



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

10019 – 103 Avenue NW  
Edmonton, AB T5J 0G9  
P: 780-496-6079 F: 780-577-3537  
[sdab@edmonton.ca](mailto:sdab@edmonton.ca)  
[edmontonsdab.ca](http://edmontonsdab.ca)

Date: October 2, 2019  
Project Number: 323861281-001  
File Number: SDAB-D-19-151

**Notice of Decision**

- [1] On September 19, 2019, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **August 26, 2019**. The appeal concerned the decision of the Development Authority, issued on August 19, 2019 to refuse the following development:

**To install a Minor Digital Off-premises Freestanding Sign (adding Digital Copy 4.3 metres by 14.6 metres (facing North) DP#230469969-001)(PATTISON | KBR Canada Ltd).**

- [2] The subject property is on Plan 0923583 Blk 2 Lot 3B, located at 2920 - 101 Street NW, within the (IM) Medium Industrial Zone.
- [3] The following documents were received prior to the hearing and form part of the record:
- A copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
  - The Development Officer’s written submission;
  - A Subdivision Planning (Transportation) Response; and
  - The Appellant’s written submissions.

**Preliminary Matters**

- [4] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [5] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [6] The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

## Summary of Hearing

- i) *Position of the Appellant, Mr. J. Murphy, Q.C. representing Ogilvie LLP and Mr. D. Scott, representing Pattison Outdoor Advertising:*

- [7] The proposed digital sign will replace an existing, static face on an approved existing sign. The Board approved the development permit application to install one Freestanding Minor Digital Off-premises Sign with one digital panel facing south and one static panel facing north on February 10, 2017. One of the reasons for approval was that the Board found that the Calgary Trail Land Use Study (“Calgary Study”) is not a Statutory Plan within the definition of the *Municipal Government Act* and therefore, is not binding on the Board.
- [8] The approved sign and the proposed digital copy actually support one of the policies of the Calgary Study which is to replace older signage with newer upgraded signage.
- [9] This application amends that approval by converting the approved static panel to a digital panel. Photographs of the street view were referenced to illustrate the location of the sign for traffic travelling south on Calgary Trail and north on Gateway Boulevard.
- [10] The sign has been operational since February 2017 without any known complaints.
- [11] An aerial view of the sign location was referenced to illustrate that it has been erected in compliance with all of the development regulations contained in the *Edmonton Zoning Bylaw* and the development permit that was approved by the Board in February 2017. Three other signs were removed.
- [12] Transportation Services supports the proposed sign at this location with the imposition of several conditions.
- [13] Mr. Murphy noted that the Development Officer was concerned that “Billboards can detract from efforts to enhance the appearance of this major entranceway”. However, Calgary Trail is not an entranceway. Vehicles on Calgary Trail are travelling south and exiting the City. The proposed digital sign face will be seen by southbound traffic exiting the City.
- [14] It was his opinion that the Development Officer could not find a valid reason to refuse this development permit application and it would be difficult for the Board to find a valid planning reason to refuse this discretionary use based on the February 2017 Board decision.
- [15] All of the recommended conditions of the Development Officer are acceptable with the exception of Condition No. 1. The Development Officer is recommending that this permit

only be approved for a period of two and a half years so that it will expire at the same time as the other sign face on February 10, 2022.

