

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
September 21, 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-16-231

To comply with an Order to decommission one of the additional dwelling units and apply for a Secondary Suite Development Permit for the other unit OR decommission the two additional dwelling units and apply for a Basement Development Permit

15430 - 104 Avenue NW
Project No.: 132768653-002

II 10:30 A.M. SDAB-D-16-232

To develop and operate a General Industrial Use (existing without permit) - Visco Rentals & Contractors Ltd.

2603 - 121 Avenue NE
Project No.: 182138658-003

III 1:30 P.M. SDAB-D-16-233

To construct 2 Apartment House buildings (total of 166 Dwellings), with an underground parkade

12004 - 22 Avenue SW
Project No.: 142969751-008

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-16-231

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 132768653-002

ORDER TO: Comply with an Order to decommission one of the additional dwelling units and apply for a Secondary Suite Development Permit for the other unit OR decommission the two additional dwelling units and apply for a Basement Development Permit

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: August 16, 2016

DATE OF APPEAL: August 25, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 15430 - 104 Avenue NW

LEGAL DESCRIPTION: Plan 1350HW Blk 16 Lot 10

ZONE: RF2 Low Density Infill Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Jasper Place Area Redevelopment Plan

Grounds for Appeal

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

I act on behalf of Edith Jirsch, a handicapped senior who is the owner of the subject property, regarding a Stop Order issued August 17, 2016.

Pursuant to s 685(1)(c) of the Municipal Government Act, RSA 2000, c M-26, we respectfully appeal the Stop Order of August 17, 2016.

The Owner acknowledges that there is one secondary suite in the basement of the house, constituting the Western portion of the basement, which is

rented to a tenant. An application for a permit for this secondary suite will be submitted as soon as drawings of the property are available.

The Owner's position is that the Stop Order is unreasonable in that:

1. The Eastern portion of the basement is not a secondary suite. It is the developed portion of the basement of the primary dwelling, and is occupied by the Owner's daughter, who shares the house with the Owner as a family member, not as a tenant.
2. The Eastern portion of the basement has never been used as a secondary suite by the current Owner.
3. The development of both portions of the basement took place prior to the current Owner purchasing the house on May 4, 1999.
4. As such, the Order requiring that the Eastern portion of the basement be decommissioned as a secondary suite is contrary to the bylaw.
5. The deadline of September 9, 2016 does not provide sufficient time to resolve this dispute or to comply with the order.

<i>General Matters</i>

Appeal Information:

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

Stop order

645(1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the

land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Permit

683 Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

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

...

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*:

Under sections 120.2 and 120.3, **Apartment Housing** is **neither** a Permitted Use nor a Discretionary Use in the RF2 Low Density Infill Zone.

Under Section 7.2(1), **Apartment Housing** means:

development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use Class.

Under section 6.1(27), **Dwelling** means:

a self contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household.

Section 120.1 states that the **General Purpose** of the **RF2 Low Density Infill Zone** is:

...to retain Single Detached Housing, while allowing infill on narrow lots, including Secondary Suites under certain conditions.

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.

Approval Required for Development

Section 5 states:

5.1 No Person:

1. shall commence, or cause or allow to be commenced, a Development without a development Permit therefor issued under the provisions of Section 12 of this Bylaw; or
2. shall carry on, or cause or allow to be carried on a development without a Development Permit therefor issued under Section 12 of this Bylaw.

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.



MAILING ADDRESS:
5th Floor, 10250 - 101 Street NW
Edmonton, AB T5J 3P4

August 16, 2016

Our File: 132768653-002

Dear Sir/Madam:

A check with Land Titles Office discloses that you are the registered owner(s) of the property located at 15430 - 104 AVENUE NW, legally described as Plan 1350HW Blk 16 Lot 10.

LAND USE INFRACTION:

This property is zoned RF2 (Low Density Infill Zone) in accordance with Section 120 of the Edmonton Zoning Bylaw 12800. The general purpose of this Zone is to retain Single Detached Housing, while allowing infill on narrow lots, including Secondary Suites under certain conditions.

On August 16, 2016 Development Compliance Officer Kailey Lamont from the City of Edmonton having Authority to exercise development powers under Section 542 of the Municipal Government Act R.S.A. 2000, conducted an interior land-use inspection of the dwelling noted above. The inspection revealed you have constructed two additional dwellings in the basement without a valid Development Permit which is contrary to Section 683 of the Municipal Government Act, R.S.A 2000, c.M-26.1 and Section 5.1 of Edmonton Zoning Bylaw 12800.

An Apartment House is not a listed use within that zone therefore a Development Permit for the Apartment House can not be obtained

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, YOU ARE HEREBY ORDERED TO:

According to section 7.2(1) of the Edmonton Zoning Bylaw 12800:
Apartment Housing means development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use Class.

