SUBDIVISION

AND

DEVELOPMENT APPEAL BOARD

AGENDA

Wednesday, 9:00 A.M. September 14, 2016

Hearing Room No. 3 Churchill Building, 10019 - 103 Avenue NW, Edmonton, AB

SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING ROOM NO. 3

I	9:00 A.M.	SDAB-D-16-224	Develop a Secondary Suite in the Basement of an existing Single Detached House, existing without permits
			4635 - 102A Avenue NW Project No.: 184429477-003
II	10:30 A.M.	SDAB-D-16-225	Change the use of a portion of a Professional, Financial and Office Support Service to an Indoor Participant Recreation Service (gymnastics/dance/karate).
			3564 Allan Drive SW Project No.: 187054079-007

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

ITEM I: 9:00 A.M. FILE: SDAB-D-16-224

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

APPELLANT:

APPLICATION NO.: 184429477-003

ADDRESS OF APPELLANT: 4631 - 102A Avenue NW

APPLICATION TO: Develop a Secondary Suite in the

Basement of an existing Single Detached

House, existing without permits

DECISION OF THE

DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: August 5, 2016

DATE OF APPEAL: August 23, 2016

RESPONDENT:

ADDRESS OF RESPONDENT: 4635 - 102A Avenue NW

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 4635 - 102A Avenue NW

LEGAL DESCRIPTION: Plan 4628KS Blk 88 Lot 38

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:

This property is currently being rented and numerous attempts to get a hold of owner/landlord has failed. The yard and general up keep of

property is never done. Increase in vehicles that belong to tenants at address are a concern for children in the neighborhood. If development is approved will this effect our property taxes? Is landlord going to take care of property and address issues of the neighborhood? Concerns of current and previous tenants activities have not yet been addressed by owner/landlord. Current and previous tenants have no concern / respect for property or others in neighborhood. Concern for other developments in the neighborhood, as this is and has always been a family neighborhood and would like to keep it that way. Most people in the neighborhood have been there 15+ years and we like the way it is.

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.

685(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 within 14 days,

• • •

(b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given *in accordance with the land use bylaw*. [emphasis added]

The Edmonton Zoning Bylaw 12800 provides as follows:

20. Notification of Issuance of Development Permits

20.1 Class B Development

- 1. Within seven days of the issuance of a Development Permit for Class B Development, the Development Officer shall dispatch a notice by ordinary mail to:
 - a. each assessed owner of the Site or a part of the Site of the development;
 - b. each assessed owner of land, wholly or partly within a distance of 60.0 m of the boundary of the Site;
 - c. the President of each Community League operating within the notification boundaries described in clause (b), above; and
 - d. the President of each Business Revitalization Zone Association operating within the notification boundaries described in clause (b) above.
- 2. The notice shall describe the development and state the decision of the Development Officer, and the right of appeal therefrom.
- 3. Within 10 days of the issuance of a Development Permit for Class B Development, the Development Officer shall cause to be published in a daily newspaper circulating within the City, a notice describing the development and stating his decision, and the right to appeal therefrom.

The decision of the Development Officer is dated August 5, 2016. Notice of the development was published in the Edmonton Journal on August 11, 2016. The Notice of Appeal was filed on August 23, 2016.

Determining an Appeal

The Municipal Government Act states the following:

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, Semi-detached Housing and Duplex Housing under certain conditions.

Under Section 110.2(4), **Single Detached Housing** is a **Permitted Use** in the RF1 Single Detached Residential Zone.

Section 7.2(6) states:

Single Detached Housing means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use Class in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use Class includes Mobile Homes which conform to Section 78 of this Bylaw.

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

...to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

Section 822.1 states that the **General Purpose** of the **Edmonton-Strathcona County Joint Planning Study Area Secondary, Garage and Garden Suites Overlay** is:

... to limit the expansion of Secondary Suites and to limit the creation of any Garage and Garden Suites within a portion of the Edmonton-Strathcona County Joint Planning Study Area to the Use opportunity that existed prior to the adoption of Bylaw 14750, in order to limit residential intensification in proximity to industrial uses until such time as more definitive criteria may be established to prescribe residential development within the Study Area, at which time this Overlay may be subject to amendment.

