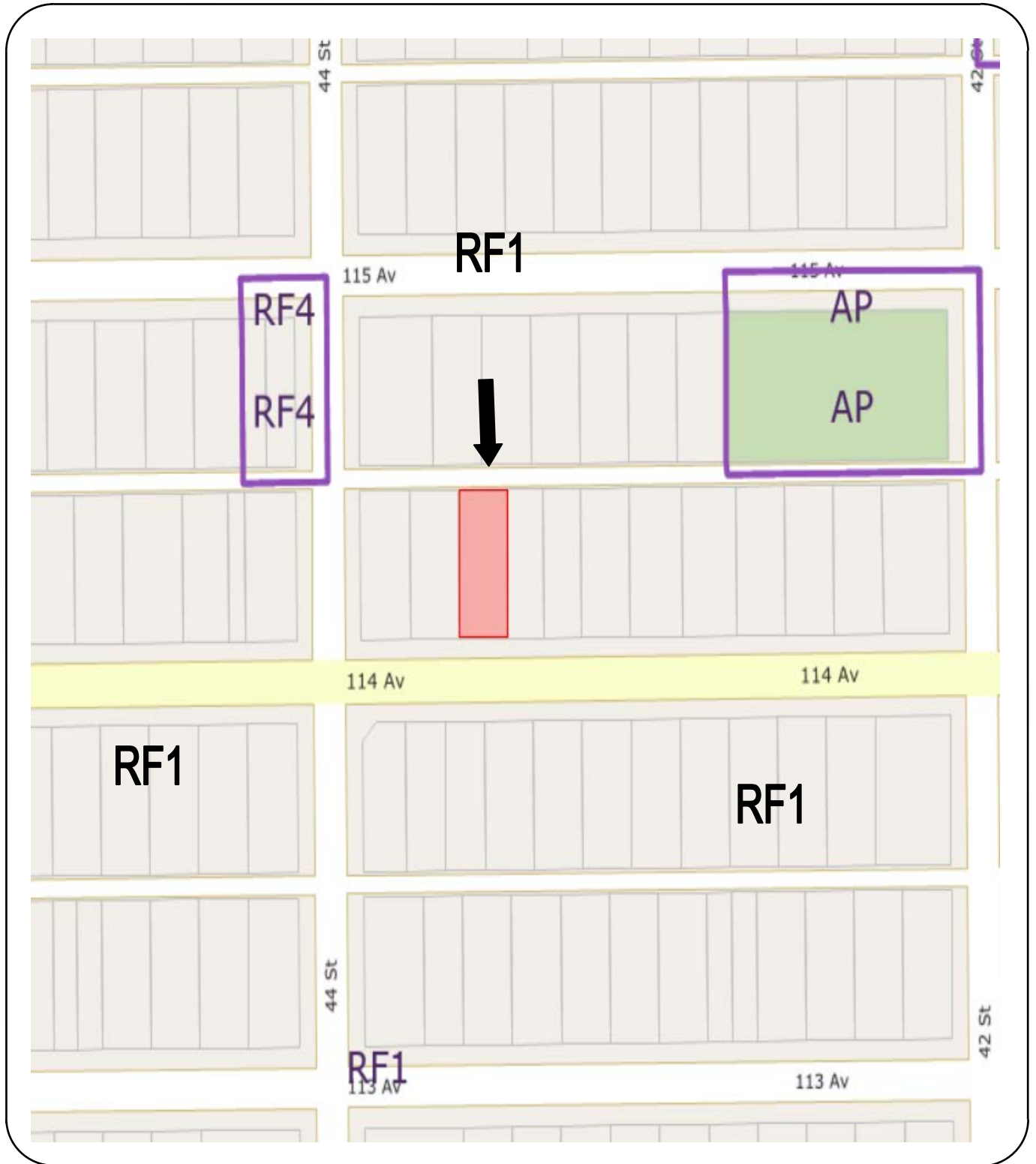
Project Number: **262394021-001**
Application Date: SEP 18, 2017
Printed: October 25, 2017 at 11:24 AM
Page: 2 of 2

Application for Minor Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$475.00	\$475.00	04460457	Sep 18, 2017
Sanitary Sewer Trunk Fund	\$1,566.00	\$1,566.00	04460457	Sep 18, 2017
Lot Grading Fee	\$140.00	\$140.00	04460457	Sep 18, 2017
Development Permit Inspection Fee	\$200.00	\$200.00	04460457	Sep 18, 2017
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$2,381.00	<u>\$2,381.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-220



ITEM II: 10:30 A.M.

FILE: SDAB-D-17-221

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 258162485-001

APPLICATION TO: Install one (1) Freestanding Minor Digital Off-premises Sign (7.6 metres by 3.7 metres facing SW) (Pattison-Holiday Inn)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 10, 2017

DATE OF APPEAL: October 18, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4485 - Gateway Boulevard NW

LEGAL DESCRIPTION: Plan 9822688 Lot B

ZONE: (CHY) Highway Corridor Zone

OVERLAY: Major Commercial Corridors Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

We are solicitors for Pattison Outdoor Advertising, the Applicant in the above noted matter. Our clients' Development Permit Application has been refused. On behalf of our clients, we hereby appeal the refusal on the following grounds:

1. Minor Digital On-premises Off-premises Signs are an available Use in the (CHY) Highway Corridor Zone.

2. The digital hotel signs referenced in the refusal are merely a "crawler" component of large, On-premises Signs advertising those hotels. The proposed sign will serve the same function as far as the Holiday Inn is concerned but will do so in a more aesthetically pleasing manner and will allow for third party advertising.
3. The referenced "billboard" style sign is not visible from Gateway Boulevard but is located behind the Holiday Inn on the CPR Right-of-Way.
4. The requested setback is within the tolerances contained in the Zoning Bylaw.
5. The proposed sign would be appropriate at this location and would not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.
6. The City's Transportation Department has no objections to the proposed development of which we are aware.
7. Such further and other reasons as may be presented at the hearing of this appeal.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

(a) in the case of an appeal made by a person referred to in section 685(1)

(i) with respect to an application for a development permit,

(A) within 21 days after the date on which the decision is made 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 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.