- [16] Mr. Murphy agreed that the permits should expire at the same time. However, there are not two separate developments, only one sign with two faces. Therefore, he is asking that the development permit that was issued in February 2017 be amended to allow the static face of the sign to be changed to a digital panel and allow both faces to expire five years from today.
- [17] Mr. Murphy and Mr. Scott provided the following information in response to questions from the Board:
- a) The sign has existed without any known complaints since February 2017. The development permit was approved with a condition that the City could require the sign to be de-energized if it was found to be a concern.
  - b) The development permit that was approved in February 2017 was for both the digital panel and the static panel. This development permit application is simply to replace the static panel with a digital panel. The five year term that was approved at that time was for both panels.
  - c) Approval of this development permit would amend the existing development permit to include a second digital panel. The siting of the sign will not change and the five year approval would run with the approval of this development permit application. It was his opinion that if the Development Officer could recommend approval of the permit for two and a half years that it was well within his right to make this amendment request.
  - d) This will eliminate the need to apply to have the north facing digital panel and the south facing digital panel of the existing sign renewed separately every two and a half years.
  - e) He could not confirm whether or not the Development Officer considered this application to be an extension of the existing permit.
  - f) This is a simple application. However, information incorrectly provided during the development permit application process often has to be addressed during the appeal process.
  - g) Mr. Scott clarified that the sign companies are not allowed to check the box included on the application form which reads "Are you extending the duration of an existing Off-premises Sign" because of the imposed five year approval term for signs. The scope of application for all sign renewal applications are changed by the City to read "to install" even though the sign has already been installed and is operational. This creates confusion because residents who receive notice of the development permit application assume that a new sign is being erected which is incorrect.

i) *Position of the Development Officer, Ms. K. Mercier:*

[18] Ms. Mercier did not attend the hearing but provided a written submission that was considered by the Board.

**Decision**

[19] The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED** as applied for to the Development Authority, subject to the following **CONDITIONS**:

1. The permit will expire on **October 4, 2024**;
2. The proposed Minor Digital Off-premises Signs shall comply in accordance to the approved plans submitted;
3. Ambient light monitors shall automatically adjust the brightness level of the Copy Area based on ambient light conditions. Brightness levels shall not exceed 0.3 footcandles above ambient light conditions when measured from the Sign face at its maximum brightness, between sunset and sunrise, at those times determined by the Sunrise / Sunset calculator from the National Research Council of Canada; (Reference Section 59.2(5)(a));
4. Brightness level of the Sign shall not exceed 400 nits when measured from the sign face at its maximum brightness, between sunset and sunrise, at those times determined by the Sunrise/Sunset calculator from the national research Council of Canada; (Reference Section 59.2(5)(b));
5. Minor Digital Off-premises Signs shall have a Message Duration greater than or equal to 6 seconds. (Reference Section 7.9(8));
6. All Freestanding Signs, Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located so that all portions of the Sign and its support structure are completely located within the property and no part of the Sign may project beyond the property lines unless otherwise specified in a Sign Schedule. (Reference Section 59.2(12));
7. The following conditions, in consultation with the Transportation department (Subdivision Planning), shall apply to the proposed Minor Digital Off-premises Sign, in accordance to Section 59.2.11:
  - a) That, should at any time, City Operations determine that the sign face contributes to safety concerns, the owner/applicant must immediately address the safety

concerns identified by removing the sign, de-energizing the sign, changing the message conveyed on the sign, and or address the concern in another manner acceptable to City Operations.

- b) That the owner/applicant must provide a written statement of the actions taken to mitigate concerns identified by City Operations within 30 days of the notification of the safety concern. Failure to provide corrective action will result in the requirement to immediately remove or de-energize the sign.
- c) The proposed sign shall be constructed entirely within private property. No portion of the sign shall encroach over/into road right-of-way.

**ADVISEMENT:**

Should the Applicant wish to display video or any form of moving images on the sign, a new Development Application for a major digital sign will be required. At that time, City Operations will require a safety review of the sign prior to responding to the application.

**Reasons for Decision**

[20] A Freestanding Minor Digital Off-premises Sign is a Discretionary Use in the (IM) Medium Industrial Zone.

[21] The Board considered the application of the Calgary Trail Land Use Study (“Calgary Study”) and the impact of the proposed Discretionary Use.

[22] The Board heard evidence that the proposed Freestanding Minor Digital Off-premises Sign does not contravene the Calgary Study and that the Calgary Study is not a Statutory Plan. In reaching this conclusion, the Board was directed to its previous decision SDAB-D-17-022.