Option #1

Decommission one of the additional dwelling units and apply for a Secondary Suite Development Permit for the other unit. The decommission process will include:

- Removing the keyed lock separation between the upstairs and downstairs floors;
- Remove the stove, the 220 Volt Outlet that attaches to the stove, and the 220 breaker from the electrical panel associated to the stove;
- Remove the door, hinges, and jamb that separates the common landing between the floors,

and at the entrance of the basement within the dwelling.

OR

Option #2

Decommission the two additional dwelling units and apply for a Basement Development Permit.

The decommission process will include:

- Removing the keyed lock separation between the upstairs and downstairs floors;
- Remove the stove, the 220 Volt Outlet that attaches to the stove, and the 220 breaker from the electrical panel associated to the stove;
- Remove the door, hinges, and jamb that separates the common landing between the floors, and at the entrance of the basement within the dwelling.

The property will be inspected to determine compliance with this Order. Furthermore, an inspection must be scheduled to confirm that the additional unit(s) have been decommissioned. Please contact Arrienne Pineda at 780-944-1420 to schedule a decommissioning inspection to confirm compliance with this notice.

CONSEQUENCES FOR NON-COMPLIANCE:

In the event that a person fails to comply with an Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter on the land and take any action necessary to carry out the Order. Section 553(1)(h.1) of the Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to subsection (2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment.

Failure to comply will result in action as described in Section 646.

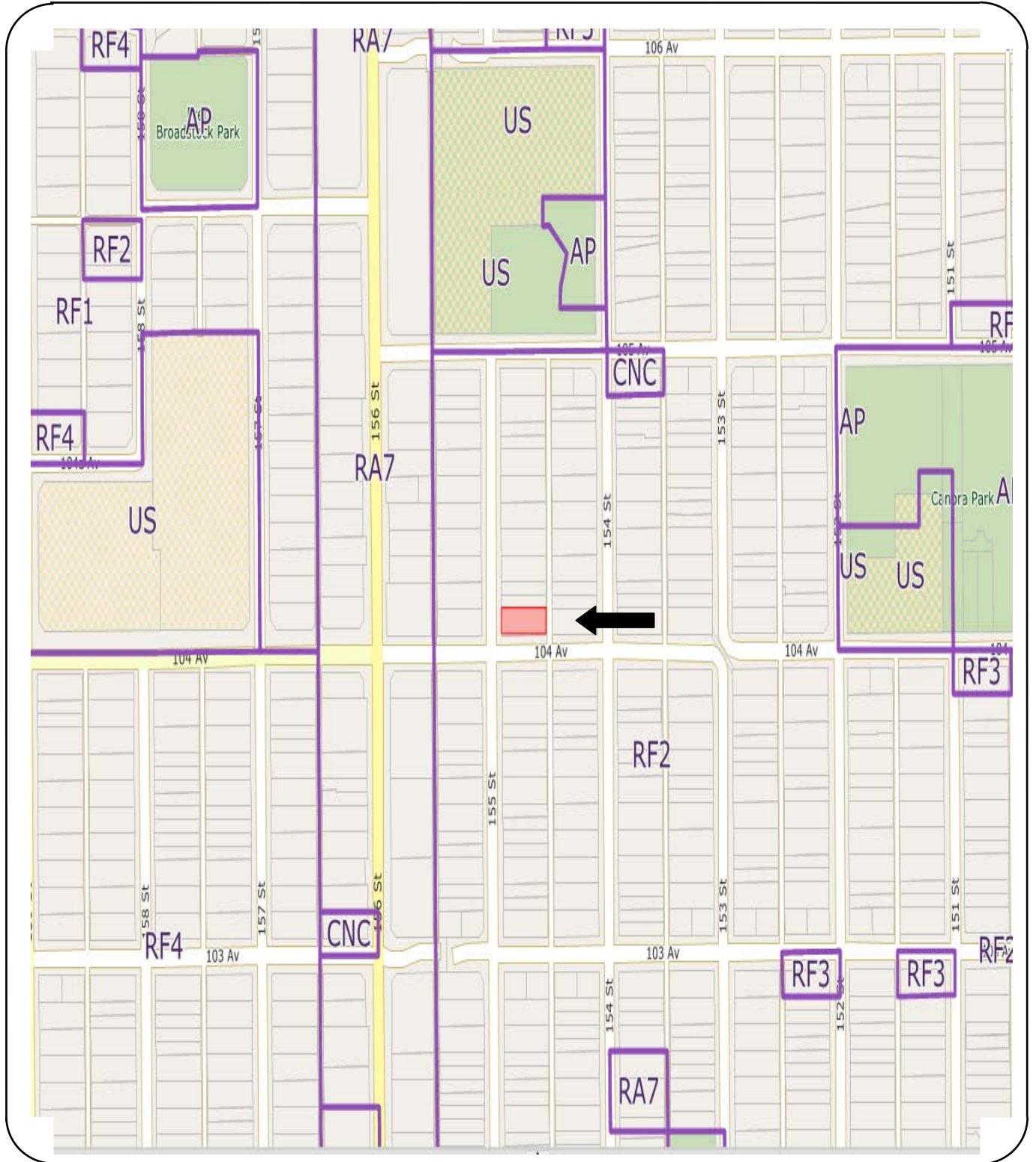
YOU ARE HEREBY NOTIFIED that if this Order is not complied with by the SEPTEMBER 9, 2016 deadline, the City of Edmonton may carry out the Order pursuant to Section 646 by taking any action necessary to ensure that the order has been complied with and all the costs and expenses in doing so will be added to the tax roll pursuant to Section 553(1)(h.1) of the Municipal Government Act R.S.A. 2000.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, R.S.A. 2000, c.M-26.1, which provides you with the right to appeal this Order and enables the City to add all costs associated with this action to the tax roll of the property.

