

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Wednesday, 9:00 A.M.
September 22, 2021

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

TO BE RAISED

I 9:00 A.M. SDAB-S-21-004

Create one (1) rural residential lot

22831 - 120 Avenue NW
Project No.: 386955119-001

II 11:00 A.M. SDAB-S-21-005

Create one (1) additional single detached residential lot

10976 - 126 Street NW
Project No.: 401846397-001

TO BE RAISED

III 2:00 P.M. SDAB-D-21-136

Develop a Temporary Storage and General Industrial Uses facility as a Temporary Use (5 years)

10651 - 199 Street NW
Project No.: 220574097-001

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

TO BE RAISED

ITEM I: 9:00 A.M.

FILE: SDAB-S-21-004

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 386955119-001

APPLICATION TO: Create one (1) rural residential lot

DECISION OF THE
SUBDIVISION AUTHORITY: Refused

DECISION DATE: July 15, 2021

DATE OF APPEAL: July 26, 2021

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 22831 - 120 Avenue NW

LEGAL DESCRIPTION: Plan 7521598 Blk 4 Lot 4

ZONE: (RR) Rural Residential Zone

OVERLAY: N/A

STATUTORY PLAN(S): Big Lake Area Structure Plan
Yellowhead Corridor Area Structure Plan
Kinglet Gardens Neighbourhood Structure Plan

Grounds for Appeal

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

These are the reasons we are appealing:

They have already allowed 5 lots in the subdivision to be subdivided. We are not changing the land use of the subdivision it will remain the same

residential. All of the lots in the subdivision are on cisterns wells or their own sewer field system. It is unfair for you to ask us to install sewer water and fire hydrants when the rest of the subdivision does not provide those services. The lot also has two approaches already there, one for both sides.

3 acres of land is a large parcel, at 1 and half acres per lot makes it a lot more manageable. We will enhance the look of the neighbourhood with a new house.

Thank you

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on August 26, 2021:

“That the appeal hearing be scheduled on September 22, 2021 at the written request of the Subdivision Authority and with the written consent of the Appellant”.

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

Appeals

678(1) The decision of a subdivision authority on an application for subdivision approval may be appealed

- (a) by the applicant for the approval,
- (b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- (c) by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the municipal planning commission of the municipality is not the subdivision authority, or
- (d) by a school board with respect to
 - (i) the allocation of municipal reserve and school reserve or money in place of the reserve,
 - (ii) the location of school reserve allocated to it, or

- (iii) the amount of school reserve or money in place of the reserve.

(2) An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681

- (a) with the Land and Property Rights Tribunal

- (i) unless otherwise provided in the regulations under section 694(1)(h.2)(i), where the land that is the subject of the application

- (A) is within the Green Area as classified by the Minister responsible for the Public Lands Act,

- (B) contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site,

- (C) is the subject of a licence, permit, approval or other authorization granted by the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Alberta Energy RSA 2000 Section 679 Chapter M-26 MUNICIPAL GOVERNMENT ACT 437 and Utilities Board or Alberta Utilities Commission, or

- (D) is the subject of a licence, permit, approval or other authorization granted by the Minister of Environment and Parks, or

- (ii) in any other circumstances described in the regulations under section 694(1)(h.2)(ii), or (b) in all other cases, with the subdivision and development appeal board.

(2.1) Despite subsection (2)(a), if the land that is the subject-matter of the appeal would have been in an area described in subsection (2)(a) except that the affected Government department agreed, in writing, to vary the distance under the subdivision and development regulations, the notice of appeal must be filed with the subdivision and development appeal board.

(3) For the purpose of subsection (2), the date of receipt of the decision is deemed to be 7 days from the date the decision is mailed.

(4) A notice of appeal under this section must contain

- (a) the legal description and municipal location, if applicable, of the land proposed to be subdivided, and
- (b) the reasons for appeal, including the issues in the decision or the conditions imposed in the approval that are the subject of the appeal.

(5) If the applicant files a notice of appeal within 14 days after receipt of the written decision or the deemed refusal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board.