[23] In that decision, the Board found:

“...the *Study* is not a Statutory Plan within the definition of the *Municipal Government Act* and therefore it is not binding on the Board. The Board has determined that some of the policies of the *Study* are conflicting and that some of the policies contained in the *Study* support the proposed development, specifically the removal of four old existing Freestanding Off-premises Signs and upgrades an old existing Sign.”

[24] This Board agrees with the reasoning in that decision and notes that it is not bound by the Calgary Study because it is not a Statutory Plan pursuant to the *City of Edmonton Charter*, 2018 Regulation, Alta Reg 39/2018 that states:

**(31) In section 616 of the Act,**

**(e) clause (dd) is to be read as follows:**

(dd) “statutory plan” means

- (i) an intermunicipal development plan,
- (ii) a municipal development plan,
- (iii) an area structure plan,
- (iv) an area redevelopment plan, and
- (v) an additional statutory plan under section 635.1  
adopted by the City under Division 4;

[25] The Calgary Study is an aspirational document for future planning and policy development in this area. The Board has already found that this document is not binding on the Board but acknowledges that it may use its principles to inform decisions relating to variances or Discretionary Uses.

[26] The Board finds that the proposed addition of a Digital Copy panel on the north side of an existing Minor Digital Off-premises Sign is reasonably compatible with the neighbourhood based on the following:

- a) A development permit to install one (1) Freestanding Minor Digital Off-premises Sign with a digital panel facing south and a static panel facing north and to remove three existing Freestanding Off-premises Signs was approved by the Board on February 10, 2017.
- b) This application is simply to change the approved static panel on the north side of the existing Sign to a Digital panel.
- c) The proposed development complies with all of the development regulations pursuant to the *Edmonton Zoning Bylaw*.
- d) The reasons for approving the Sign in February 2017 are applicable to this decision, specifically that the subject Site is located in a Medium Industrial Zone on the east side of a railway right-of-way and there is no residential development located in close proximity.
- e) Transportation Services had no objection to the proposed location of the Sign subject to conditions that have been imposed by the Board.
- f) Based on the evidence provided, the Sign has existed since February 2017 without any known complaint. No letters of objection were received and no one attended the hearing in opposition to the proposed development.

- [27] The Board does not agree with the position of the Appellant that the expiry date for the south facing Digital panel of the existing Freestanding Minor Digital Off-premises Sign that was issued by the Board on February 10, 2017 could be amended as part of this development application. An amendment of that expiry date is not part of this application, has not been thoroughly reviewed by the Development Authority or other City departments and would require a separate development permit application.
- [28] Therefore, the Board has imposed the standard condition that the development permit is approved for a period of five years. The Applicant will have the opportunity to make a common application for both Digital panels of the existing Sign to align the expiry dates when the development permit for the south Digital panel expires.
- [29] The Board considered the recommended condition of the Development Officer that this development permit only be approved for two and a half years. However, the Board finds that timeframe to be restrictive and disadvantageous for the Applicant.
- [30] The Board finds that the proposed development with the conditions imposed is reasonably compatible with the neighbourhood.

Mr. V. Laberge, Presiding Officer  
Subdivision and Development Appeal Board

Board members in attendance: Mr. B. Gibson, Ms. S. McCartney, Mr. J. Jones, Mr. J. Wall

**Important Information for the Applicant/Appellant**

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
  - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
  - b) the requirements of the *Alberta Safety Codes Act*,
  - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
  - d) the requirements of any other appropriate federal, provincial or municipal legislation,
  - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

*NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.*





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**SDAB-D-19-152**

Project No. 322632765-001

To install a Minor Digital On-premises Freestanding Sign (3.2 metres by 6.1 metres facing NE/SW)(FAITH FELLOWSHIP WORSHIP CENTRE) was **TABLED** to January 15 or 16, 2020.