Definitions

616(dd) In this Part,

“statutory plan” means an intermunicipal development plan, a municipal development plan, an area structure plan and an area redevelopment plan adopted by a municipality under Division 4.

General Provisions from the *Edmonton Zoning Bylaw*:

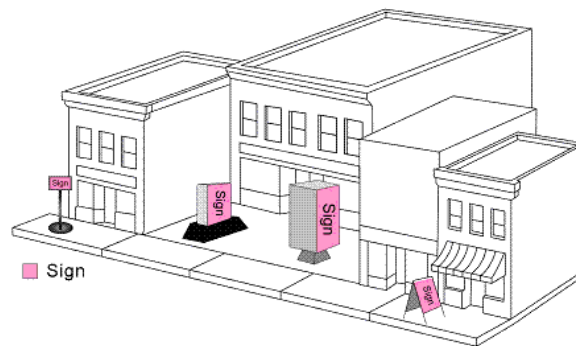
Under section 350.3(27), **Minor Digital Off-premises Signs** is a **Discretionary Use** in the (CHY) Highway Corridor Zone.

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

any Sign that is remotely changed on or off Site and has a Message Duration greater than or equal to 6 seconds. Minor Digital Off-premises Signs incorporate a technology or method allowing the Sign to change Copy without having to physically or mechanically replace the Sign face or its components. The Copy on such Sign directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, entertainment or service provided on the premises or Site where the Sign is displayed.

Under section 6.2(8), **Freestanding Signs** means:

any On-premises or Off-premises Sign supported independently of a building. The Sign may take the form of single or multiple icons, product or corporate symbol, may involve a three dimensional or volumetric representation, may have single or multiple faces and may or may not be permanently fixed to the ground;



Section 350.4(10) states “Signs shall comply with the regulations found in Schedule 59F.”

Section 350.1 states that the **General Purpose** of the **(CHY) Highway Corridor Zone** is:

to provide for high quality commercial development along those public roadways, which serve as entrance routes to the City or along limited access public roadways intended to provide a connection to entrance routes.

Section 813.1 states that the **General Purpose** of the **Major Commercial Corridors Overlay** is:

to ensure that development along Major Commercial Corridors is visually attractive and that due consideration is given to pedestrian and traffic safety.

Schedule 59F Sign Regulations

Schedule 59F.3(6) states:

Minor Digital On-premises Off-premises Signs and Minor Digital Off-premises Signs shall be subject to the following regulations:

- a. proposed Signs are prohibited in the civic centre area bounded by 105 Avenue to the north, the North Saskatchewan River Valley to the south, 97 Street to the east, and 100 Street to the west;
- b. the maximum Height shall be 8.0 m;
- c. the maximum Width shall be 16.0 m;
- d. the maximum Area shall be:
 - i. ...
 - ii. 65.0 m² for proposed Signs that are Freestanding Signs. The maximum combined Area of Digital Sign Copy and any other type of Copy on the same Sign face shall not exceed 65.0 m²;
- e. proposed Sign locations shall be separated from any other Digital Sign greater than 8.0 m² or Off-premises Sign as follows:

Proposed Sign Area	Minimum separation distance from Digital Signs greater than <u>8.0 m²</u> or other Off-premises Sign
Greater than <u>8.0 m²</u> to less than <u>20 m²</u>	<u>100 m</u>
<u>20 m²</u> to <u>40 m²</u>	<u>200 m</u>
Greater than <u>40 m²</u>	<u>300 m</u>

The separation shall be applied from the larger Off-premises Sign or Digital Sign location.

- f. ...

- g. ...
- h. ...
- i. ...
- j. proposed Signs with an Area greater than 8.0 m² shall not be located within any Setback;
- k. the maximum number of Freestanding On-premises Signs, Roof On-premises Signs, Major Digital Signs, Minor Digital On-premises Signs, Minor Digital On-premises Off-premises Signs and Minor Digital Off-premises Signs on a Site shall be four; and
- l. an application for the renewal of a Sign with a lawful permit existing at the time of the passage of Bylaw 15892 will not be refused for the sole reason that it does not comply with all development regulations of this Bylaw. Application renewals shall demonstrate that the Sign meets the automatic light level controls outlined in Section 59.2(5) and traffic safety regulations in Section 59.2(2).

Under section 6.2(24), **Sign Area** means:

the entire area of the Sign on which Copy is intended to be placed. In the case of double-faced or multi-faced Sign, only half of the area of each face of the Sign used to display advertising Copy shall be used in calculating the total Sign Area.

Development Officer's Determination

Area of Existing Sign [DELTA HOTEL]: ~15 m²
Location: 4404 Gateway Boulevard NW
Required Separation Distance: 200 m
Proposed Separation Distance: 52 m
Deficient by: 148m

Area of Existing Sign [RADISSON HOTEL]: ~11 m²
Location: 4440 Gateway Boulevard NW
Required Separation Distance: 200 m
Proposed Separation Distance: 112 m
Deficient by: 88m

Area of Existing Sign [PATTISON SIGN]: 18.6 m²
Location: 2303 Gateway Boulevard NW
Required Separation Distance: 200 m
Proposed Separation Distance: 49.9 m
Deficient by: 150.1 m

The Zoning Bylaw establishes the separation distances between digital signs and off-premises signs to prevent the proliferation of such signs.

