

*Edmonton Subdivision and  
Development Appeal Board*

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Date: September 24, 2015  
Project Number: 165191429-001  
File Number: SDAB-D-15-181

**Notice of Decision**

This appeal dated July 17, 2015, from the decision of the Development Authority for permission to:

Construct (1) Freestanding Minor Digital On-Premises Sign (ROGERS BROADCASTING)

on Plan 0720014 Blk 80 Lot 4C, located at 5913 - Gateway Boulevard NW, was heard by the Subdivision and Development Appeal Board on August 12, 2015.

**August 12, 2015 Hearing:**

**Summary of Hearing:**

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.

The Presiding Officer referenced the documentation received from Canada Post which confirmed that the delivery date of the Development Authority's decision was July 10, 2015. It was noted that the appeal was filed on July 17, 2015, within the required 14 days appeal period.

**Motion:**

The Board shall assume jurisdiction

**Reasons for Decision:**

The Board finds the following:

1. Based on the evidence provided, the Board applied the provisions of Section 686(1)(a)(i) of the *Municipal Government Act*, RSA 2000, c M-26 and therefore finds that the appeal was filed within the allowable 14 days.

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct (1) Freestanding Minor Digital On-Premises Sign (ROGERS BROADCASTING), located at 5913 - Gateway Boulevard NW. The subject Site is zoned CB2 General Business Zone.

The development permit was refused because the proposed Major Digital On-premises Off-premises Sign contravenes Section 3.4(b)(ii) of the Calgary Trail Land Use Study and the minimum required separation distance in section 59F.3(5)(d) of the *Edmonton Zoning Bylaw*.

Prior to the hearing the following information was provided to the Board, copies of which are on file:

- A written submission from the Appellant dated August 6, 2015.
- Canada post confirmation
- A copy of the Southeast Industrial Area Outline Plan
- A written submission from the Development Authority dated August 10, 2015.
- The information received from the Development Authority included copies of plans, a response from Transportation Services, a response from the Area Planner, and information regarding separation distances
- An online response from a property owner located within the 60 metre notification radius.

The Board heard from Mr. Shepansky and Mr. Balaban, representing the Appellant, Admax Media, who provided the following information:

1. They reviewed the history of the development permit application, including the location of the building.
2. The building houses three radio stations, Sonic, Bounce and World FM, all of which are part of the Rogers Communications Group.
3. The proposed Sign will be used as part of their marketing effort to keep customers aware of the businesses at this location.
4. The proposed Sign will allow the radio stations to promote radio personalities and shows.
5. Joint marketing with radio clients will also appear on the proposed digital billboard.
6. He referenced three proposed locations for the sign from the Development Officer's written submission ("Proposed Location 1", "Proposed Location 2", and "Proposed Location 3").
7. Proposed Location 1 is not acceptable because it does not comply with the *Edmonton Zoning Bylaw* requirements as a projecting sign is not allowed.
8. Proposed Location 2 is a freestanding pylon sign located at the southwest corner of the building.
9. Proposed Location 3 is for a freestanding pylon sign located in the parking lot.
10. They would prefer Proposed Location 2 for the development.
11. However, the Development Authority expressed concern regarding Proposed Location 2 because it is located close to a fire hydrant as well as the sanitary sewer and will require the removal of a mature tree.
12. The only issue with Proposed Location 3, which was recommended by the Development Authority, is that it does not comply with the minimum required separation distance from another Digital Sign that is located 86 metres from the proposed location.
13. They have reviewed the Calgary Trail Land Use Study and it was their opinion that the proposed sign would add to the beautification of Gateway Boulevard.
14. Proposed Location 2 complies with the minimum separation distance requirements but will require the removal of a tree.

15. It was Mr. Shepansky's opinion that the deficiency in the minimum required separation distance between Signs will not cause distraction because of the roadway width of Gateway Boulevard.
16. He conceded that an application should have been submitted for a Freestanding Minor Digital On-premises Off-premises Sign instead of a Freestanding Minor Digital On-premises Sign to allow clients and affiliates of Rogers Communication to advertise on the Sign.
17. He referenced photographs contained in his written submission to illustrate that other business competitors have erected similar signage to promote radio and television activities from their locations.
18. The development permit application was refused because of a deficiency in the minimum required separation distance from any other Digital Sign or Off-premises Sign and because the proposed Sign contradicts Section 3.4(b)(ii) of the Calgary Trail Land Use Study.
19. They cited examples of other Digital Signs that have been approved in the City that do not comply with the minimum separation distance requirements. Several were located on 170 Street north of 99 Avenue and one on Gateway Boulevard that is located only 77 metres from another sign.
20. It was his opinion that the proposed Sign will be attractive and more reflective of developments along Gateway Boulevard and is in keeping with the Calgary Trail Land Use Study.
21. The desired resolution is to construct the Freestanding Digital Sign at Proposed Location 2, at the southwest corner of the building.