Development Officer's Determination

The Development Officer made the following determination:

Overlay - A Secondary Suite is approved within the Edmonton-Strathcona County Joint Planning Study Area Secondary, and Garage Suites Overlay (Section 822.3.1.a).

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: 184429477-003 Application Date: JUN 08, 2016 Printed: August 5, 2016 at 2:53 PM 1 of 3

Minor Development Permit

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)

4635 - 102A AVENUE NW Plan 4628KS Blk 88 Lot 38

Specific Address(es)

BSMT, 4635 - 102A AVENUE NW Entryway: 4635 - 102A AVENUE NW Building: 4635 - 102A AVENUE NW

Scope of Permit

To develop a Secondary Suite in the Basement of an existing Single Detached House, existing without permits.

Permit Details

of Dwelling Units Add/Remove: 1 Client File Reference Number: Minor Dev. Application Fee: Secondary Suite

Secondary Suite Included ?: Y

Class of Permit: Class B Lot Grading Needed?: N 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 Permit Decision

Approved

The permit holder is advised to read the reverse for important information concerning this decision.



Project Number: **184429477-003**Application Date: JUN 08, 2016
Printed: August 5, 2016 at 2:53 PM
Page: 2 of 3

Minor Development Permit

Subject to the Following Conditions

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

This Development Permit authorizes the development of a Secondary Suite in the Basement of an existing Single Detached House, existing without permits. The development shall be constructed in accordance with the stamped and approved drawings. It does not authorize any other additions to the principal building.

- 1. A Secondary Suite shall be developed in such a manner that the exterior of the principal building (including the new door added to the principal building) containing the Secondary Suite shall appear as a single Dwelling.
- 2. Only one of a Secondary Suite, a Garage Suite or Garden Suite may be developed in conjunction with a principal Dwelling.
- 3. A Secondary Suite shall not be developed within the same principal Dwelling containing a Group Home or Limited Group Home, or a Major Home Based Business, unless the Secondary Suite is an integral part of a Bed and Breakfast Operation in the case of a Major Home Based Business.
- Notwithstanding the definition of Household within this Bylaw, the number of unrelated persons occupying a Secondary Suite shall not exceed three.
- 5. The Secondary Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision
- Parking shall be provided in accordance with the stamped and approved drawings.
- 7. 1 parking space per 2 Sleeping Units shall be provided in addition to the parking requirements for primary Dwelling. Tandem Parking is allowed for Secondary Suites and Garage Suites. (Reference Section 54.2(2))
- All required parking shall be clearly demarcated, have adequate storm water drainage and storage facilities, and be Hardsurfaced. (Reference Section 54.6(1)(i))

NOTES:

- 1. Locked separation that restricts the nonconsensual movement of persons between each Dwelling unit shall be installed.
- 2. 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.
- Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.

Variances

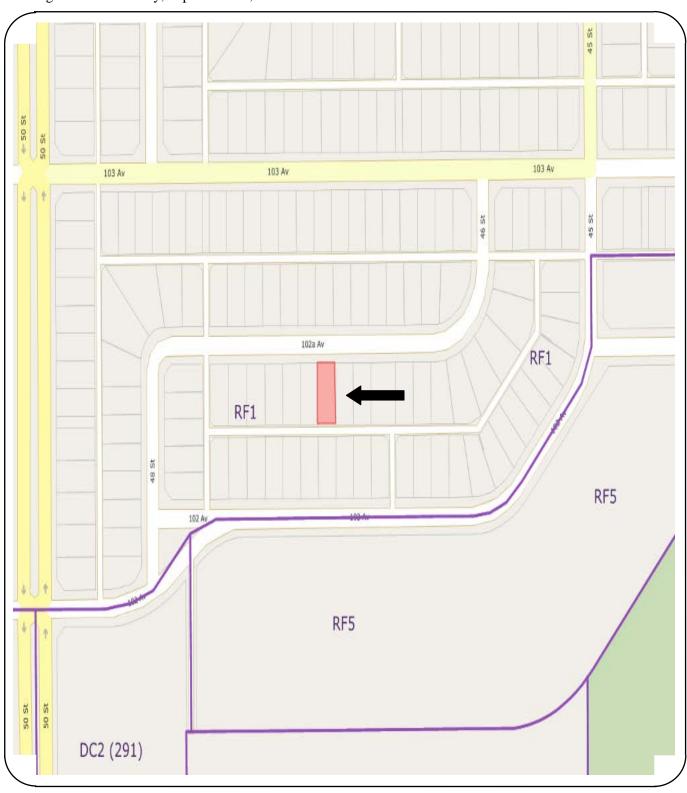
Overlay - A Secondary Suite is approved within the Edmonton-Strathcona County Joint Planning Study Area Secondary, and Garage Suites Overlay (Section 822.3.1.a).