If you have any questions in regards to this matter, please contact the writer at 780-442-7257.

Regards,

Kailey Lamont
Development and Zoning
Development Services
Phone Number: 780-442-7257
Email Address: Kailey.Lamont@edmonton.ca



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-231



ITEM II: 10:30 A.M.

FILE: SDAB-D-16-232

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 182138658-003

APPLICATION TO: Develop and operate a General Industrial Use (existing without permit) - Visco Rentals & Contractors Ltd.

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 12, 2016

DATE OF APPEAL: August 29, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2603 - 121 Avenue NE

LEGAL DESCRIPTION: Plan 1124684 Blk 3 Lot 19

ZONE: IM Medium Industrial Zone

OVERLAY: N/A

STATUTORY PLAN: Yellowhead Corridor Area Structure Plan

Grounds for Appeal

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

We received the Refusal Notice dated August 12, 2016, on our application for development permit to adhere to operate within the Medium Industrial Zone (IM) Bylaw12800 section 420. We are appealing this decision based on the following points as recycling is one of the uses for IM.

1. Existing use determined to be Heavy Industrial (IH)

- This site is used for parking of machines, truck, trailers, and or bins. As well, wood is stockpiled here to be hauled away. All concrete and steel is processed on 12010-28 ST NE, which is also zoned Medium Industrial (IM) as per our approved development permit.

- IM allows for processing and repair uses that require outdoor storage area. It also applies to General Contractor uses for Recycling Depots, Recycled Material Drop-off Centres, and Equipment Rentals. All of these apply to our usage of this parcel.

2. Materials are stored entirely outdoor which interferes with or affect enjoyment of neighbouring businesses.

- We currently rent office space and two shop bays from an adjacent property. From this location we perform repairs inside our 5000 square foot shop, where our mechanics and welders have access to their tools and are protected from the elements. Equipment is moved from storage into our shop for maintenance prior to being dispatched to job sites.
- Concrete and steel are stored at 12010-28 ST NE (zoned IM), not on this site.
- Several of our neighbouring properties zoned IM, have outside storage of trucks and equipment.
- There is no noise or odour from this site.
- Currently, there is no driveway / access to the avenue, the only access is via our entrances at 12010 and 12030 – 28 Street. Therefore, noise and / or traffic is not an issue.
- This property is completely separated from adjoining neighbours on the West by a creek and ravine, so there is substantial separation. Properties to the North are zoned IH. We own the property to the South and we lease some the property to the East.
- We have submitted a plan for solid fencing for our property at 12010 – 28 Street NE, and would be willing to the same type of fencing to adjacent properties on the North/East.

In summary

Prior to subdivision, this parcel was leased and wood recycling was performed for 7 years with no complaints from neighbouring businesses. There is no emission or risk of explosion from wood recycling.

For this development application, we engaged Kenneth R. Powley Architects to prepare the required site plans, landscape plans and/or elevation drawings to accompany the permit submission.

To comply with previous notices, we have removed our assets that had been inadvertently placed on City property, however, the current image on Google does not reflect this move. We have also started the process to clean our property to prepare for site grading, drainage, fencing and landscaping. We have already completed a lot of this work on our adjacent property, and are preparing to do that for this parcel as well. We would like to include the necessary landscaping on the boulevard as well as fencing facing the avenue if approved.

Over the last eight months, we have been working to address non-compliance issues at our two properties. We were requested to apply for a development permit for our existing use of the property so we will continue to work with the City of Edmonton to resolve any apparent issues.

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 by the Development Authority is dated August 12, 2016.
The Notice of Appeal was filed on August 29, 2016.**

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*:

Under section 420.2(5), a **General Industrial Use** is a **Permitted Use** in the IM Medium Industrial Zone.

Under Section 7.5(2), **General Industrial Uses** means:

development used principally for one or more of the following activities:

- a. the processing of raw materials;
- b. the making, manufacturing or assembling of semi-finished or finished goods, products or equipment;
- c. the cleaning, servicing, repairing or testing of materials, goods and equipment normally associated with industrial or commercial businesses or cleaning, servicing and repair operations to goods and equipment associated with personal or household use, where such operations have impacts that would make them incompatible in Non-industrial Zones;
- d. the storage or transshipping of materials, goods and equipment;
- e. the distribution and sale of materials, goods and equipment to institutions or industrial and commercial businesses for their direct use or to General Retail Stores or other sales Use Classes defined in this Bylaw for resale to individual customers; or
- f. the training of personnel in general industrial operations.