Mr. Shepansky and Mr. Balaban provided the following responses to questions:

1. The application was for a Freestanding Minor Digital On-premises Off-premises Sign.
2. They would prefer to site the Sign at Proposed Location 2, at the southwest corner of the building.
3. A landscaping plan was not submitted to the Development Authority.
4. At Proposed Location 2, care would have to be taken during construction to ensure that no damage was caused to the sanitary sewer. Also, the Sign would have to be built so that it complied with regulations regarding separation from the fire hydrant.
5. Community announcements may be part of their marketing plan in the future.
6. It was clarified that plans for the Proposed Location 2 were not submitted with the development permit application. However, they would be prepared to submit plans in order to allow the Board to consider Proposed Location 2.

The Board then heard from Mr. Luke and Ms. Noorman, representing the Sustainable Development Department, who provided the following information:

1. Mr. Luke clarified that the scope of application is a Freestanding Minor Digital On-premises Sign at Proposed Location 3, and the reasons for refusal only apply to Proposed Location 3.
2. The proposed development contravenes the Calgary Trail Land Use Study and is located 86 metres from an existing Sign, which does not comply with the minimum separation space required under Section 59F.3(5)(d) of the *Edmonton Zoning Bylaw*.
3. Alternatives were discussed with the Applicant.

4. Proposed Location 2 would result in landscaping deficiencies and problems with existing infrastructure.
5. Landscaping is required in the building setback because of the variance that was granted in the setback requirements when the building was constructed.
6. The Development Officer had suggested a digital Fascia Sign and he did not agree with the Appellant that the building would not support this type of signage.
7. The Calgary Trail Land Use Study is not a statutory plan but it is a policy document that has been passed by City Council and therefore must be considered by the Development Authority.
8. It was his opinion that this is an outdoor billboard.
9. He is concerned that the submission of the Appellant makes reference to “video”, which implies moving images, making this a Major Digital Sign.
10. The Calgary Trail Land Use Study discourages billboards and this would be an additional Sign which will create visual clutter.
11. The decision of refusal was not based on Proposed Location 2.
12. It was clarified that the Development Officer did submit information regarding Proposed Location 2 to Transportation Services, which advised that it had no objections to the Sign at that location.
13. The Applicant chose to proceed with the application based on Proposed Location 3 even though the Development Officer suggested a Fascia Sign.
14. The Applicant did not provide plans for Proposed Location 2 so it is impossible to be certain that the location of the Sign complies with the separation distance requirements.
15. The Calgary Trail Land Use Study is relevant.
16. Transitioning from old style billboards to digital signage is an evolution.
17. Mr. Luke agreed that the signage at CFRN is similar to the proposed Sign but that Site is not subject to the Calgary Trail Land Use Study.
18. The Sign at Proposed Location 2 would hide architectural improvements and would have a negative impact on the landscaping.
19. Fascia signage would not be a freestanding billboard and would be workable because it would comply with the separation distance requirements and would not impact the existing landscaping.
20. Mr. Luke referenced a photograph of the subject Site and building to illustrate the ideal location for a Fascia Sign, which would replace the existing Fascia Sign.
21. When considering Proposed Location 2, it is essential to know the exact location of the Sign.
22. One concern would be compliance with other regulations during the construction process, such as the distance from the fire hydrant, which is not a development issue.
23. The minimum separation distance requirements are the same for Minor Digital On-premises Signs and Minor Digital On-premises Off-premises Signs.
24. If the City wanted to eliminate the proliferation of Digital Signs along Calgary Trail, it could specify they are not allowed, but he was unsure if that is the political will of Council at this time.
25. The Development Authority would be duty bound to approve a Fascia Sign at this location.

The Board then heard from Mr. Charest, the owner of OK Radio who owns the immediately adjacent Site to the north. Mr. Charest provided the following information:

1. OK Radio originally built the building and previously owned two of the three radio stations now housed in the building.
2. He came to the hearing to gather information but could not say whether or not he is opposed to the proposed Sign.
3. It was his opinion that the metal grid on the south side of the building on this Site that currently houses the Sonic Fascia Sign was built to accommodate any type of signage, including the Minor Digital Sign proposed.
4. His main concern is related to the content of the Off-premises Sign proposed at Proposed Locations 1, 2 and 3. He would not be as concerned with the content of the proposed Sign if it was a Fascia Sign on the south side of the building where the Sonic Sign exists.