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.

Issue Date: Aug 05, 2016	Development Authority:	YEUNG, KENNETH	Signature:
Notice Period Beg	ins:Aug 11, 2016	Ends:Aug 25, 2016	

The permit holder is advised to read the reverse for important information concerning this decision.



SURROUNDING LAND USE DISTRICTS

Site Location

File: SDAB-D-16-224



<u>ITEM II: 10:30 A.M.</u> <u>FILE: SDAB-D-16-225</u>

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 187054079-007

ADDRESS OF APPELLANT: 3564 Allan Drive SW

APPLICATION TO: Change the use of a portion of a

Professional, Financial and Office Support

Service to an Indoor Participant

Recreation Service

(gymnastics/dance/karate).

DECISION OF THE

DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 18, 2016

DATE OF APPEAL: August 23, 2016

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 3564 Allan Drive SW

LEGAL DESCRIPTION: Plan 1524442 Blk 20 Lot 87

ZONE: DC1 Direct Development Control

Provision (Bylaw 17411 – Area "A")

OVERLAY: N/A

STATUTORY PLAN: Ambleside Neighbourhood Structure Plan

Windermere Area Structure Plan

Grounds for Appeal

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

- 1. Stalls required for this change of use appear excessive we would like to conduct parking survey at similar businesses and provide report at hearing (if granted)
- 2. Our business is complimentary to nearby businesses and operates in between peak hours.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

- **686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,
 - (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

. . .

The decision of the Development Officer is dated August 18, 2016. The Notice of Appeal was filed on August 23, 2016.

Direct Control Districts

The Municipal Government Act states:

Designation of direct control districts

- **641(1)** The council of a municipality that has adopted a municipal development plan, if it wishes to exercise particular control over the use and development of land or buildings within an area of the municipality, may in its land use bylaw designate that area as a direct control district.
- (2) If a direct control district is designated in a land use bylaw, the council may, subject to any applicable statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary.

- (3) In respect of a direct control district, the council may decide on a development permit application or may delegate the decision to a development authority with directions that it considers appropriate.
- (4) Despite section 685, if a decision with respect to a development permit application in respect of a direct control district
 - (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
 - (a) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

General Provisions from the Edmonton Zoning Bylaw:

DC1 (17411) was passed by City Council on October 19, 2015.

Section 1 of DC1 (17411) states that the **General Purpose** of this direct control district is:

To accommodate low intensity commercial and residential mixed-use development. The purpose is to complement the adjacent residential and employment uses with a transition of mixed compatible uses. Development regulations shall create a pedestrian-friendly environment

Under Section 3(n), Indoor Participant Recreation Services is a Listed Use in this direct control district.

Section 7.8(4) states:

Indoor Participant Recreation Services means development providing facilities within an enclosed building for sports and active recreation where patrons are predominantly participants and any spectators are incidental and attend on a non-recurring basis. Typical Uses include athletic clubs; health and fitness clubs; curling, roller skating and hockey rinks; swimming pools; rifle and pistol ranges, bowling alleys and racquet clubs.

Off-street Parking - Change in Use

Section 54.1(1)(b)(ii) provides as follows:

Notwithstanding the above, the regulations contained within this Section shall not apply to buildings or Uses existing at the time of the adoption of this Bylaw, except that:

•••

(ii) where any building or Use undergoes a change of Use, intensity of Use or capacity and the change results in an increase in the parking requirements, the off-street parking, including parking for the disabled and visitors, shall be increased to equal or exceed the off-street parking requirements resulting from application of the provisions of this Bylaw to the entire building, structure or Use as modified in use;

Development Officer's Determination

The Development Officer referenced Section 54.1(1)(b)(ii) and determined that notwithstanding the change in Use, the proposed development does not provide for an increase in off-street parking spaces:

Off-street parking required for Indoor Participant Recreation Service: 29.7 spaces

Off-street parking provided for the existing Professional, Financial and Office Support Service: 10.1 spaces

Deficient by: 20 spaces

Proposed increase in off-street parking: 0

Off-street Parking

Section 4(i) of DC1(17411) states that: "Parking shall be in accordance with Section 54, Schedule 1."