This Use Class includes vehicle body repair and paint shops. This Use Class does not include Major Impact Utility Services and Minor Impact Utility Services or the preparation of food and beverages for direct sale to the public.

Section 420.1 states that the **General Purpose** of the **IM Medium Industrial Zone** is:

...to provide for manufacturing, processing, assembly, distribution, service and repair Uses that carry out a portion of their operation outdoors or require outdoor storage areas. Any nuisance associated with such Uses should not generally extend beyond the boundaries of the Site. This Zone should normally be applied on the interior of industrial areas adjacent to collector and local industrial public roadways such that Uses are separated from any adjacent residential areas by a higher quality Industrial or Commercial Zone.

<p><i>General Performance Standards for Industrial Developments</i></p>
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Section 57.1(2) states the following:

Any Use or activity in the IM or IH Zones shall comply with the following appearance standards:

- a. all outdoor service, assembly, trash collection and storage areas including the trucking yards associated with such activities shall be located to the rear or sides of the principal building;
- b. loading and trash collection facilities serving office, warehouse and similar developments, where the handling or assembly of goods is carried on within a building, shall be allowed to the rear, sides or front of the principal building;
- c. all outdoor service, assembly, trash collection and storage areas including the trucking yards associated with such activities shall be screened from view from any public roadway other than a Lane, and from adjacent Sites, unless the public roadway is a local road serving only Sites in an IM or IH Zone, or the adjacent Site is Zoned IM or IH;
- d. notwithstanding the above, trash collection areas located to the front of the principal building shall be screened from view from any public roadway, including a Lane, and from any adjacent Site; and
- e. outside display areas are allowed to be located to the side or front of the principal building, provided that such displays are limited to examples of equipment or material related to the industry or business located on the Site.

Under section 6.1(67), **Nuisance** means:

anything that is obnoxious, offensive or interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses. This could include that which creates or is liable to create a nuisance through emission of noise, smoke, dust, odour, heat, light, fumes, fire or explosive hazard; results in the unsightly or unsafe storage of goods, salvage, junk, waste or other materials; poses a hazard to health and safety; or adversely affects the amenities of the neighbourhood or interferes with the rights of neighbours to the normal enjoyment of any land or building.

Development Officer's Determination

1) The existing use is determined to be a General Industrial Use as described in Section 430.2.1 of the Heavy Industrial (IH) zone.

The General Industrial Use operating on an IH site is characterized by the following features:

- a) large land requirements for storage, outdoor service, assembly, processing or fabricating operations and**
- b) the creation of nuisances that extend beyond the boundaries of the Site and that may have a deleterious effect on other Zones due to their appearance, noise, or odour;**
- c) the use of materials or processing operations that requires separation from other developments, due to risk of toxic emissions or fire and explosion hazards.**

The proposed development is a demolition and recycling business that recycles and stores concrete, wood and steel outdoor. In the opinion of the Development Officer, the proposed development is more suitable to a General Industrial use defined in a Heavy Industrial Zone than a General Industrial defined in a Medium Industrial zone.


2) The purpose of the IM Zone is to provide for manufacturing, processing, assembly, distribution, service and repair Uses that carry out a portion of their operation outdoors or require outdoor storage areas. Any nuisance associated with such Uses should not generally extend beyond the boundaries of the Site. This Zone should normally be applied on the interior of industrial areas adjacent to collector and local industrial public roadways such that Uses are separated from any adjacent residential areas by a higher quality Industrial or Commercial Zone.

The proposed development processes and store materials entirely outdoor. In the opinion of the Development Officer, the proposed development does not meet the general purpose of the Medium Industrial Zone (IM) and would unduly interfere with or affect the use and enjoyment of neighbouring properties and existing businesses.

3) All outdoor service, assembly, trash collection and storage areas including the trucking yards associated with such activities shall be screened from view from any public roadway other than a Lane, and from adjacent Sites, unless the public road. [unedited].