Mr. Shepansky and Mr. Balaban provided the following information in rebuttal:

Mr. Balaban clarified that the proposed Sign will not display video content. It will display static images at six second intervals.

At this point, the Presiding Officer advised the Appellants that if they wanted the Board to consider Proposed Location 2, plans showing the exact location of the proposed sign and landscaping would have to be provided to the Board and the Development Authority.

Mr. Shepansky asked that the appeal be adjourned and agreed to provide revised plans to the Board and the Development Authority on or before August 28, 2015. Mr. Luke confirmed that this was acceptable to the Development Authority.

**Decision:**

SDAB-D-15-181 shall be **TABLED** to September 9, 2015

**Reasons for Decision:**

The Board finds the following:

1. The hearing has been postponed in order to allow additional time for the Appellant to provide detailed information regarding Proposed Location 2 for the Freestanding Minor Digital On-premises Off-premises Sign, including a Site Plan showing the exact location of the Sign, and a Landscaping Plan.
2. This information shall be submitted to the Board and the Development Authority on or before August 28, 2015 in order to allow sufficient time for review prior to the hearing on September 9, 2015.

**September 9, 2015 Hearing:****Motion:**

SDAB-D-15-181 shall be raised from the table

**Summary of Hearing:**

Prior to the hearing the following information was provided to the Board, copies of which are on file:

- Detailed information regarding Proposed Location 2 for the Freestanding Minor Digital On-premises Off-premises Sign, including a Site Plan showing the exact location of the Sign, and a landscaping plan dated August 28, 2015 (“Landscaping Plan”).
- An email dated September 2, 2015 from the Sustainable Development Department in response to the revised Site Plan submitted by the Appellant.
- Proposed Sign location dated September 4, 2015.
- Information from the Appellant regarding the proposed Sign location and Sign dimensions, dated September 4, 2015.

The Board heard from Mr. Shepansky, representing the Appellant, Admax Media Inc., who provided the following information in support of the appeal:

1. Proposed Location 2 meets all of the development requirements under the *Edmonton Zoning Bylaw*.
2. The Appellant submitted a Site Plan illustrating the exact location of the Freestanding Minor Digital On-premises Off-premises Sign for Proposed Location 2 and a Landscaping Plan.
3. The Landscaping Plan confirms that an existing tree will be moved and that additional shrubs will be planted. It also confirms the distance of the proposed Sign from the property line.
4. This is an application for a Discretionary Use that meets the needs of his client.
5. It was his opinion that the Sign will be an attractive centrepiece.
6. The existing Fascia Sign was recently upgraded and complies with the maximum number of Signs allowed on this Site.
7. If large sign companies such as Pattison apply for similar Signs and they are not approved, they can simply choose another location.
8. However, moving to another location is not possible for the Appellant because the proposed Sign is for the use of their business operating at this specific Site.
9. They have fought hard for this location because it is the only option for the Appellant.

Mr. Shepansky provided the following responses to questions:

1. The pole structure for the proposed Sign will be sited to avoid interference with the fire hydrant and sanitary sewer.
2. They are asking the Board to consider Proposed Location 2 or 3.
3. The proposed Sign is part of the visual recognition for the radio stations on the Site.

4. If the proposed Sign is approved, there will only be two Signs on the site, which does not exceed the maximum allowed number of Signs.
5. The width of Calgary Trail will mitigate the size of the proposed Sign.
6. The Landscaping Plan was submitted to the Development Authority, and the Appellant received the Authority's response on September 2, 2015.
7. Additional information regarding the distance of the proposed Sign from the property lines and the Sign dimensions were subsequently submitted on September 4, 2015, but there was no further correspondence received from the Development Authority.

The Board then heard from Mr. Charest, the owner of OK Radio who owns the immediately adjacent Site to the north. Mr. Charest provided the following information:

1. His opposition regarding the proposed Sign has not changed since the initial hearing.
2. He is still concerned about the impact of the proposed Sign on his business.
3. He would support an electronic Sign (On-premises Off-premises Minor Digital Sign) if it replaced the existing logo Sign on the south side of the building.