Major Commercial Corridors Overlay

Section 813.4(6)(a) states:

Setbacks with a minimum Width of 7.5 m shall be provided adjacent to Major Arterial Roads within the Major Commercial Corridors and adjacent Arterial Roads that directly intersect such Major Arterial Roads. However, the Development Officer may use variance power to reduce this Setback requirement to a minimum Width of 4.5 m, provided that:

- i. the average Width of the Setback is not less than 6.0 m; and
- ii. this Setback width relaxation is required to allow for a more efficient utilization of the Site and the relaxation shall result in an articulation of the Setback width that shall enhance the overall appearance of the Site.

Under section 6.1(97), **Setback** means “the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space.”

Development Officer’s Determination

Required Setback: 6.0m, or 4.5m if setback enhances the overall appearance of the Site.
Proposed: 5.3m
Deficient by: 0.7m

In the opinion of the Development Officer, a variance to this setback will not enhance the appearance of the Site, and is contrary to Section 813.3(6)(a)(ii).

Calgary Trail Land Use Study


Development Officer's Determination

"Greater attention shall be given to improving the location, siting, Signage comprehensibility and design of signage in the corridor by discouraging the use of portable signs and free-standing billboards." (Section 3.4(b)(ii) of the Calgary Trail Land Use Study)

The proposed freestanding Minor Digital Off-Premises Sign is contrary to Section 3.4(b)(ii) of the Calgary Trail Land Use Study.

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: 258162485-001 Application Date: JUL 26, 2017 Printed: October 18, 2017 at 10:28 AM Page: 1 of 3
<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) 4485 - GATEWAY BOULEVARD NW Plan 9822688 Lot B
Scope of Application To install (1) Freestanding Minor Digital Off-premises Sign (7.6m x 3.7m facing SW) (PATTISON-HOLIDAY INN).	
Permit Details	
ASA Sticker No./Name of Engineer: Construction Value: 100000	Class of Permit: Expiry Date:
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 1 Minor Digital On/Off-premises Sign: 0	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: 258162485-001
Application Date: JUL 26, 2017
Printed: October 18, 2017 at 10:28 AM
Page: 2 of 3

Application for Sign Combo Permit

Reason for Refusal

1) Proposed Sign locations shall be separated from Digital Signs greater than 8.0m² or Off-premises Signs greater than 20m² by 200m. The separation shall be applied from the larger Off-premises Sign or Digital Sign location. (Section 59F.3(6)(e)).

Area of Existing Sign [DELTA HOTEL]: ~15 m²
Location: 4404 Gateway Boulevard NW
Required Separation Distance: 200 m
Proposed Separation Distance: 52 m
Deficient by: 148m

Area of Existing Sign [RADISSON HOTEL]: ~11 m²
Location: 4440 Gateway Boulevard NW
Required Separation Distance: 200 m
Proposed Separation Distance: 112 m
Deficient by: 88m

Area of Existing Sign [PATTISON SIGN]: 18.6 m²
Location: 2303 Gateway Boulevard NW
Required Separation Distance: 200 m
Proposed Separation Distance: 49.9 m
Deficient by: 150.1 m

The Zoning Bylaw establishes the separation distances between digital signs and off-premises signs to prevent the proliferation of such signs.

2) Setbacks with a minimum Width of 7.5 m shall be provided adjacent to Major Arterial Roads within the Major Commercial Corridors and adjacent Arterial Roads that directly intersect such Major Arterial Roads. However, the Development Officer may use variance power to reduce this Setback requirement to a minimum Width of 4.5 m, provided that: (Section 813.3(6)(a))

i) the average Width of the Setback is not less than 6.0 m; and
ii) this Setback width relaxation is required to allow for a more efficient utilization of the Site and the relaxation shall result in an articulation of the Setback width that shall enhance the overall appearance of the Site.

Required Setback: 6.0m, or 4.5m if setback enhances the overall appearance of the Site.
Proposed: 5.3m
Deficient by: 0.7m

In the opinion of the Development Officer, a variance to this setback will not enhance the appearance of the Site, and is contrary to Section 813.3(6)(a)(ii).

3) "Greater attention shall be given to improving the location, siting, Signage comprehensibility and design of signage in the corridor by discouraging the use of portable signs and free-standing billboards." (Section 3.4(b)(ii) of the Calgary Trail Land Use Study)

The proposed freestanding Minor Digital Off-Premises Sign is contrary to Section 3.4(b)(ii) of the Calgary Trail Land Use Study.