Hearing and decision

680(1) The board hearing an appeal under section 678 is not required to hear from any person or entity other than

- (a) a person or entity that was notified pursuant to section 679(1), and
- (b) each owner of adjacent land to the land that is the subject of the appeal,

or a person acting on any of those persons' behalf.

(1.1) For the purposes of subsection (1), “owner” has the same meaning as in section 653.

(2) In determining an appeal, the board hearing the appeal

- (a) repealed 2020 c39 s10(48);
 - (a.1) must have regard to any statutory plan;
- (b) must conform with the uses of land referred to in a land use bylaw;
- (c) must be consistent with the land use policies;
- (d) must have regard to but is not bound by the subdivision and development regulations;
- (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or

make or substitute an approval, decision or condition of its own;

- (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

(2.1) In the case of an appeal of the deemed refusal of an application under section 653.1(8), the board must determine whether the documents and information that the applicant provided met the requirements of section 653.1(2).

(2.2) Subsection (1)(b) does not apply to an appeal of the deemed refusal of an application under section 653.1(8).

...

Approval of application

654(1) A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any growth plan under Part 17.1, any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,
- (c) the proposed subdivision complies with this Part and Part 17.1 and the regulations under those Parts, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.

(1.1) Repealed 2018 c11 s13.

(1.2) If the subdivision authority is of the opinion that there may be a conflict or inconsistency between statutory plans, section 638 applies in respect of the conflict or inconsistency.

(2) A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,

- (a) the proposed subdivision would not
 - (i) unduly interfere with the amenities of the neighbourhood, or
 - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.

(3) A subdivision authority may approve or refuse an application for subdivision approval.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 240.1 states that the **General Purpose** of **(RR) Rural Residential Zone** is:

to regulate rural residential uses that existed prior to February 9, 2021.
Any subdivision of lands zoned Rural Residential is strictly prohibited.

Section 240.4(1) states “The minimum Site Area shall be 1.0 ha.”

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.



Subdivision Authority

7th Floor, Edmonton Tower
10111 – 104 Avenue NW
Edmonton, Alberta T5J 0J4

July 15, 2021

File No. LDA21-0153

RE: Tentative plan of subdivision to create one (1) rural residential lot from Lot 4, Block 4, Plan 752 1598, located east of 231 Street (Winterburn Road) NW and south of 120 Avenue NW; **KINGLET GARDENS**

The Subdivision by Plan is REFUSED on July 15, 2021 for the following reasons:

1. The proposed subdivision contravenes Edmonton's Municipal Development Plan (MDP), *The City Plan*.
 - a. Policy 2.3.2.7: "Prevent any further subdivision of Rural Residential or Agricultural lands that creates additional Rural Residential parcel(s) or would otherwise facilitate further country residential development."
 - b. Policy 5.3.1.4: "Prevent premature fragmentation and conversion of agricultural lands for residential and non-residential uses."
2. The proposed subdivision does not comply with the Edmonton Metropolitan Region Growth Plan's direction for development.
 - a. Objective 4.4: "Plan for and accommodate rural growth in appropriate locations with sustainable levels of local servicing."
 - b. Policy 4.4.4.d.i: "New country residential development in the Region shall only be considered if a member municipality's proposal meets all of the following criteria: the proposed country residential lots are: outside of the regional commuter shed boundary as identified in Schedule 7." The proposed subdivision is located inside the Commuter Shed, specifically within what's identified as the region's Metropolitan Area.
 - c. Section 3.2 *Policy Tiers*: "'Metropolitan Area' is defined as the area surrounding the metropolitan core, including portions of county lands, urban communities, major and local employment areas, and intervening undeveloped areas that are socio-economically tied and that share industry, housing and infrastructure. The metropolitan area encompasses the highest concentration of existing and future urban development in the Region, and reflects the general direction of future urban growth." Proliferation of country residential development is discouraged within the Metropolitan Area.

