

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
September 8, 2016**

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

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

I	9:00 A.M.	SDAB-D-16-219	Construct exterior alterations (Driveway extension, overall 7.97m x 5.57m) to an existing Single Detached House existing without permits 16259 - 138 Street NW Project No.: 222119127-002
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II	10:15 A.M.	SDAB-D-16-198	Operate a Major Home Based Business for a General Contractor (AAA Vinyl Decking And Railing Ltd) 2923 - 89 Street NW Project No.: 222695011-001
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NOTE: *Unless otherwise stated, all references to “Section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-16-219

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 222119127-002

ADDRESS OF APPELLANT: 16259 - 138 Street NW

APPLICATION TO: Construct exterior alterations (Driveway extension, overall 7.97m x 5.57m) to an existing Single Detached House existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 3, 2016

DATE OF APPEAL: August 10, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 16259 - 138 Street NW

LEGAL DESCRIPTION: Plan 1322917 Blk 66 Lot 39

ZONE: RSL Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: Carlton Neighbourhood Structure Plan
Palisades Area Structure Plan

Grounds for Appeal

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

The reason for refusal talks about extra parking in the front yard. If you look at the real property report, the extension is 42 inches on the left side of the house. There is no way that an extra car can be parked there. We have a pie shaped lot. And no grass in the front yard because there's really isn't alot of space. We extended it that little bit for no other reason but to make the front of the house look better. It doesn't stand out at all and in our neighborhood it fits in. I understand that we should have applied for the permit first but the reason of refusal doesn't make sense for 42 inches. [unedited]

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 3, 2016. The Notice of Appeal was filed on August 10, 2016.

Determining an Appeal

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 115.1 states that the **General Purpose** of the **RSL Residential Small Lot Zone** is:

... to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites.

Under Section 115.2(4), **Single Detached Housing** is a **Permitted Use** in the RSL Residential Small Lot Zone.

Section 7.2(9) 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.

Driveway Location

Section 54.1(5) states that “The Driveway shall lead directly from the roadway to the required Garage or Parking Area.”

Development Officer’s Determination

The Development Officer referenced Section 54.1(5) and determined that “The Driveway does not lead directly from the roadway to the required Garage or Parking Area.”

Location of Vehicular Parking

Section 54.2(2)(e)(i) states:

e. Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, that are required in accordance with the minimum standards of this Bylaw shall be located in accordance with the following:

- i. parking spaces shall not be located within a Front Yard;

Development Officer's Determination

Location of Vehicular Parking - parking spaces shall not be located within a Front Yard.
(Section 54.2.2.e.i) [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: **222119127-002**
Application Date: JUN 20, 2016
Printed: August 29, 2016 at 10:01 AM
Page: 1 of 2

Application for Minor Development Permit

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

Applicant



Property Address(es) and Legal Description(s)

16259 - 138 STREET NW
Plan 1322917 Blk 66 Lot 39

Scope of Application

To construct to exterior alterations (Driveway extension, overall 7.97m x 5.57m) to an existing Single Detached House existing without permits.

Permit Details

of Dwelling Units Add/Remove: 0
Client File Reference Number:
Minor Dev. Application Fee: Exterior Alterations (Res.)
Secondary Suite Included?: N

Class of Permit: (none)
Lot Grading Needed?: N
New Sewer Service Required: N
Stat. Plan Overlay/Amex Area: (none)

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

Applicant signature: _____

Development Application Decision

Refused

THIS IS NOT A PERMIT



Project Number: **222119127-002**
 Application Date: JUN 20, 2016
 Printed: August 29, 2016 at 10:01 AM
 Page: 2 of 2

Application for Minor Development Permit

Reason for Refusal

Driveway location - The Driveway does not lead directly from the roadway to the required Garage or Parking Area. (Section 54.1.5),

Location of Vehicular Parking - parking spaces shall not be located within a Front Yard. (Section 54.2.2.e.i)

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.