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 10, 2017

Development Authority: NOORMAN, BRENDA

Signature: _____

THIS IS NOT A PERMIT



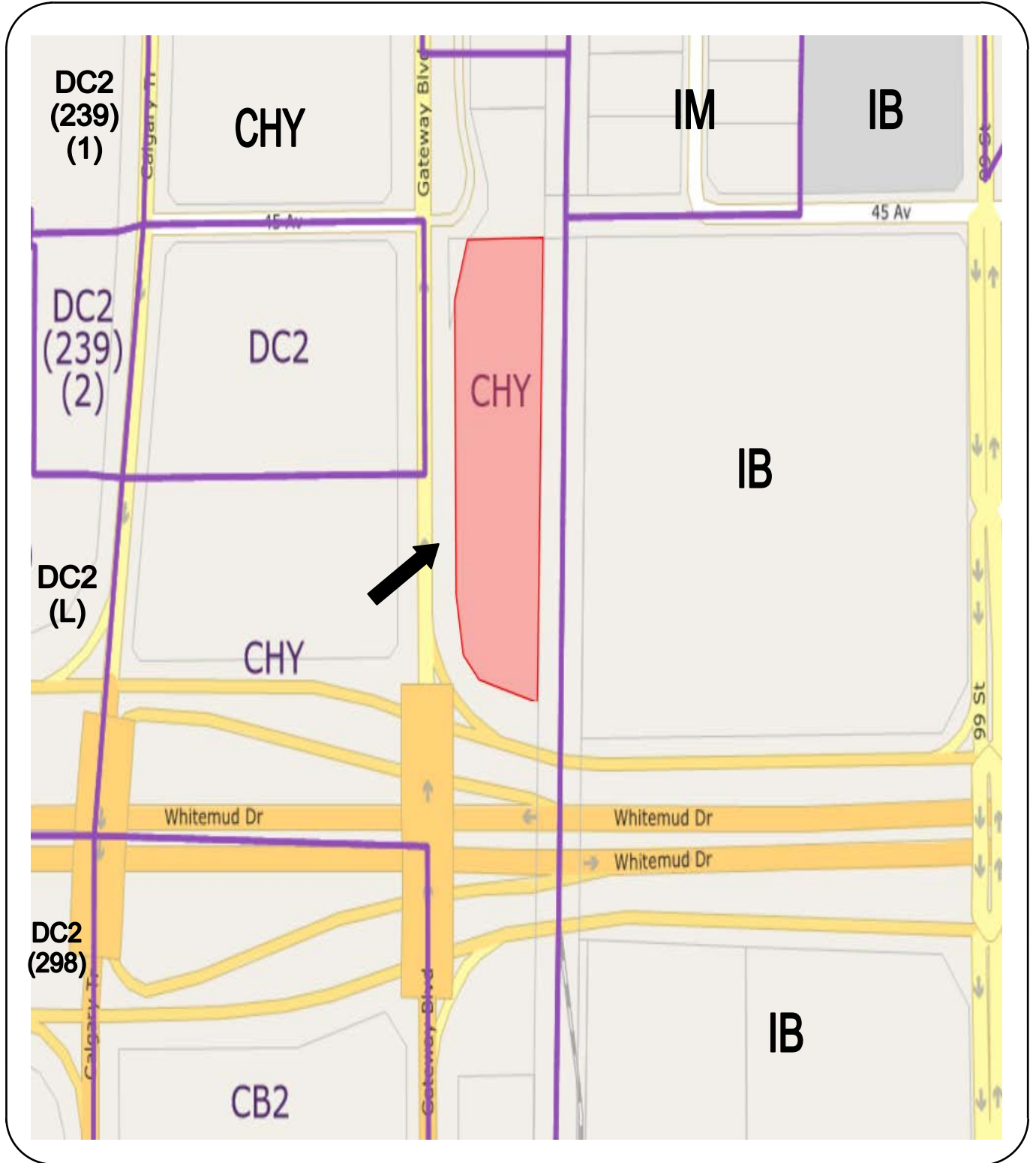
Project Number: **258162485-001**
Application Date: JUL 26, 2017
Printed: October 18, 2017 at 10:28 AM
Page: 3 of 3

Application for Sign Combo Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$40.00	\$40.00	04324271	Jul 27, 2017
Sign Dev Appl Fee - Digital Signs	\$442.00	\$442.00	04324271	Jul 27, 2017
Sign Building Permit Fee	\$1,000.00	\$1,000.00	04324271	Jul 27, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,482.00	\$1,482.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-221



TO BE RAISED
ITEM III: 2:00 P.M.

FILE: SDAB-S-17-006

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 168014476-001

APPLICATION TO: Create 99 single detached residential lots, 168 semi-detached residential lots, two (2) Municipal Reserve (non-credit) lots, one (1) multiple family residential lot and three (3) Public Utility Lots

DECISION OF THE SUBDIVISION AUTHORITY: SA Approved With Conditions

DECISION DATE: July 27, 2017

DATE OF APPEAL: August 10, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3304 - 91 Street SW

LEGAL DESCRIPTION: Plan 2310TR Lot B

ZONE: AP Public Parks Zone; PU Public Utility Zone; RA7 Low Rise Apartment Zone; RF4 Semi-detached Residential Zone; RSL Residential Small Lot 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:

- 1) We disagree with the amount for cash-in-lieu payment for Municipal Reserves as indicated in Article II;
- 2) We disagree with not receiving MR credit for the 20m wide greenway connecting the Storm Water Management Facility to the Park to the south. **[NOTE: Email from Appellant dated August 15, 2007 states: Please remove the appeal for non-credit MR. We believe that the MR greenway should receive MR credit, but as it is stated within the approved statutory plan, the SDAB does not have the authority to overturn this condition.]**

<i>General Matters</i>

The Subdivision and Development Appeal Board made and passed the following motion:

“That SDAB-S-17-006 be tabled to October 25 or 25, 2017.”

The Subdivision and Development Appeal Board made and passed the following motion:

“That this appeal hearing be tabled to November 15 or 16, 2017, at the written request of Legal Counsel for the Subdivision Authority with the consent of the Applicant.”

Appeal Information:

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

Appeals

678(1) The decision of a subdivision authority on an application for subdivision approval may be appealed

- (a) by the applicant for the approval,
- (b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- (c) by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the municipal planning commission of the municipality is not the subdivision authority, or
- (d) by a school board with respect to

- (i) the allocation of municipal reserve and school reserve or money in place of the reserve,
- (ii) the location of school reserve allocated to it, or
- (iii) the amount of school reserve or money in place of the reserve.

(2) An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681

- (a) with the Municipal Government Board if the land that is the subject of the application is within the Green Area, as classified by the Minister responsible for the *Public Lands Act*, or is within the distance of a highway, a body of water or a sewage treatment or waste management facility set out in the subdivision and development regulations, or
- (b) in all other cases, with the subdivision and development appeal board.

(2.1) ...

(3) For the purpose of subsection (2), the date of receipt of the decision is deemed to be 5 days from the date the decision is mailed.

(4) A notice of appeal under this section must contain

- (a) the legal description and municipal location, if applicable, of the land proposed to be subdivided, and
- (b) the reasons for appeal, including the issues in the decision or the conditions imposed in the approval that are the subject of the appeal.