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: 182138658-003 Application Date: FEB 17, 2016 Printed: August 12, 2016 at 11:36 AM Page: 1 of 2
<h2 style="margin: 0;">Application for Major Development Permit</h2>	
This document is a Development Permit Decision for the development application described below.	
Applicant	Property Address(es) and Legal Description(s) 2603 - 121 AVENUE NE Plan 1124684 Blk 3 Lot 19
Scope of Application To develop and operate a General Industrial use (existing without permit) - Visco Rentals & Constructors Ltd.	
Permit Details	
Class of Permit: Gross Floor Area (sq.m): New Sewer Service Required: Y Site Area (sq. m.): 16969	Contact Person: Lot Grading Needed?: Y 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) The existing use is determined to be a General Industrial Use as described in Section 430.2.1 of the Heavy Industrial (IH) zone. The General Industrial Use operating on an IH site is characterized by the following features: a) large land requirements for storage, outdoor service, assembly, processing or fabricating operations and b) the creation of nuisances that extend beyond the boundaries of the Site and that may have a deleterious effect on other Zones due to their appearance, noise, or odour; c) the use of materials or processing operations that requires separation from other developments, due to risk of toxic emissions or fire and explosion hazards.	
The proposed development is a demolition and recycling business that recycles and stores concrete, wood and steel outdoor. In the opinion of the Development Officer, the proposed development is more suitable to a General Industrial use defined in a Heavy Industrial Zone than a General Industrial defined in a Medium Industrial zone.	
2) The purpose of the IM Zone is to provide for manufacturing, processing, assembly, distribution, service and repair Uses that carry out a portion of their operation outdoors or require outdoor storage areas. Any nuisance associated with such Uses should not generally extend beyond the boundaries of the Site. This Zone should normally be applied on the interior of industrial areas adjacent to collector and local industrial public roadways such that Uses are separated from any adjacent residential areas by a higher quality Industrial or Commercial Zone.	
The proposed development processes and store materials entirely outdoor. In the opinion of the Development Officer, the proposed development does not meet the general purpose of the Medium Industrial Zone (IM) and would unduly interfere with or affect the use and enjoyment of neighbouring properties and existing businesses.	
3) All outdoor service, assembly, trash collection and storage areas including the trucking yards associated with such activities shall be screened from view from any public roadway other than a Lane, and from adjacent Sites, unless the public road	
THIS IS NOT A PERMIT	



Project Number: 182138658-003
Application Date: FEB 17, 2016
Printed: August 12, 2016 at 11:36 AM
Page: 2 of 2

Application for Major Development Permit

Rights of Appeal

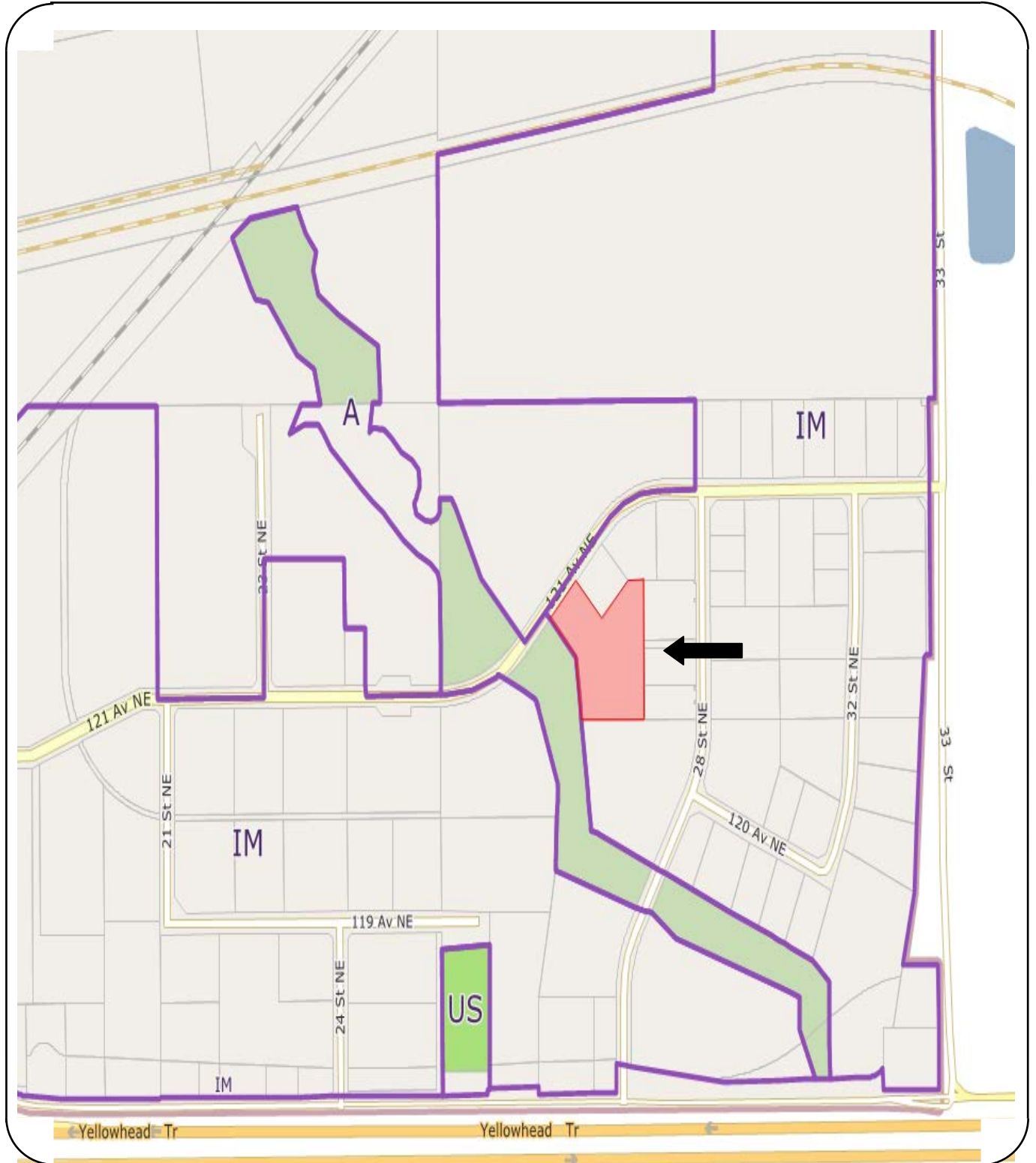
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Aug 12, 2016 Development Authority: CHAN, CALVIN Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Lot Grading Fee	\$373.32	\$220.00	03071322	Feb 17, 2016
Major Dev. Application Fee	\$1,786.00	\$1,786.00	03071322	Feb 17, 2016
Sanitary Sewer Trunk Fund 2012+	\$2,658.18			
Total GST Amount:	\$0.00			
Totals for Permit:	\$4,817.50	\$2,006.00		
(\$2,811.50 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-232