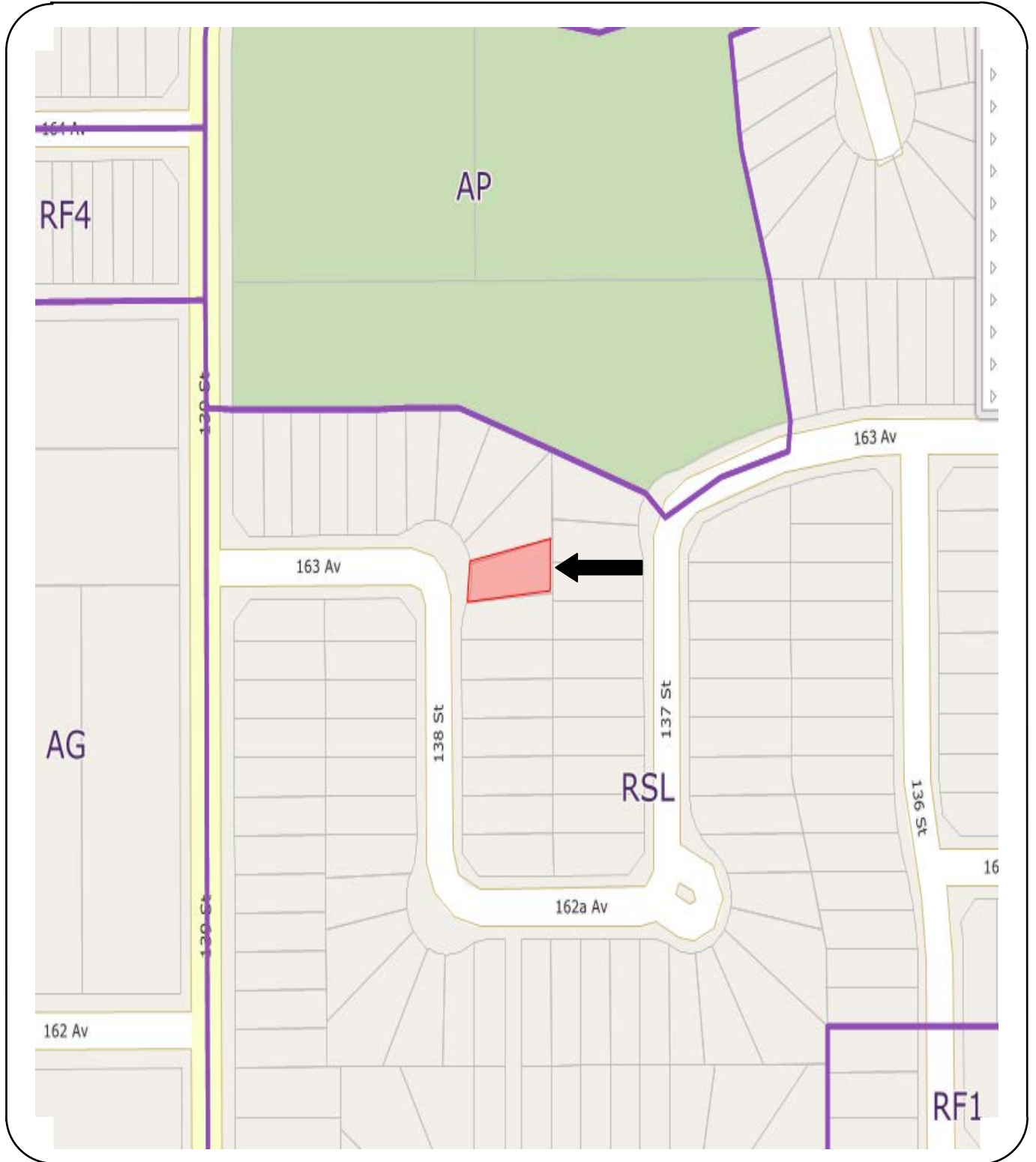
Issue Date: Aug 03, 2016 **Development Authority:** WATTS, STACY

Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Existing Without Permit Penalty Fee	\$159.00	\$159.00	03373259	Jun 20, 2016
Dev. Application Fee	\$159.00	\$159.00	03373259	Jun 20, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$318.00	\$318.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-219



ITEM II: 10:15 A.M.