(5) If the applicant files a notice of appeal within 14 days after receipt of the written decision or the deemed refusal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board.

Hearing and decision

680(2) In determining an appeal, the board hearing the appeal

- (a) must act in accordance with any applicable ALSA regional plan;
- (a.1) must have regard to any statutory plan;
- (b) must conform with the uses of land referred to in a land use bylaw;
- (c) must be consistent with the land use policies;
- (d) must have regard to but is not bound by the subdivision and development regulations;
- (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;
- (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

Subdivision of Land

Approval of application

654(1) A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,

- (b) the proposed subdivision conforms to the provisions of any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,
 - (c) the proposed subdivision complies with this Part and the regulations under this Part, and
 - (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.
- (2) A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,
- (a) the proposed subdivision would not
 - (i) unduly interfere with the amenities of the neighbourhood, or
 - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,and
 - (b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.
- (3) A subdivision authority may approve or refuse an application for subdivision approval.

Conditions of subdivision approval

655(1) A subdivision authority may impose the following conditions or any other conditions permitted to be imposed by the subdivision and development regulations on a subdivision approval issued by it:

- (a) any conditions to ensure that this Part and the statutory plans and land use bylaws and the regulations under this Part, and any applicable ALSA regional plan, affecting the land proposed to be subdivided are complied with;
- (b) a condition that the applicant enter into an agreement with the municipality to do any or all of the following:

- (i) to construct or pay for the construction of a road required to give access to the subdivision;
- (ii) to construct or pay for the construction of
 - (A) a pedestrian walkway system to serve the subdivision, or
 - (B) pedestrian walkways to connect the pedestrian walkway system serving the subdivision with a pedestrian walkway system that serves or is proposed to serve an adjacent subdivision,or both;
- (iii) to install or pay for the installation of a public utility described in section 616(v)(i) to (ix) that is necessary to serve the subdivision, whether or not the public utility is, or will be, located on the land that is the subject of the subdivision approval;
- (iv) to construct or pay for the construction of
 - (A) off-street or other parking facilities, and
 - (B) loading and unloading facilities;
- (v) to pay an off-site levy or redevelopment levy imposed by bylaw;
- (vi) to give security to ensure that the terms of the agreement under this section are carried out.

(2) A municipality may register a caveat under the *Land Titles Act* in respect of an agreement under subsection (1)(b) against the certificate of title for the parcel of land that is the subject of the subdivision.

(3) If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the agreement has been complied with.

(4) Where a condition on a subdivision approval has, prior to the coming into force of this subsection, required the applicant to install a public utility or pay an amount for a public utility referred to in subsection (1)(b)(iii), that condition is deemed to have been validly imposed, whether or not the public utility was located on the land that was the subject of the subdivision approval.

Municipal and school reserves

666(1) Subject to section 663, a subdivision authority may require the owner of a parcel of land that is the subject of a proposed subdivision

- (a) to provide part of that parcel of land as municipal reserve, school reserve or municipal and school reserve,
- (b) to provide money in place of municipal reserve, school reserve or municipal and school reserve, or
- (c) to provide any combination of land or money referred to in clauses (a) and (b).

(2) The aggregate amount of land that may be required under subsection (1) may not exceed the percentage set out in the municipal development plan, which may not exceed 10% of the parcel of land less the land required to be provided as environmental reserve and the land made subject to an environmental reserve easement.

(3) The total amount of money that may be required to be provided under subsection (1) may not exceed 10% of the appraised market value, determined in accordance with section 667, of the parcel of land less the land required to be provided as environmental reserve and the land subject to an environmental reserve easement.

(4) When a combination of land and money is required to be provided, the sum of

- (a) the percentage of land required under subsection (2), and
- (b) the percentage of the appraised market value of the land required under subsection (3)

may not exceed 10% or a lesser percentage set out in the municipal development plan.

Money in place of municipal, school reserve

667(1) If money is required to be provided in place of municipal reserve, school reserve or municipal and school reserve, the applicant must provide

- (a) a market value appraisal of the existing parcel of land as of a specified date occurring within the 35-day period following the date on which the application for subdivision approval is made
 - (i) as if the use proposed for the land that is the subject of the proposed subdivision conforms with any use

prescribed in a statutory plan or land use bylaw for that land, and

- (ii) on the basis of what might be expected to be realized if the land were in an unsubdivided state and sold in the open market by a willing seller to a willing buyer on the date on which the appraisal is made,

or

- (b) if the applicant and the subdivision authority agree, a land value based on a method other than that described in clause (a).

- (2) If money is required to be provided in place of municipal reserve, school reserve or municipal and school reserve, the subdivision authority must specify the amount of money required to be provided at the same time that subdivision approval is given.

<p><i>Conditions Under Appeal</i></p>

The subdivision approval was subject to a number of conditions, one of which the Appellant objects to:

Condition I(1): “that the owner provide money in place of Municipal Reserve (MR), in the amount of \$840,294.00 representing 1.62 ha pursuant to Section 666 and Section 667 of the Municipal Government Act”.

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*.



