

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
October 10, 2018**

**Hearing Room No. 2  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 2**

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I	9:00 A.M.	SDAB-D-18-161	Construct a Satellite Signal Receiving Antenna 9333 - 37 Avenue NW Project No.: 289352542-001
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II	10:30 A.M.	SDAB-D-18-162	Operate a Major Home Based Business (Administrative office and massage - NUAD THAI). ***EXPIRES AUGUST 15, 2023*** 206 – Heath Road NW Project No.: 288097968-001
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**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-18-161

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 289352542-001

APPLICATION TO: Construct a Satellite Signal Receiving Antenna

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 14, 2018

DATE OF APPEAL: September 14, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9333 - 37 Avenue NW

LEGAL DESCRIPTION: Plan 7621409 Blk 20 Lot 2

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:

This antenna is important for our business. The location that we've selected for the antenna, behind our building, means that the antenna will not be visible at all from the street. Though it is slightly taller than our building, it's not significantly so. We are also in an industrial park, where no one is concerned with the sight of a large satellite dish.

*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 clause (d), must comply with any 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***

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 400.1, the **General Purpose** of the (IB) Industrial Business 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.

***Height***

Section 50.5(1)(d) states a Satellite Signal Receiving Antenna shall, except as is provided in subsection 50.5(4), 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 positio

**Development Officer's Determination**

1) The proposed development exceeds the maximum allowable height (S. 50.5(1)(d)):

Maximum Height Allowed: 5m

Proposed Height: 10.9m

Deficient by: 5.9m

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

***Landscaping***

Section 50.5(3) states a Satellite Signal Receiving Antenna shall be Landscaped to screen the base of the antenna and reduce the negative visual impact on adjacent properties.

**Development Officer's Determination**

2) The proposed development has not been landscaped to screen the base of the antenna (S. 50.5(3)).

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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: **289352542-001**  
 Application Date: AUG 03, 2018  
 Printed: September 14, 2018 at 12:50 PM  
 Page: 1 of 1

## Application for Major Development Permit

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

<b>Applicant</b>  <div style="border: 1px solid black; height: 60px; width: 100%;"></div>	<b>Property Address(es) and Legal Description(s)</b> 9333 - 37 AVENUE NW Plan 7621409 Blk 20 Lot 2  <b>Specific Address(es)</b> Entryway: 9333 - 37 AVENUE NW Building: 9333 - 37 AVENUE NW
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**Scope of Application**  
 To construct a Satellite Signal Receiving Antenna.

<b>Permit Details</b>  Class of Permit: Class A Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 5134	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
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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 (S. 50.5(1)(d)):
  - Maximum Height Allowed: 5m
  - Proposed Height: 10.9m
  - Deficient by: 5.9m
- 2) The proposed development has not been landscaped to screen the base of the antenna (S. 50.5(3)).