Mr. Shepansky provided the following information in rebuttal:

1. Replacing the existing Fascia Sign with an electronic Sign will defeat the purpose of the electronic Sign.
2. The Sonic Fascia Sign cannot be seen by 90 percent of motorists on Calgary Trail until they are virtually upon it. This Sign is only meant to identify the radio station from the parking lot.
3. He referenced a photograph contained on page 3 of the Development Authority's written submission to illustrate the limited visibility of the existing Fascia Sign from Calgary Trail.
4. The Sonic Fascia Sign is located approximately 55 feet from the west property line and is meant to be viewed by patrons, listeners and clients of the radio station once they have arrived at the parking lot. It is not visible from Calgary Trail.

**Decision:**

The appeal is **ALLOWED** and the decision of the Development Authority is **REVOKED**. The development is **GRANTED** as a Freestanding Minor Digital On-premises Off-premises Sign, subject to the following **CONDITIONS**:

1. The development permit is approved for a term of no longer than 5 years, at which time the Applicant shall apply for a new development permit for continued operation of the Sign.
2. Should Transportation Services determine, at any time, 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 Transportation Services.
3. The owner/Applicant must provide a written statement of the actions taken to mitigate concerns identified by Transportation Services 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.

4. The proposed Sign shall be constructed entirely within private property. No portion of the Sign shall encroach over/into road right-of-way.
5. The maximum Height of the Sign shall be 3.05 metres as proposed.
6. The maximum Width of the Sign shall be 6.10 metres as proposed.
7. The maximum Sign Area shall be 18.61 square metres as proposed.
8. The top of the Sign shall be no higher than 6.71 metres as proposed.
9. The Sign shall be located as identified on the Site Plan submitted on September 4, 2015, and reviewed by the Board at the appeal hearing on September 9, 2015.
10. The Applicant shall provide landscaping and architectural detailing according to the submitted Landscaping Plan dated August 28, 2015 and reviewed by the Board at the appeal hearing on September 9, 2015.
11. Pursuant to Section 59F.3(6)(j), proposed Signs with an Area greater than 8.0 square metres shall not be located within any Setback.
12. Pursuant to Section 59F.3(6)(k), the maximum number of Freestanding On-premises Signs, Roof On-premises Signs, Major Digital Signs, Minor Digital On-premises Signs, Minor Digital On-premises Off-premises Signs and Minor Digital Off-premises Signs on Site shall be four.

**Reasons for Decision:**

The Board finds the following:

1. In its initial dealings with the Development Authority, the Appellant had proposed to have the Sign located at the southwest corner of the building. This location is referred to as Proposed Location 2 in the Development Officer's written submission. The Development Officer advised the Appellant that this location would not be acceptable because of its impact on the built environment. Specifically, the proposed location would involve the removal of a mature tree and would be close to a fire hydrant and a sanitary sewer. No mention was made by the Development Authority about the proposed location being too close to other Digital Signs or Off-premises Signs.
2. In response to the Development Authority's concerns, the Appellant proposed a location further to the south on an island in the parking lot. This location is referred to as Proposed Location 3 in the Development Officer's written submission. That location was rejected by the Development Authority because it was located within 86 metres of a Freestanding Off-premises Sign and because the Calgary Trail Land Use Study discourages the use of freestanding billboards. This was the decision of the Development Authority that the Appellant appealed to the Board.
3. The Appellant initially applied for a Freestanding Minor Digital On-premises Sign. In the course of the hearing, it became clear that the proposed Use was actually for a Freestanding Minor Digital On-premises Off-premises Sign so that clients and affiliates of Rogers Communication could advertise on the Sign. Accordingly, the Board found that it was appropriate to treat the application as if it were for a Freestanding Minor Digital On-premises Off-premises Sign. The Board notes that the regulations in Section 59F.3 of the Edmonton Zoning Bylaw are less restrictive for Minor Digital On-premises Off-premises Signs than for Minor Digital On-premises Signs. However, the dimensions of the proposed Sign fall within the maximums allowed for Minor Digital On-premises Signs. Separation



distances are the same for both types of Sign. Accordingly, there is no prejudice to any affected party to changing the type of sign being applied for. Further, the only affected party to appear at the hearing, Mr. Charest, was present when the Board raised the issue of changing the application and had an opportunity to speak to the issue.