FILE: SDAB-D-16-198

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

APPELLANT:

APPLICATION NO.: 222695011-001

APPLICATION TO: Operate a Major Home Based Business for a General Contractor (AAA VINYL DECKING AND RAILING LTD)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: July 12, 2016

DATE OF APPEAL: July 29, 2016

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2923 - 89 Street NW

LEGAL DESCRIPTION: Plan 7621725 Blk 19 Lot 39

ZONE: RF1 Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

I am submitting an APPEAL to the issuance of a Major Home Based Business License/Permit. The grounds for my appeal to the issuance of this Development Permit are as follows:

- 1. I have driven by and around the property address of 2923 – 89 Street Edmonton, Alberta and have noticed what looks like remnants of leftover building materials being stored on the property. Driving down the back lane, there are pieces of pipe standing against the backyard fence. It also looks like the owner/tenant has constructed a patio on the

back of the house which is an exterior display to showcase his products. (section 75.1)

2. This would also constitute outdoor activity for his business. (Section 75.5)

3. It would also appear that two commercial vehicles (Panel Vans) are being parked on the property which is in violation of Item No. 10 of the conditions listed. One of them does not fit in the driveway which is located in front of the attached garage.

4. There is no additional parking on the subject property as all available parking spots are taken up by the two commercial vehicles already parked on the subject forcing the owner/tenant to park any personal use vehicles on the street. This violates Item No. 10 &12 of the list of conditions.

5. The very fact that this home based business already has two commercial vehicles would suggest to me that the owner has employees who rendezvous daily to receive instructions for their next work assignment. (item No. 4 of the conditions listed).

This is a designated residential area with absolutely NO Commercial activity and my concern is that if this Major Home Based Development Permit is approved that it will set a precedent for others and entice residents in this residential area to make a similar application. There is a shortage of available street parking on 89 Street as it is and the issuance of this Development Permit will only add to additional vehicular traffic and therefore compound the street parking issue.

I have five vehicles in my family and if push comes to shove, I am able to park ALL our vehicles in my garage and in my driveway leaving parking available on the street for others (visitors and guests). There already is a number of unlicensed other home based businesses located on 89 Street. One buys, sells and repairs vehicles. Another buys and sells automobiles which are frequently parked on this street. One such business was directly across the street from my house doing a HVAC business from a residence that he rented. There was always two or more commercial vehicles parked on the street. They have since moved but By-Law was continually up and down this street and never once question them.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

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 July 12, 2016. Notice of the development was published in the Edmonton Journal on July 19, 2016. The Notice of Appeal was filed on July 29, 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 110.3(7), a **Major Home Based Business** is a **Discretionary Use** in the RF1 Single Detached Residential Zone.

Under Section 7.3(7), **Major Home Based Business** means:

...development consisting of the use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses such businesses may generate more than one business associated visit per day. The business use must be secondary to the residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use Class includes Bed and Breakfast Operations but does not include General Retail Sales.

Major Home Based Business Regulations

Section 75 provides as follows:

A Major Home Based Business shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;


6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;
7. a Bed and Breakfast Operation, operating as a Major Home Based Business shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;
8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Class Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
9. the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.
10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garage Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

Development Officer's Determination

The Development Officer approved the Major Home Based Business as a Discretionary Use pursuant to Section 110.3(7).