Subdivision Authority

7th Floor, Edmonton Tower
10111 – 104 Avenue NW
Edmonton, Alberta T5J 0J4

July 27, 2017

File No. LDA15-0099

[REDACTED]

RE: Tentative plan of subdivision to create 99 single detached residential lots, 168 semi-detached residential lots, two (2) Municipal Reserve (non-credit) lots, one (1) multiple family residential lot and three(3) Public Utility lots from Lot B, Plan 2310 TR and closed portions of 91 Street SW located south of Mayday Lane SW and west of 91 Street SW; **THE ORCHARDS AT ELLERSLIE**

I The Subdivision by Plan is **APPROVED** on July 27, 2017, subject to the following conditions:

1. that the owner provide money in place of Municipal Reserve (MR), in the amount of \$840,294.00 representing 1.62 ha pursuant to Section 666 and Section 667 of the Municipal Government Act;
2. that the owner create 0.15 ha and 0.14 ha MR (non-credit) lots as shown on the "Conditions of Approval" map, Enclosure I;
3. that the owner enter into a Servicing Agreement with the City of Edmonton pursuant to Section 655 of the Municipal Government Act;
4. that the owner prepare the necessary plans and documentation to grant new or carry forward existing easements and restrictive covenants in favour of the City of Edmonton, EPCOR Distribution & Transmission Inc., and EPCOR Water Services Inc., as required by the aforementioned agencies or shown on the engineering drawings that are deemed to be part of the Servicing Agreement;
5. that the subdivision boundary be amended to include the Public Utility Lots (PUL) as shown on the "Conditions of Approval" map, Enclosure II;
6. that LDA17-0137 to amend the Edmonton Zoning Bylaw shall be approved prior to the endorsement of the plan of survey;
7. that the approved subdivisions LDA14-0219 and LDA15-0050 be registered prior to or concurrent with this application;
8. that the owner be permitted to register this plan of subdivision in phases in sequential order, at the discretion of the Chief Subdivision Officer, having regard to the provision of roadways, MR, and the logical extension of services, as shown on the "Conditions of Approval" map, Enclosure I;

9. that the owner register a freeboard restrictive covenant in favour of the City of Edmonton against the lots backing onto the Storm Water Management Facility (SWMF) as shown on the "Conditions of Approval" map, Enclosure I;
 10. that the owner register a disturbed soil restrictive covenant in favour of the City of Edmonton against the lots flanking the walkway, as shown on the "Conditions of Approval" map, Enclosure I; and
 11. that the owner pay all outstanding property taxes prior to the endorsement of the plan of survey.
- II That the Servicing Agreement required in Clause I (3) contain, among other things, the following:**
1. that the owner pay all servicing costs, assessments, roadway modification costs (including but not limited to sidewalk, shared use path and/or transit infrastructure), construction costs and inspection costs required by this subdivision;
 2. that the owner pay all costs specified in the Servicing Agreement prior to endorsement of the plan of survey;
 3. that the owner pay the Drainage Assessments applicable to this subdivision;
 4. that the owner pay the Arterial Roadway Assessments applicable to this subdivision;
 5. that the owner submits an Erosion and Sediment Control (ESC) Plan specific for this development and for implementation during and after construction in accordance with the City of Edmonton ESC Guidelines and Field Manual;
 6. that the owner submits detailed engineering drawings and technical studies in accordance with the City of Edmonton Design and Construction Standards and to the satisfaction of the City Departments and affected utility agencies;
 7. that the owner constructs a temporary offset 17 m radius transit turnaround to the satisfaction of Transportation Planning and Engineering, as shown on the "Conditions of Approval" map, Enclosure I. This turnaround will require a paved surface prior to FAC for roads (or when required by Transportation Planning and Engineering);
 8. that the owner constructs a 3 m hard surface shared use path with lighting and bollards, within the SWMF and non-credit MR lots, to the satisfaction of Transportation Planning and Engineering, as shown on the "Conditions of Approval" map, Enclosure I;
 9. that the owner constructs a 1.5 m concrete sidewalk with lighting and bollards, within the walkway, to the satisfaction of Transportation Planning and Engineering, as shown on the "Conditions of Approval" map, Enclosure I;
 10. that the owner constructs a 3 m concrete emergency access with lighting, and T-bollards to the satisfaction of Transportation Planning and Engineering, as shown on the "Conditions of Approval" map, Enclosure I;
 11. that the owner constructs a temporary 4 m gravel surface emergency access with T-bollards, to the satisfaction of Transportation Planning and Engineering as shown on the "Conditions of

Approval" map, Enclosure I. This roadway will be required prior to CCC for roads (or when required by Transportation Planning and Engineering);

12. that the owner remove, level, topsoil and seed the closed portion of the 91 Street SW government road allowance with Phase 2, to the satisfaction of Transportation Planning and Engineering as shown on the "Conditions of Approval" map, Enclosure II;
13. that the owner constructs an offsite watermain extension, to the satisfaction of EPCOR Water Services Inc., as shown on the "Conditions of Approval" map, Enclosure II;
14. that the owner construct all fences wholly on privately-owned lands, to the satisfaction of Transportation Planning and Engineering and Parkland Developer Services, as shown on the "Conditions of Approval" map, Enclosure I; and
15. that the owner is responsible for the landscape design and construction within the Public Utility lots, non-credit MR parcels, road rights of way, and walkways to the satisfaction of City Departments and affected utility agencies.

Enclosures I and II are maps of the subdivision identifying major conditions of this approval.

MR for Lot B, Plan 2310 TR in the amount of \$840,294.00, representing 1.62 ha, is being provided by money in place with this subdivision.

Please be advised that the approval is valid for one (1) year from the date on which the subdivision approval is given to the application. An extension beyond that time may be granted by the City of Edmonton.

Please be advised that an appeal may be lodged in accordance to Section 678 of the Municipal Government Act with the Subdivision and Development Appeal Board, 10019 – 103 Avenue NW, Edmonton Alberta, T5J 0G9, within 14 days from the date of the receipt of this decision. The date of receipt of the decision is deemed to be five (5) days from the date the decision is mailed.

If you have further questions, please contact Gilbert Quashie-Sam at gilbert.quashie-sam@edmonton.ca or 780-496-6295.