4. The Board tabled the hearing to give the Appellant the opportunity to provide the specific location of the Sign at Proposed Location 2 and to provide details of the Landscaping Plan at this location. The Board directed the Appellant to provide this information to the Development Authority so that it could comment on the Sign at Proposed Location 2.
5. In an email dated September 2, 2015, the Development Authority declined to comment, essentially on the basis that its decision of refusal was related to a Freestanding Minor Digital On-premises Sign at Proposed Location 3, not a Freestanding Minor Digital On-premises Off-premises Sign at Proposed Location 2. The email stated that the Development Authority “should only review and respond to the revised drawings and information based on a new development permit and not comment on scenarios during the appeal process”. Accordingly, the Board is left to evaluate the appeal on the basis of the information provided by the Development Authority in its written submission.
6. Regarding the Calgary Trail Land Use Study, which served as a ground for the Development Authority’s refusal and which discourages the use of freestanding billboards, the Board notes that Section 3.4(b) of the Study states:

Greater attention shall be given to improving the location, siting, Signage comprehensibility and design of signage in the corridor by:

- i) promoting within the business community the voluntary replacement of older advertising signage;
- ii) discouraging the use of portable signs and freestanding billboards;  
and
- iii) improving directional signage to major facilities such as hospitals, University, Downtown, and Government Centre.

Through information received in the business survey and through visual inspection of the corridor, advertising signage, particularly older signage, is perceived by many to be unattractive.

7. The Board does not agree with the Development Authority that a Sign at either Proposed Locations 2 or 3 will be contrary to the Study. The concerns raised in the Study related to the voluntary replacement of older advertising signage, which was perceived as being unattractive and discouraging freestanding billboards. The proposed Sign is a modern Digital Sign, not an old style billboard.
8. Further, if City Council wanted to eliminate Freestanding Digital Signs along the Calgary Trail corridor, they could have done so as they did in the civic centre area by prohibiting Minor Digital On-premises Off-premises Signs (Section 59F.3(6)(a)). Instead, Council chose to apply the other provisions of Section 59F.3 to Minor Digital On-premises Off-

- premises signs along Calgary Trail. This shows an intent by Council to regulate Digital Signs along Calgary Trail by specifying maximum sizes and minimum separation distances.
9. Regarding the impact that the proposed Sign will have, the Board notes that the proposed Minor Digital On-premises Off-premises Sign is considerably smaller than allowed by the regulations. Section 59F.3(6) of the *Edmonton Zoning Bylaw* allows a Minor Digital On-premises Off-premises Sign to be up to 65 square metres in size. The proposed Sign will have a Sign area of only 18.6 square metres.
  10. The map at page 4 of the Development Authority's written submission shows that many Digital Signs have been approved along the Calgary Trail corridor that have been spaced more or less in accordance with the separation distances specified in Section 59F.3 of the *Edmonton Zoning Bylaw*. That map also shows that a Sign at Proposed Location 2 appears to comply with the 100 metres separation distance for a Sign of the proposed size. Based on this and the fact that the Development Authority's written submission does not refer to a violation of the minimum separation distance requirements at Proposed Location 2, the Board concludes that the proposed Freestanding Minor Digital On-premises Off-premises Sign at Proposed Location 2 will not require a variance with respect to separation distance.
  11. The other concerns of the Development Authority regarding Proposed Location 2 related to the built environment. One concern was the proximity to a fire hydrant. The Board is of the view that before the Appellant receives a building permit, other authorities will have to be satisfied that the proposed Sign will not interfere with the operation of the fire hydrant. This is not a matter for this Board to consider when deciding whether or not to grant a development permit.
  12. The Development Authority was also concerned about the proximity of the proposed Sign to a sanitary sewer line. The Board finds that this matter is also not for the Board to consider when deciding whether or not to grant a development permit. As with other developments constructed near sanitary sewer lines, the Appellant will be required to take the necessary steps to ensure that the operation of the sewer line is not compromised.
  13. The third concern raised by the Development Authority regarding the built environment at Proposed Location 2 is the need to remove a mature tree. Based on the Landscaping Plan submitted by the Appellant, the Board is satisfied that the steps proposed by the Appellant are sufficient to mitigate the loss of the tree. These steps include replacing the tree at another location, planting shrubs and flowers at the base of the Sign, and providing decorative architectural elements on the Sign structure.
  14. The Board notes that Transportation Services has no objection to the sign at Proposed Location 2.
  15. Despite the concerns raised by Mr. Charest, the Board is of the view that a sign at Proposed Location 2 will have no significant impact on his business.
  16. Proposed Location 3 is located within 86 metres of a Freestanding Off-premises Sign. For this reason, the Board finds Proposed Location 2 to be the preferred location.
  17. Based on the evidence provided, the existing Fascia Sign faces south, is located a significant distance east of Calgary Trail and is screened by existing buildings to the south. Therefore, the Board finds that placing the Sign at Proposed Location 2 will not contribute to the proliferation of Signs at this Site. The Board also finds that the proposed development does not exceed the maximum allowable number of Signs for this location.