Section 54.2(1) states that "The minimum number of off-street parking spaces required for each Use is specified in Schedule 1."

Section 54.2 Schedule 1 – Vehicular Parking Requirement provides as follows:

Schedule 1(A) Areas outside of the Downtown Special Area		
Use of Building or Site	Minimum Number of Parking Spaces or Garage Spaces Required	
Community, Educational, Recreational and Cultural Service Use Classes		
38. Indoor Participant Recreation Services Except:		
c. Health and Fitness Clubs	1 parking space per 10 m ² of Floor Area	

Development Officer's Determination

2) The total off-street parking spaces required for the Site, including the proposed Indoor Participant and Recreation Service Use, shall meet the minimum number of off-street parking spaces per Use as Specified in Section 54.2 - Schedule 1.

Required off-street parking for the Site including the proposed Indoor Participant Recreation Services: 56 spaces
Proposed off-street parking on Site: 34 spaces

The Site is deficient by: 22 spaces

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*.



Application for

Project Number: **187054079-007**Application Date: JUN 17, 2016
Printed: September 9, 2016 at 12:20 PM

Major Development Permit

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

Applicant



Property Address(es) and Legal Description(s)

3564 - ALLAN DRIVE SW Plan 1524442 Blk 20 Lot 87

Specific Address(es)

Suite: 3592 - ALLAN DRIVE SW
Suite: 3596 - ALLAN DRIVE SW
Entryway: 3592 - ALLAN DRIVE SW
Entryway: 3596 - ALLAN DRIVE SW
Building: 3564 - ALLAN DRIVE SW

Scope of Application

To change the use of a portion of a Professional, Financial and Office Support Service to an Indoor Participant Recreation Service (symnastics/dance/karate).

Permit Details

Class of Permit: Class B Gross Floor Area (sq.m.): 297.2 New Sewer Service Required: N Site Area (sq. m.): 2861.38 Contact Person:
Lot Grading Needed?: N
NumberOfMainFloorDwellings:
Stat. Plan Overlay/Annex Area: (none)

I/We certify that the above noted details are correct.

Applicant signature:

Development Application Decision

Refused

Reason for Refusal

1) Where any building or Use undergoes a change of Use, intensity of Use or capacity and the change results in an increase in the parking requirements, the off-street parking, including parking for the disabled and visitors, shall be increased to equal or exceed the off-street parking requirements resulting from application of the provisions of this Bylaw to the entire building, structure or Use as modified in use. (Reference Section 54.1.1.b.ii))

Off-street parking required for Indoor Participant Recreation Service: 29.7 spaces

Off-street parking provided for the existing Professional, Financial and Office Support Service: 10.1 spaces

Deficient by: 20 spaces

Proposed increase in off-street parking: 0

2) The total off-street parking spaces required for the Site, including the proposed Indoor Participant and Recreation Service Use, shall meet the minimum number of off-street parking spaces per Use as Specified in Section 54.2 - Schedule 1.

Required off-street parking for the Site including the proposed Indoor Participant Recreation Services: 56 spaces Proposed off-street parking on Site: 34 spaces

The Site is deficient by: 22 spaces

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.