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: 222695011-001 Application Date: MAY 30, 2016 Printed: July 12, 2016 at 12:42 PM Page: 1 of 3
Home Occupation	
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) 2923 - 89 STREET NW Plan 7621725 Blk 19 Lot 39
	Specific Address(es) Entryway: 2923 - 89 STREET NW Building: 2923 - 89 STREET NW
Scope of Permit To operate a Major Home Based Business for a General Contractor (AAA VINYL DECKING AND RAILING LTD).	
Permit Details	
# of business related visits/day: 0 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: Y	# of vehicles at one time: 0 Business has Trailers or Equipment?: N Description of Business: Office Administration and storage in Garage Expiry Date: 2021-07-12 00:00:00
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: **222695011-001**
 Application Date: MAY 30, 2016
 Printed: July 12, 2016 at 12:42 PM
 Page: 2 of 3

Home Occupation

Subject to the Following Conditions

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

1. The business owner must live at the site. The business use must be secondary to the residential use of the building and shall not change the residential character of the Dwelling or Accessory Building (Section 7.3(7)).
2. There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling (Section 75.1).
3. The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located (Section 75.3).
4. The site shall not be used as a daily rendezvous for employees or business partners.
5. The site shall not be used by employees or business partners as a parking or storage location.
6. There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
7. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
8. Fabrications of business related materials are prohibited.
9. All commercial and industrial equipment, including but not limited to Bobcats, are not permitted at the site. The equipment shall be stored at an approved storage facility.
10. All commercial, industrial and overweight vehicles shall be parked at an approved storage facility. The Development Permit may be revoked if any commercial, industrial and overweight vehicles are parked or stored at the residential site.
11. One or more enclosed or empty non-enclosed trailer with less than 4500kg gross vehicle weight shall be parked at an approved storage facility, unless a variance has been granted for an enclosed or empty non-enclosed trailer for this Major Home Based Business.
12. All parking for the Dwelling and Home Based Business must be accommodated on site, unless a parking variance has been granted for this Major Home Based Business.
13. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
14. This approval is for a 5 year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on July 12, 2021.

Notes:

1. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site (Section 5.2).
2. This Development Permit is not a Business License.
3. Subject to the right of appeal. The permit is not valid until the required Notification Period expires (date noted below in accordance with Section 21.1 and 17.1).

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



Project Number: 222695011-001
Application Date: MAY 30, 2016
Printed: July 12, 2016 at 12:42 PM
Page: 3 of 3