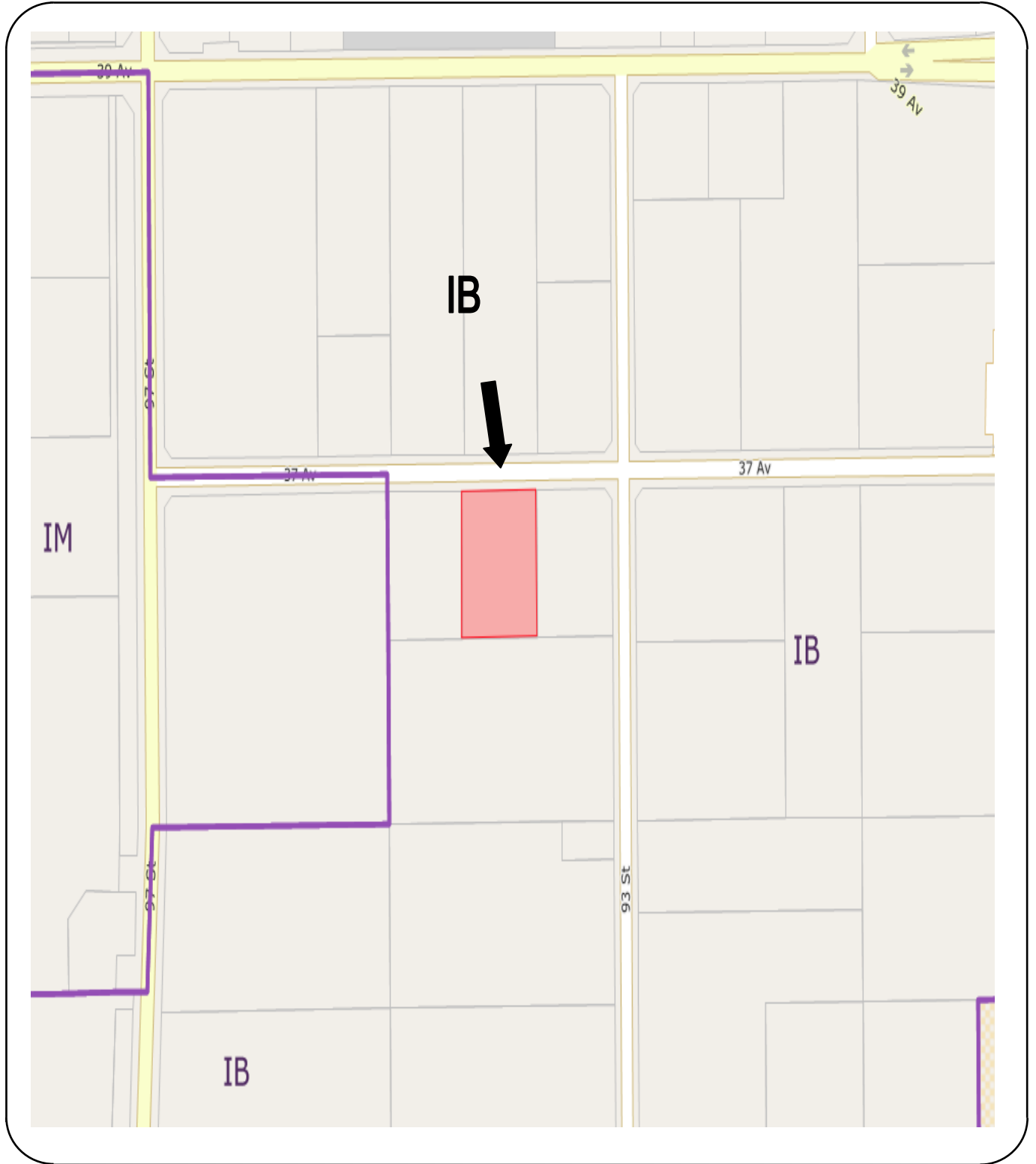
The Development Officer is prohibited from granting variances to the allowable maximum height under Section 11.4(1)(b).

**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.

Fees	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$362.00	\$362.00	05237102	Aug 03, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$362.00	\$362.00		

**THIS IS NOT A PERMIT**





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-161



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-162

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

APPELLANT:

APPLICATION NO.: 288097968-001

APPLICATION TO: Operate a Major Home Based Business (Administrative office and massage - NUAD THAI). \*\*\*EXPIRES AUGUST 15, 2023\*\*\*

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: August 16, 2018

DATE OF APPEAL: September 13, 2018

NOTIFICATION PERIOD: Aug. 23, 2018 through Sep. 13, 2018

RESPONDENT: M. Davis

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 206 – Heath Road NW

LEGAL DESCRIPTION: Plan 8122487 Blk 90 Lot 17

ZONE: RF1 Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: Henderson Estates Neighbourhood Structure Plan  
Riverbend Area Structure Plan

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*Grounds for Appeal*

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

I believe that an Administration Office and Massage -NUAD THAI business would be more appropriately located in a Commercial or Industrial Zone rather than in a residential neighbourhood. Currently this business is allowed to operate 7 days a week, from 9 am to 6 pm, with 5 business visitors per day.

Based on the business' Facebook page, they have been operating since 2016. By applying for this permit, it appears that the sole proprietor is expecting to expand the business and receive more clients. With this possible expansion, the owner may not be able to abide by the conditions outlined by the Edmonton Zoning Bylaw.