ITEM III: 1:30 P.M.

FILE: SDAB-D-16-233

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

APPELLANT:

APPLICATION NO.: 142969751-008

APPLICATION TO: Construct 2 Apartment House buildings (total of 166 Dwellings), with an underground parkade

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: August 10, 2016

NOTIFICATION PERIOD: August 16, 2016 through August 30, 2016

DATE OF APPEAL: August 29, 2016

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12004 - 22 Avenue SW

LEGAL DESCRIPTION: Condo Common Area (Plan 1023525)

ZONE: RA7 Low Rise Apartment Zone

OVERLAY: N/A

STATUTORY PLAN: Rutherford Neighbourhood Area Structure Plan

Grounds for Appeal

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

Section numbers below refer to Zoning Bylaw 12800. Site Area - The area of the site is 2.43 hectares instead of 1.4 hectares (section 210.4.13)

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 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

...

- (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.

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*:

Under section 210.2(1), **Apartment Housing** is a **Permitted Use** in the RA7 Low Rise Apartment Zone.

Under Section 7.2(1), **Apartment Housing** means:

development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use Class.

Section 210.1 states that the **General Purpose** of the **RA7 Low Rise Apartment Zone** is:

...to provide a Zone for Low Rise Apartments.

<i>Development Regulations</i>

Section 210.4(2) states “The minimum Site Area shall be 800 square metres.”

Section 210.4(13) states:

Apartment Housing, Group Homes, Lodging Houses, Row Housing and Stacked Row Housing shall be located on Sites of 1.4 ha or less. The Development Officer may exercise discretion in those cases in which Apartment Housing, Boarding and Lodging Houses, Row Housing and Stacked Row Housing would be located on Sites greater than 1.4 ha, having regard for Site design, building massing and scale.


Under section 6.1(95), **Site** means “an area of land consisting of one or more abutting Lots.”

Development Officer’s Determination

Site Area - The area of the site is 2.43 hectares instead of 1.4 hectares (Section 210.4.13). [unedited].

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.

	<p>Project Number: 142969751-008 Application Date: AUG 03, 2016 Printed: August 29, 2016 at 1:26 PM Page: 1 of 4</p>		
<h2 style="margin: 0;">Major Development Permit</h2>			
<p>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.</p>			
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 12004 - 22 AVENUE SW Condo Common Area (Plan 1023525)</p> <hr/> <p>Specific Address(es) Entryway: 12020 - 22 AVENUE SW Entryway: 12024 - 22 AVENUE SW Building: 12020 - 22 AVENUE SW Building: 12024 - 22 AVENUE SW</p>		
<p>Scope of Permit To construct 2 Apartment House buildings (total of 166 Dwellings), with an underground parkade.</p>			
<p>Permit Details</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)		
<p>I/We certify that the above noted details are correct.</p> <p>Applicant signature: _____</p>			
<p>Development Permit Decision Approved</p>			
<p>The permit holder is advised to read the reverse for important information concerning this decision.</p>			



Project Number: **142969751-008**
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Major Development Permit

Subject to the Following Conditions

This approval authorizes the construction of 2 Apartment House buildings (for a total of 166 Dwellings), with an underground parkade.

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21(1). Reference Section 17(1).

All access locations and curb crossings shall have the approval of the City Transportation Department prior to the start of construction. Reference Section 53(1).