18. For all of the above reasons, the Board finds that placing the Sign at Proposed Location 2 will not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

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**Important Information for the Applicant/Appellant**

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1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, located on the 5<sup>th</sup> Floor, 10250 – 101 Street, Edmonton.
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*, RSA 2000, c S-1;
  - c) the requirements of the *Permit Regulation*, Alta Reg 204/2007;
  - d) the requirements of any other appropriate federal, provincial or municipal legislation; and
  - 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 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.

Mr. M. Young, Presiding Officer  
Subdivision and Development Appeal Board

*Edmonton Subdivision and  
Development Appeal Board*

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Date: September 24, 2015  
Project Number: 172190000-001  
File Number: SDAB-D-15-203

**Notice of Decision**

This appeal dated August 13, 2015, from the decision of the Development Authority for permission to:

Operate a Major Home Based Business (Cooking Classes in 1-120, 4245 - 139 Avenue NW)

On Condo Common Area (Plan 0729585), located at 4245 - 139 Avenue NW, was heard by the Subdivision and Development Appeal Board on September 9, 2015.

**Summary of Hearing:**

The Board convened to hear an appeal of the decision of the Development Authority to approve an application to operate a Major Home Based Business (Cooking Classes in 1-120, 4245 - 139 Avenue NW), located at 4245 – 139 Avenue NW. The subject Site is zoned RA8 Medium Rise Apartment Zone, and is within the Clareview Town Centre Neighbourhood Area Structure Plan.

The development permit was approved, subject to conditions, and subsequently appealed by an adjacent property owner.

The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

Prior to the hearing, the following information was provided to the Board, copies of which are on file:

- Letter of opposition from an affected property owner;
- On-line responses from 7 affected property owners, 6 in opposition to the proposed development and 1 neighbour who was neutral; and
- A written submission from the Development Authority dated September 8, 2015. The submission contained an email from the Respondent/Applicant dated September 5, 2015, requesting the withdrawal of the approved development permit application for a Major Home Based Business (Cooking Classes). The email stated:

Dear Mr. Cooke,

As to our last conversation I would like to withdraw my application for cooking classes.

Sincerely,  
Cherril Williams

In the absence of any of the affected parties, the Board reviewed the written evidence provided and made the following decision.

**Decision:**

Based on the written request of the applicant/Respondent, the decision of the Development Authority is **REVOKED and the Development Permit is cancelled.**

**Reasons for Decision:**

The Board notes the following:

1. Section 17.1(3) of the *Edmonton Zoning Bylaw* states:

The Development Officer shall suspend a Development Permit upon receipt of a filed notice of appeal to the City of Edmonton from the Subdivision and Development Appeal Board in accordance with the Municipal Government Act, and Section 21.1 of this Bylaw.

2. Section 17.2(2) of the *Edmonton Zoning Bylaw* states:

Notwithstanding subsection 17.2(1), the Development Officer shall not cancel a Development Permit that has been appealed to the Subdivision and Development Appeal Board, the Alberta Court of Queen's Bench or the Alberta Court of Appeal.

3. Section 687(3)(c) of the *Municipal Government Act* states:

In determining an appeal, the subdivision and development appeal board

...

(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;

...

The Board finds the following:

1. On or about September 5, 2015 via an email addressed to the Development Authority, the applicant/Respondent requested that her application for a Development Permit to operate a Major Home Based Business (cooking classes) be withdrawn.

2. However, since the decision to grant a Development Permit had already been appealed to the Subdivision and Development Appeal Board, the Development Authority was barred from cancelling the Permit by Section 17.2(2) of the *Edmonton Zoning Bylaw*.
3. Accordingly, the appeal to this Board proceeded.
4. Pursuant to the Board's powers under Section 687(3)(c) of the *Municipal Government Act*, the Board hereby cancels the Development Permit in accordance with the applicant's request in her September 5, 2015 email.
5. Due to the cancellation of the Development Permit, the appeal is rendered moot.

### **Important Information for the Applicant/Appellant**

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1. 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.
2. 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 5th Floor, 10250 – 101 Street, Edmonton.

Mr. M. Young, Presiding Officer  
Subdivision and Development Appeal Board