Regards,

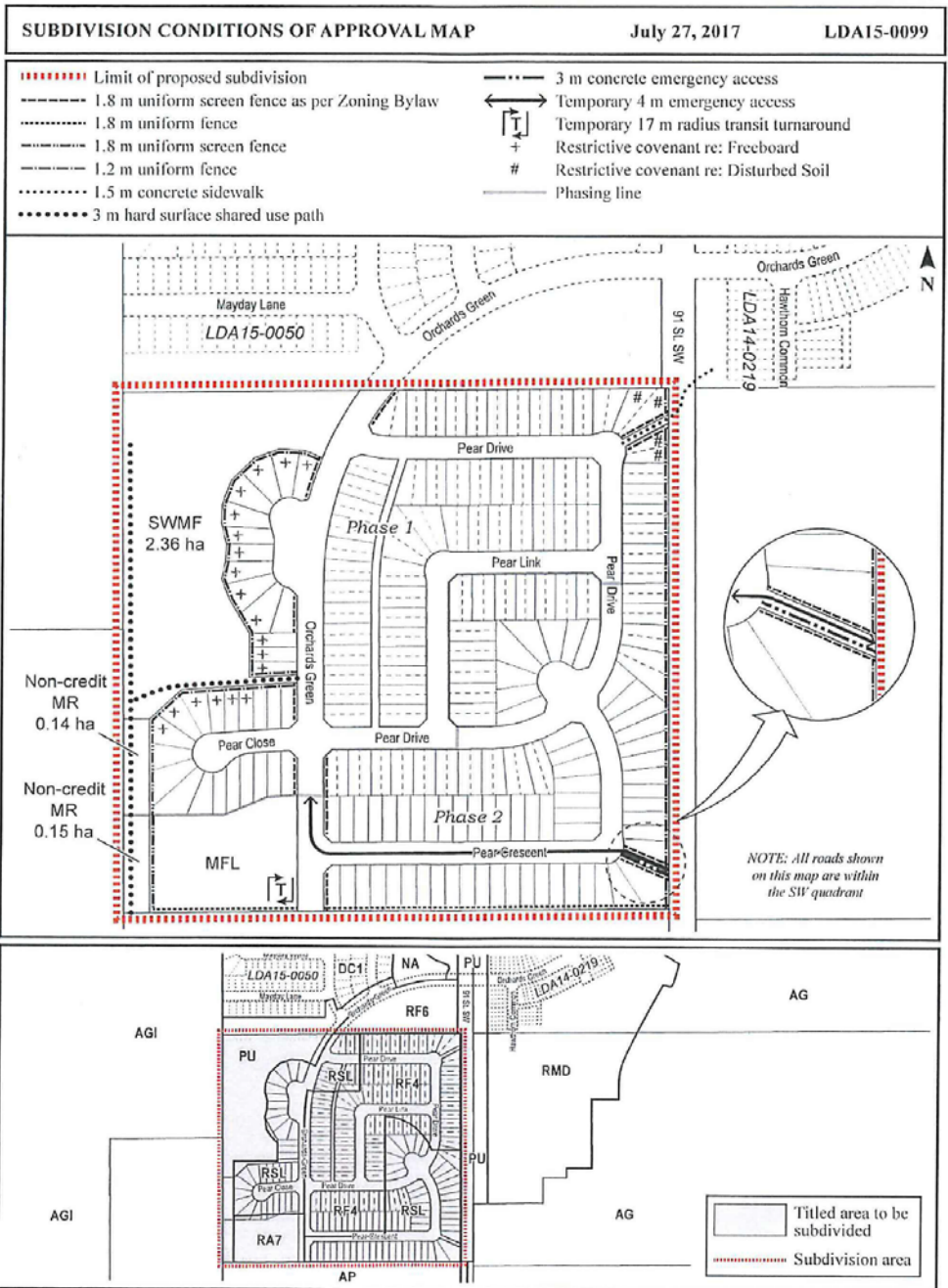


Blair McDowell
Subdivision Authority

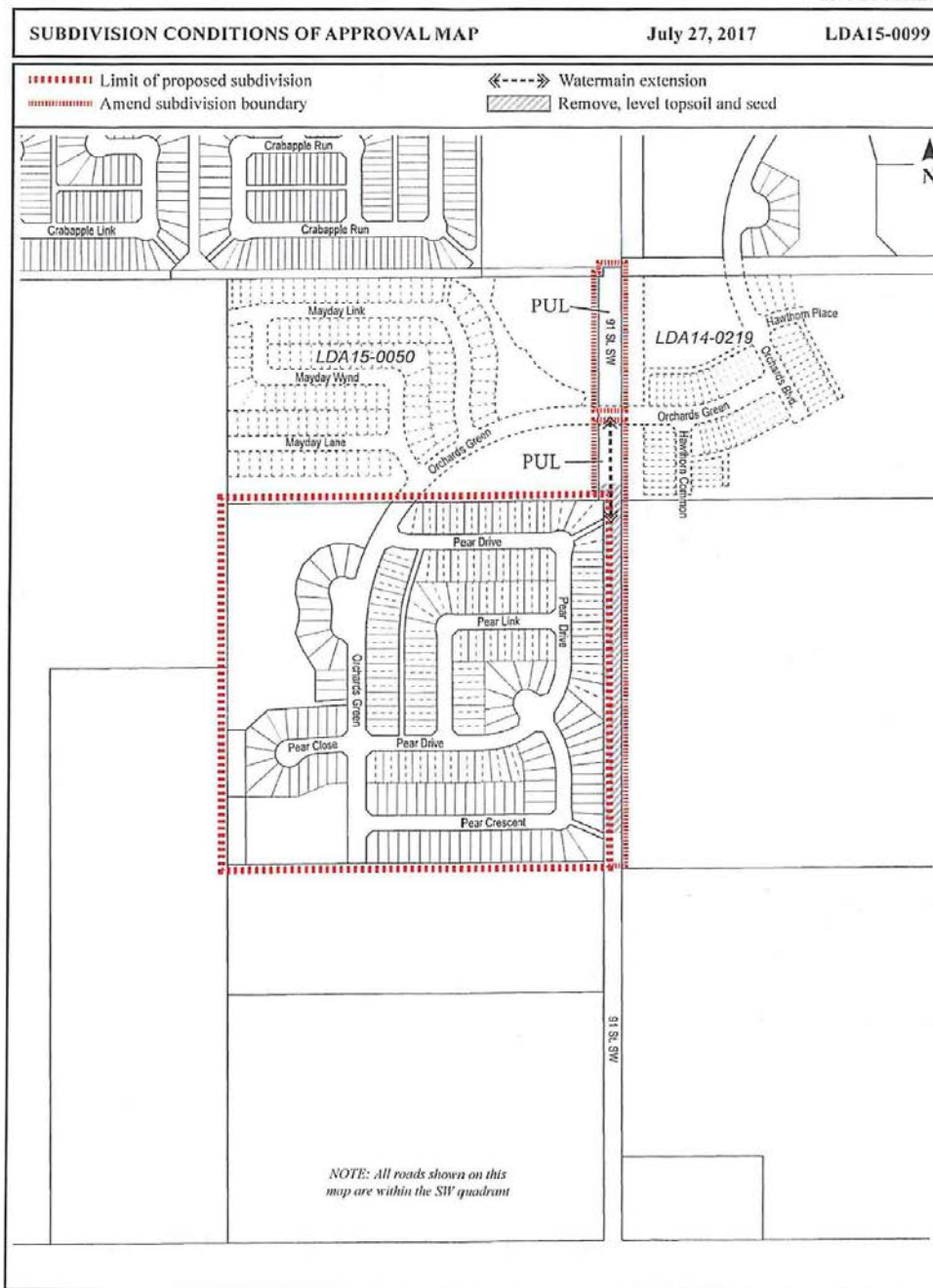
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