THIS IS NOT A PERMIT

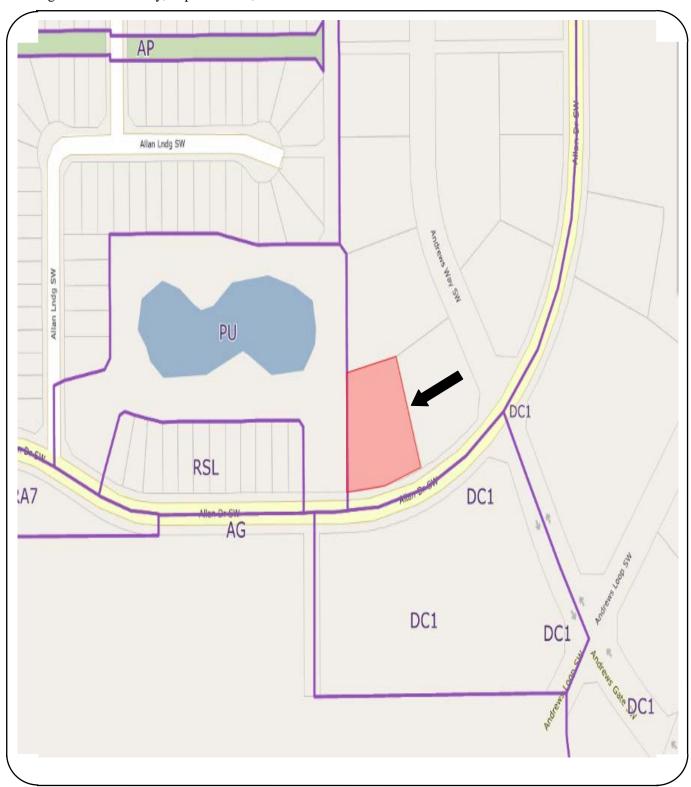


Application for

Project Number: **187054079-007**Application Date: JUN 17, 2016
Printed: September 9, 2016 at 12:20 PM

Major Development Permit

Issue Date: Aug 18, 2016	Development Authority	BELZILE, PAUL	Sign	ature:	
Fees Major Dev. Application Fee DP Notification Fee Total GST Amount: Totals for Permit:	Fee Amount \$260.00 \$102.00 \$0.00 \$362.00	Amount Paid \$260.00 \$102.00 \$362.00	Receipt # 03368631 03368631	Date Paid Jun 17, 2016 Jun 17, 2016	
		THIS IS NOT A PER	MIT		



SURROUNDING LAND USE DISTRICTS

Site Location

File: SDAB-D-16-225



BUSINESS LAID OVER

SDAB-D-16-204	An appeal by Omer Moyen to develop a Secondary Suite in the basement of a Single Detached House, existing without permits September 21 or 22, 2016		
SDAB-D-16-192	An appeal by <u>Vishal Kapoor</u> to change the Use from General Retail to Minor Alcohol Sales (AKP Liquors)		
SDAB-D-16-213	September 21 or 22, 2016 An appeal by <u>E&F Aquitel Construction</u> to construct a Semi-detached House with front verandas and to demolish the existing Single Detached House.		
SDAB-D-16-213	September 28 or 29, 2016 An appeal by <u>E&F Arquitel Construction</u> to construct a Semi-detached House with front verandas and to demolish the existing Single Detached House September 28 or 29, 2016		
SDAB-D-16-214	An appeal by 1665481 Alberta Ltd. to comply with a Stop Order to immediately cease the use of the basement as Secondary Suites and Decommission the Secondary Suite		
SDAB-D-16-205	October 5 or 6, 2016 An appeal by Rossdale Community League & Gabe Shelley VS Edmonton Fire Rescue Services to continue and intensify the use of an existing		
	Protective and Emergency Services Use (Fire Station 21 with a 24/7 crew) and to allow interior and exterior alterations October 6, 2016		
SDAB-D-16-214	An appeal by <u>1665481 Alberta Ltd.</u> to comply with a Stop Order to immediately cease the use of the basement as Secondary Suites and Decommission the Secondary Suite. <i>October 6, 2016</i>		
SDAB-S-14-001	An appeal by <u>Stantec Consulting Ltd.</u> to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 October 31, 2016		
SDAB-D-16-144	An appeal by <u>Kiewit Energy Canada Corp</u> to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>November 30 or December 1, 2016</i>		

APPEAL HEARINGS TO BE SCHEDULED

169544513-002	An appeal by Michael Skare to construct an Accessory Building (Shed 1.98m	
	x 4.57 m).	
	September 28 or 29, 2016	
188282372-001	An appeal by Kennedy Agrios to change the use from general Retail to a Bar	
	and Neighbourhood Pub (maximum of 400 occupants and 691 square metres	
	of Public Space)	
	November 2 or 3, 2016	

188283359-001	An appeal by Kennedy Agrios to change the use from a Flea Market Use to a	
	Night Club and Major Amusement Establishment (1757 square metres of	
	Public space)	
	November 23 or 24, 2016	