Home Occupation

Variations

1. Discretionary Use - Major Home Based Business is approved as a Discretionary Use (Section 110.3.7).

Rights of Appeal

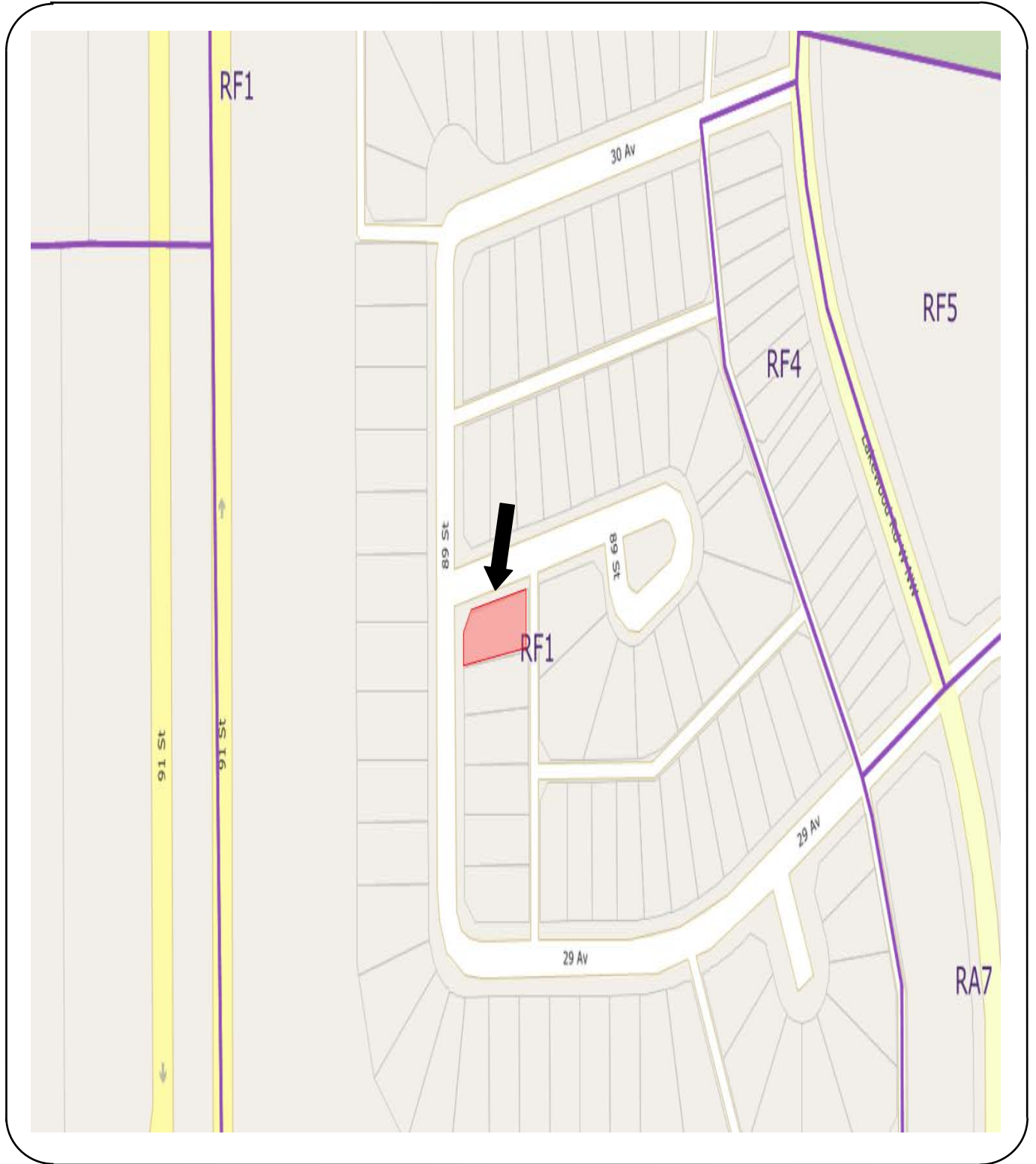
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Jul 12, 2016 Development Authority: ROBINSON, GEORGE Signature: _____
Notice Period Begins: Jul 19, 2016 Ends: Aug 01, 2016

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$297.00	\$297.00	03358206	Jun 14, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$297.00	\$297.00		

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-198



BUSINESS LAID OVER

SDAB-D-16-204	An appeal by <u>Omer Moyen</u> to develop a Secondary Suite in the basement of a Single Detached House, existing without permits <i>September 21 or 22, 2016</i>
SDAB-D-16-192	An appeal by <u>Vishal Kapoor</u> to change the Use from General Retail to Minor Alcohol Sales (AKP Liquors) <i>September 21 or 22, 2016</i>
SDAB-D-16-205	An appeal by <u>Rossdale Community League & Gabe Shelley VS Edmonton Fire Rescue Services</u> 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 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 <i>October 31, 2016</i>
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

178340926-011	An appeal by <u>Habitat Studio & Workshop Ltd.</u> to construct a two-storey Accessory Building (rear detached Garage - 8.99 metres by 9.60 metres) <i>September 21 or 22, 2016</i>
169544513-002	An appeal by <u>Michael Skare</u> to construct an Accessory Building (Shed 1.98m x 4.57 m). <i>September 28 or 29, 2016</i>
188282372-001	An appeal by <u>Kennedy Agrios</u> 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 by <u>Kennedy Agrios</u> 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>