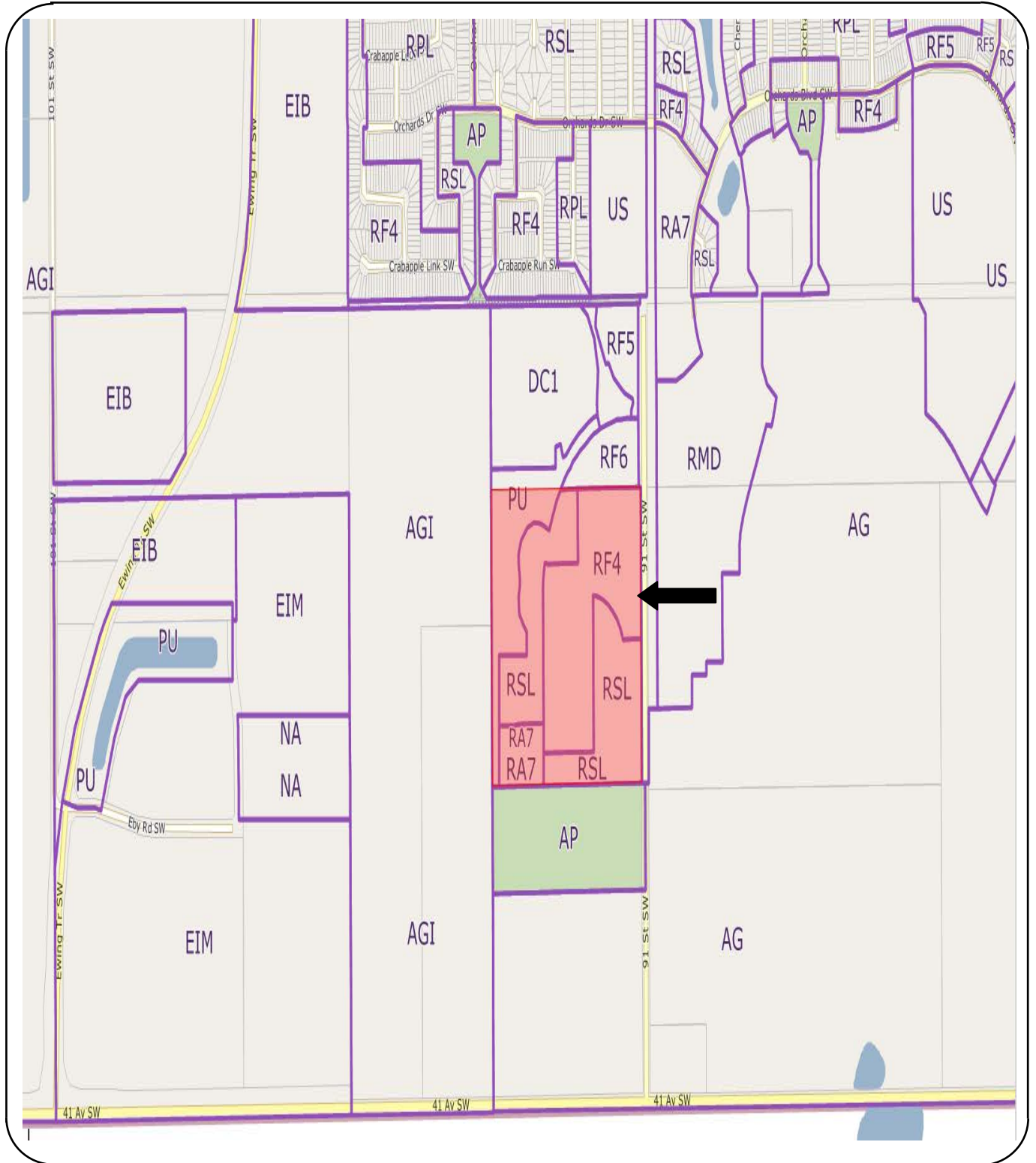
Enclosure(s)

ENCLOSURE I



ENCLOSURE II





SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-S-17-006