If this permit is not refused, the following restrictions should be enforced: operating days and time should be limited to Monday - to Friday from 9 am - 3 pm, business visits should not exceed 25 per week, this business should be limited to one room in the home, and any massage related training courses or workshops should not be permitted at this location.

<i>General Matters</i>
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**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 clause (d), must comply with any 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, 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.

**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 on-site shall not exceed two at any one time;
5. 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.

#### ***Discretionary Use***

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.

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

Discretionary Use - A Major Home Based Business is approved as a Discretionary Use (Section 110.3(5)).

#### ***Parking***

Section 75.3 states that 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 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.

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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>288097968-001</b> Application Date: JUL 20, 2018 Printed: September 14, 2018 at 8:28 AM Page: 1 of 3		
<b>Home Occupation</b>			
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> <div style="border: 1px solid black; height: 40px; width: 100%;"></div>	<b>Property Address(es) and Legal Description(s)</b> 206 - HEATH ROAD NW Plan 8122487 Blk 90 Lot 17 <hr/> <b>Specific Address(es)</b> Suite: 206 - HEATH ROAD NW Entryway: 206 - HEATH ROAD NW Building: 206 - HEATH ROAD NW		
<b>Scope of Permit</b> To operate a Major Home Based Business (Administrative office and massage - NUAD THAI). ***EXPIRES AUGUST 15, 2023***			
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                     # of business related visits/day: 5                      Administration Office Only?: N                      Class of Permit: Class B                       Do you live at the property?: Y                      Outdoor storage on site?: N                 </td> <td style="width: 50%; border: none; vertical-align: top;">                     # of vehicles at one time: 1                      Business has Trailers or Equipment?: N                      Description of Business: Administrative office and services for health enhancement. Client visits only by appointment and appointments will not overlap ***Expiry August 15, 2023***                      Expiry Date: 2023-08-15 00:00:00                 </td> </tr> </table>		# of business related visits/day: 5 Administration Office Only?: N Class of Permit: Class B  Do you live at the property?: Y Outdoor storage on site?: N	# of vehicles at one time: 1 Business has Trailers or Equipment?: N Description of Business: Administrative office and services for health enhancement. Client visits only by appointment and appointments will not overlap ***Expiry August 15, 2023*** Expiry Date: 2023-08-15 00:00:00
# of business related visits/day: 5 Administration Office Only?: N Class of Permit: Class B  Do you live at the property?: Y Outdoor storage on site?: N	# of vehicles at one time: 1 Business has Trailers or Equipment?: N Description of Business: Administrative office and services for health enhancement. Client visits only by appointment and appointments will not overlap ***Expiry August 15, 2023*** Expiry Date: 2023-08-15 00:00:00		
I/We certify that the above noted details are correct. Applicant signature: _____			
<b>Development Permit Decision</b> Approved Issue Date: Aug 16, 2018 Development Authority: POTTER, CHRISTINA			





Project Number: **288097968-001**  
Application Date: JUL 20, 2018  
Printed: September 14, 2018 at 8:28 AM  
Page: 2 of 3

## Home Occupation

### Subject to the Following Conditions

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

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. If non-resident employees or business partners are working on-site, the maximum number shall not exceed the number applied for with this application.
5. If there are visits associated with the business the number shall not exceed the number applied for with this application.
6. Clients visit must be by-appointment only and appointments shall not overlap.
7. There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
8. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
9. The business use must maintain the privacy and enjoyment of adjacent residences and the characteristic of the neighborhood.
10. 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.
11. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
12. Hours of operation not to exceed the hours between 9 AM and 6 PM.
12. This approval is for a 5 year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on \*\*\*\*August 15, 2023\*\*\*\*.

### Notes:

1. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site (Section 5.2).
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 - A Major Home Based Business is approved as a Discretionary Use (Section 110.3(5)).