- 1) The proposed 8.5m access to 22 Avenue SW located 75.4m from the southwest corner pin, is acceptable to Transportation Services and must be constructed as a commercial crossing access.
- 2) Existing boulevard trees along 22 Avenue SW are a requirement of the associated subdivision (LDA 05-0134/Rutherford Stage 30); however, the Final Acceptance Certificate (where the City takes ownership) has not been issued. These existing trees will conflict with the proposed access for the subject site. The applicant must contact Brian Charanduk with Stantec (780-917-7000) to amend (red-line) the approved landscape drawings for the subdivision to remove/relocate the trees. However, should the Final Acceptance Certificate be issued prior to the development of the site, all costs associated with the potential removal/relocation of existing boulevard trees, as stated in the Corporate Tree Management Policy C456A, will be borne by the owner/applicant. The owner will be required to contact Marshall Mithrush of Community Services (780-496-4953), prior to construction, to remove and relocate the trees or to arrange for hoarding and/or root cutting at the discretion and direction of Community Services.
- 3) The owner must enter into a Municipal Improvement Agreement with the City for the following improvements:
 - a) construction of an 8.5m commercial crossing access, located 75.4m from the southwest corner pin;
 - b) removal/relocation of 2 boulevard trees located on the north side of 22 Avenue SW.
 Engineering Drawings are not required for this Agreement. However, construction must meet the City of Edmonton Design and Construction Standards. The Municipal Improvement Agreement must be signed PRIOR to the release of the drawings for Building Permit review. The Agreement must be signed by the property owner and returned to Transportation Services to the attention of Mohammed Bashar (780-496-1799) including an irrevocable Letter of Credit in the amount of \$18,000.00 to cover 100% of construction costs. The Agreement will be forwarded directly to the owner for his signature.
- 4) Sidewalk connections from the main entrances of buildings A & B to the City sidewalk on 22 Avenue SW, and the shared use path located west of the subject site are a requirement.
- 5) A cross lot access easement must be registered on Certificate of Title for both properties.
- 6) Any sidewalk, shared use path or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Services, as per Section 15.5(f) of the Zoning Bylaw. The sidewalks, shared use path, and boulevard will be inspected by Transportation Services prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.

Transportation Department Advisements:

- 1) Parallel parking is NOT permitted on the internal road system as the road width (carriageway) is less than 7.5m. Both sides of the road must be signed 'No Parking'. A road width of less than 7.5m will not accommodate parking and still allow emergency vehicle access.
- 2) The internal roadway must be signed 'Private Road'. The sign is to be located on private property at the site entrance.
- 3) There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.
- 4) There are existing pipelines within the pipeline right-of-way immediately west of the subject site. Crossing agreements and proximity agreements are required for any construction over the pipelines, including the construction of sidewalk connections. The applicant is required to contact the pipeline companies to obtain all required agreements, and conform to all requirements of such agreements. All costs associated with construction over the pipelines and requirements of the pipeline agreements must be borne by the owner/applicant.
- 5) Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. The owner or Prime Contractor must apply for an OSCAM online at: http://www.edmonton.ca/bylaws_licences/licences_permits/oscam-permit-request.aspx
- 6) Residential Sales Trailers require a separate development permit. Construction trailers must be located on private property or within the bounded area.

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



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Major Development Permit

within the hoarded area.

7) Arterial Roadway Assessments were previously paid for this site, and therefore are not owed under this development application.

Landscaping shall be in accordance to the approved landscape plan, Section 55 and to the satisfaction of the Development Officer.

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall provide a guaranteed security to ensure that landscaping is provided and maintained for two growing seasons. The Landscape Security may be held for two full years after the landscaping has been completed. This security may take the following forms:

- a) cash to a value equal to 100% of the established landscaping costs;
- or
- b) an irrevocable letter of credit having a value equivalent to 100% of the established landscaping costs.

Any letter of credit shall allow for partial draws. If the landscaping is not completed in accordance with the approved Landscape Plan(s) within one growing season after completion of the development or if the landscaping is not well maintained and in a healthy condition two growing seasons after completion of the landscaping, the City may draw on the security for its use absolutely. Reference Section 55(6).

NOTE: A landscape security was submitted on project 142969751-001 and will apply to this approval.

Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.

Bicycle parking shall be provided in accordance to Section 54.3 and to the satisfaction of the Development Officer.

The developer shall provide a minimum of 24 visitor parking stalls readily available to an entrance of the building to be served, and clearly identified as visitor parking to the satisfaction of the Development Officer. Reference Section 54.2, Schedule 1A(1).

The off-street parking, loading and unloading (including aisles or driveways) shall be hardsurfaced, curbed, drained and maintained in accordance to Section 54(6).

All outdoor trash collection areas shall be located and screened to the satisfaction of the Development Officer in accordance with Sections 55(4) & (5).

NOTES:

- 1) Signs require separate Development Applications.
- 2) A Building Permit is Required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.
- 3) This approval 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.

Variations

Site Area - The area of the site is 2.43 hectares instead of 1.4 hectares (Section 210.4.13).

