

SUBDIVISION

AND

DEVELOPMENT APPEAL BOARD

AGENDA

Wednesday, 9:00 A.M.
October 6, 2021

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-21-167

Operate a Major Home Based Business (Take-out food, no dine-in, maximum four visits per day by appointment only - CHI CHA RAP), expires August 9, 2026

4612 - 175 Avenue NW
Project No.: 397403274-001

II 10:30 A.M. SDAB-D-21-166

Operate a Major Home Based Business with up to five business related visits per day (HL PARTS SUPPLY). Expires Aug. 09, 2026

PERMIT CANCELLED

731 - 107A Street SW
Project No.: 399755651-001

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.

FILE: SDAB-D-21-167

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 397403274-001

APPLICATION TO: Operate a Major Home Based Business (Take-out food, no dine-in, maximum four visits per day by appointment only - CHI CHA RAP), expires August 9, 2026

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: August 9, 2021

DATE OF APPEAL: September 7, 2021

NOTIFICATION PERIOD: August 17, 2021 through September 7, 2021

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4612 - 175 Avenue NW

LEGAL DESCRIPTION: Plan 1823038 Blk 22 Lot 2

ZONE: (RPL) Planned Lot Residential Zone

OVERLAY: N/A

STATUTORY PLAN(S): Cy Becker Neighbourhood Structure Plan
Pilot Sound Area Structure Plan

Grounds for Appeal

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

I am the owner of the property of 17507 - 46 Street NW. I have written an appeal today for the development permit pertaining to the Major Home Based Business that has been approved for the property of 4612 - 175 AVENUE NW for reasons that I have outlined below.

In the past year and a half that I have owned my property I have had multiple vehicles that were unknown to me use my driveway at their convenience as it is positioned at the corner of the block. This has led to many complications, including the cracking of the driveway, all of which I now must deal with personally to great frustration. With the newly approved development permit, I am afraid that such activities will only increase at my own expense.

I would like to thank all parties who have taken the time and consideration to read my appeal till this point and hope that you all have a wonderful day.

<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.

...

(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 the decision in accordance with subsection (2.1).

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 board hearing the appeal referred to in subsection (1)

...

- (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 (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

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

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 130.3(4), a **Major Home Based Business** is a **Discretionary Use** in the **(RPL) Planned Lot Residential Zone**.

Under section 7.3(6), **Major Home Based Business** means:

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 Home Based Child Care and Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution.

Section 130.1 states that the **General Purpose** of the **(RPL) Planned Lot Residential Zone** is:

to provide for small lot Single Detached Housing serviced by both a public roadway and a Lane, including Zero Lot Line Development and Reverse Housing forms, that provides the opportunity for the more efficient utilization of land in developing neighbourhoods, while maintaining the privacy and independence afforded by Single Detached Housing forms.

Discretionary Use

Development Officer's Determination

You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.

Note: The proposed business complies with all development regulations in the Edmonton Zoning Bylaw 12800.

[unedited]

Major Home Based Business


Under 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 may have more than two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units;

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.

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

	Project Number: 397403274-001 Application Date: MAY 26, 2021 Printed: August 9, 2021 at 1:26 PM Page: 1 of 3		
<h2>Home Occupation</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.			
Applicant	Property Address(es) and Legal Description(s) 4612 - 175 AVENUE NW Plan 1823038 Blk 22 Lot 2		
Scope of Permit To operate a Major Home Based Business (Take-out food, no dine-in, maximum 4 visits per day by appointment only - CHI CHA RAP), expires August 9, 2026.			
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> # of business related visits/day: 4 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: </td> <td style="width: 50%; vertical-align: top;"> # of vehicles at one time: Business has Trailers or Equipment?: Description of Business: Take-out food, no dine-in, maximum 4 visits per day by appointment only Commercial kitchen in Fort Saskatchewan Expiry Date: 2026-08-09 00:00:00 </td> </tr> </table>		# of business related visits/day: 4 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?:	# of vehicles at one time: Business has Trailers or Equipment?: Description of Business: Take-out food, no dine-in, maximum 4 visits per day by appointment only Commercial kitchen in Fort Saskatchewan Expiry Date: 2026-08-09 00:00:00
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Development Permit Decision Approved Issue Date: Aug 09, 2021 Development Authority: YEUNG, KENNETH			

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. Interior alterations for the commercial kitchen cannot be used as a Secondary Suite.
11. All commercial, industrial and overweight vehicles shall be parked at an approved storage facility. The Development Permit may be revoked if any commercial, industrial and overweight vehicles are parked or stored at the residential site.
12. One or more enclosed or empty non-enclosed trailer with less than 4600kg gross vehicle weight shall be parked at an approved storage facility, unless a variance has been granted for an enclosed or empty non-enclosed trailer for this Major Home Based Business.
13. All parking for the Dwelling and Home Based Business must be accommodated on site unless a parking variance has been granted for this Major Home Based Business.
14. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
15. This approval is for a 5 year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on August 9, 2026.

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.

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<h2>Home Occupation</h2>																					
<p>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).</p> <p>Variations You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.</p> <p>Note: The proposed business complies with all development regulations in the Edmonton Zoning Bylaw 12800.</p> <p>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.</p> <p>Notice Period Begins: Aug 17, 2021 Ends: Sep 07, 2021</p>																					
Fees																					
	<table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 30%;"></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: 20%;">Receipt #</th> <th style="text-align: left; width: 20%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$327.00</td> <td style="text-align: right;">\$327.00</td> <td>07125928</td> <td>Jul 07, 2021</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;">\$327.00</td> <td style="text-align: right; border-top: 1px solid black;">\$327.00</td> <td></td> <td></td> </tr> </tbody> </table>		Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$327.00	\$327.00	07125928	Jul 07, 2021	Total GST Amount:	\$0.00				Totals for Permit:	\$327.00	\$327.00		
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