Project Number: **288097968-001**  
Application Date: JUL 20, 2018  
Printed: September 14, 2018 at 8:28 AM  
Page: 3 of 3

## Home Occupation

### Rights of Appeal

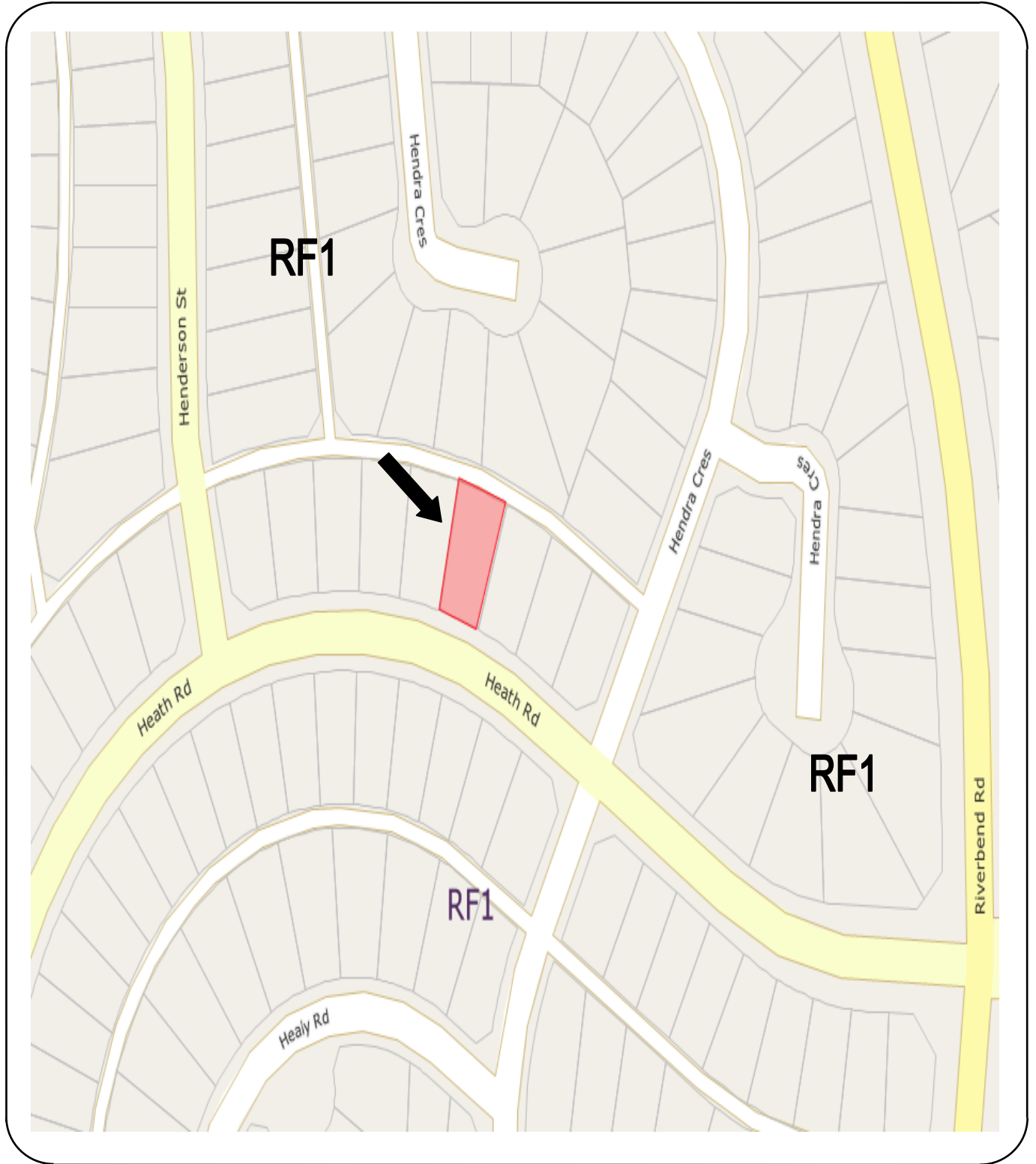
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Notice Period Begins: Aug 23, 2018

Ends: Sep 13, 2018

### Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$316.00	\$316.00	05199845	Jul 20, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$316.00	\$316.00		



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-162