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 10, 2016 Development Authority: BACON, KIRK

Signature: _____

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



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Major Development Permit

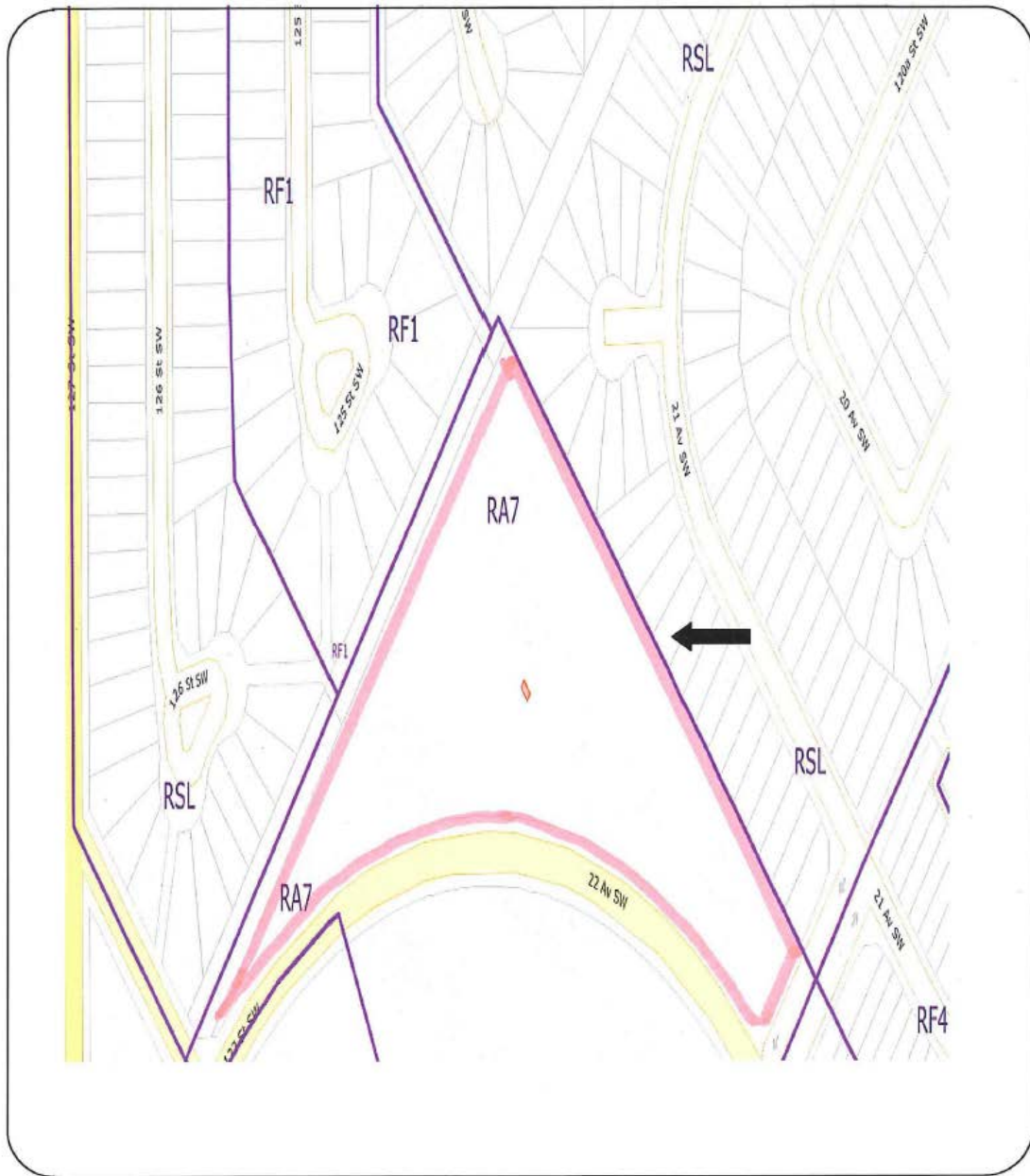
Notice Period Begins: Aug 16, 2016

Ends: Aug 30, 2016

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$102.00	\$102.00	03501225	Aug 05, 2016
Major Dev. Application Fee	\$260.00	\$260.00	03501225	Aug 05, 2016
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$362.00	\$362.00		

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-233



BUSINESS LAID OVER

SDAB-D-16-213	An appeal to construct a Semi-detached House with front verandas and to demolish the existing Single Detached House. <i>September 28 or 29, 2016</i>
SDAB-D-16-214	An appeal 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-D-16-205	An appeal 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 <i>October 6, 2016</i>
SDAB-S-14-001	An appeal 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 <i>October 31, 2016</i>
SDAB-D-16-144	An appeal 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 to construct an Accessory Building (Shed 1.98m x 4.57 m). <i>September 28 or 29, 2016</i>
188282372-001	An appeal to change the use from general Retail to a Bar and Neighbourhood Pub (maximum of 400 occupants and 691 square metres of Public Space) <i>November 2 or 3, 2016</i>
188283359-001	An appeal to change the use from a Flea Market Use to a Night Club and Major Amusement Establishment (1757 square metres of Public space) <i>November 23 or 24, 2016</i>