3. The subject site is zoned Rural Residential (RR) Zone and is subject to its development regulations, under Section 240 of the City of Edmonton Zoning Bylaw 12800.
 - a. Section 240.1 states the RR Zone's general purpose is, "to regulate rural residential uses that existed prior to February 9, 2021. Any subdivision of lands zoned Rural Residential is strictly prohibited." The RR Zone is not intended to facilitate new development.
 - b. Section 240.4(1) defines the minimum permitted Site Area as 1.0 hectare (ha). The subject property is currently 1.214 ha in size. The proposed subdivision results in lots with 0.560 ha and 0.655 ha Site Areas.
4. The proposed subdivision contradicts direction provided in the statutory plan for this area, the Kinglet Gardens Neighbourhood Structure Plan (NSP).
 - a. Section 3.4.6 *Residential* indicates the neighbourhood's minimum planned density is 25 units per hectare (ha), for the development of single detached residential uses. The proposed subdivision results in two (2) units comprising the 1.214 ha subject site.
 - b. This proposal contributes to land fragmentation which fails to advance the statutory plan's goals and objectives in the absence of comprehensive planning.
 - i. Section 3.3.10 *Goals and Objectives*: "The overall goals of the Kinglet Gardens NSP are to establish a neighbourhood that: provides efficient, contiguous and staged urban and infrastructure development."
 - ii. Section 3.4.10 *Infrastructure, Servicing and Staging*, Objective 40: "Ensure that the Kinglet Gardens NSP is serviced to a full urban standard, in an efficient, contiguous and staged manner."
 - iii. Section 3.4.10 *Infrastructure, Servicing and Staging*, Objective 40 - Rationale: "Development will proceed in a manner that is contiguous, logical and economical with respect to municipal servicing."
 - c. The plan amendment and rezoning stages of development should occur prior to this subdivision, along with their relevant level of technical studies.
 - i. Section 2.3 *Land Ownership* identifies the subject property as a Non-Participating Landowner.
 1. Section 2.3 *Land Ownership*: "All required technical studies including, but not limited to, environmental site assessments, risk assessments and updates to the transportation impact assessment, hydraulic network analysis and neighbourhood design report may be required prior to rezoning, for all non-participating landowners. An amendment to the Kinglet Gardens NSP and Big Lake ASP may also be required."
 2. Section 3.4.4 *Environment*, Objective 11: Implementation: "Through consultation with City administration, abandoned wells will be integrated into the neighbourhood to minimize any negative impact associated with potential future well-servicing operations." The

subdivision's proposed lot contains an abandoned oil well at its southwest corner. Detailed neighbourhood planning through a plan amendment or rezoning has not occurred to ensure appropriate long-term integration of the well into the overall neighborhood design.

3. Section 3.4.4 *Environment* - Technical Summary: "Environmental Site Assessments will be required for all non-participating lands at the rezoning stage." Environmental review ensures land is free of contamination and suitable for development.
- ii. Figure 6 *Land Use Concept* designates the site for Existing Residential uses.
1. Section 3.4.6 *Residential*: "The plan area contains land designated as existing residential, which is currently developed with country residential parcels. Should landowners wish to redevelop these lands and subdivide, an amendment to the Kinglet Gardens NSP will be required."
 2. Section 3.4.6 *Residential*, Objective 21: "Existing Residential areas should be planned comprehensively if and when redevelopment occurs."
5. Required technical information was not provided with this application. Due to the absence of reports, infrastructure requirements are not fully understood.
- a. There may be implications for Municipal servicing and access, since the subject site should meet City standards.
 - b. Offsite connections are required to utility infrastructure that has yet to be constructed.
 - c. Public fire protection is not provided in this location, as the nearest water source (hydrant) is approximately 2.9 km away. There is no approved plan to address fire flow and hydrant spacing requirements.
 - d. Environmental conditions of the subject site are unknown, therefore this land cannot be deemed suitable for development.
 - e. Potential impacts to adjacent properties and land uses have not been properly assessed. For example, cross lot drainage onto adjacent land is not permitted, yet it has not been appropriately planned for.

Enclosure I is a map of the proposed subdivision.

Please be advised that an appeal may be lodged in accordance to Section 678 of the Municipal Government Act with the Subdivision and Development Appeal Board, 10019 - 103 Avenue NW, Edmonton Alberta, T5J 0G9, within 14 days from the date of the receipt of this decision. The date of receipt of the decision is deemed to be seven (7) days from the date the decision is mailed.

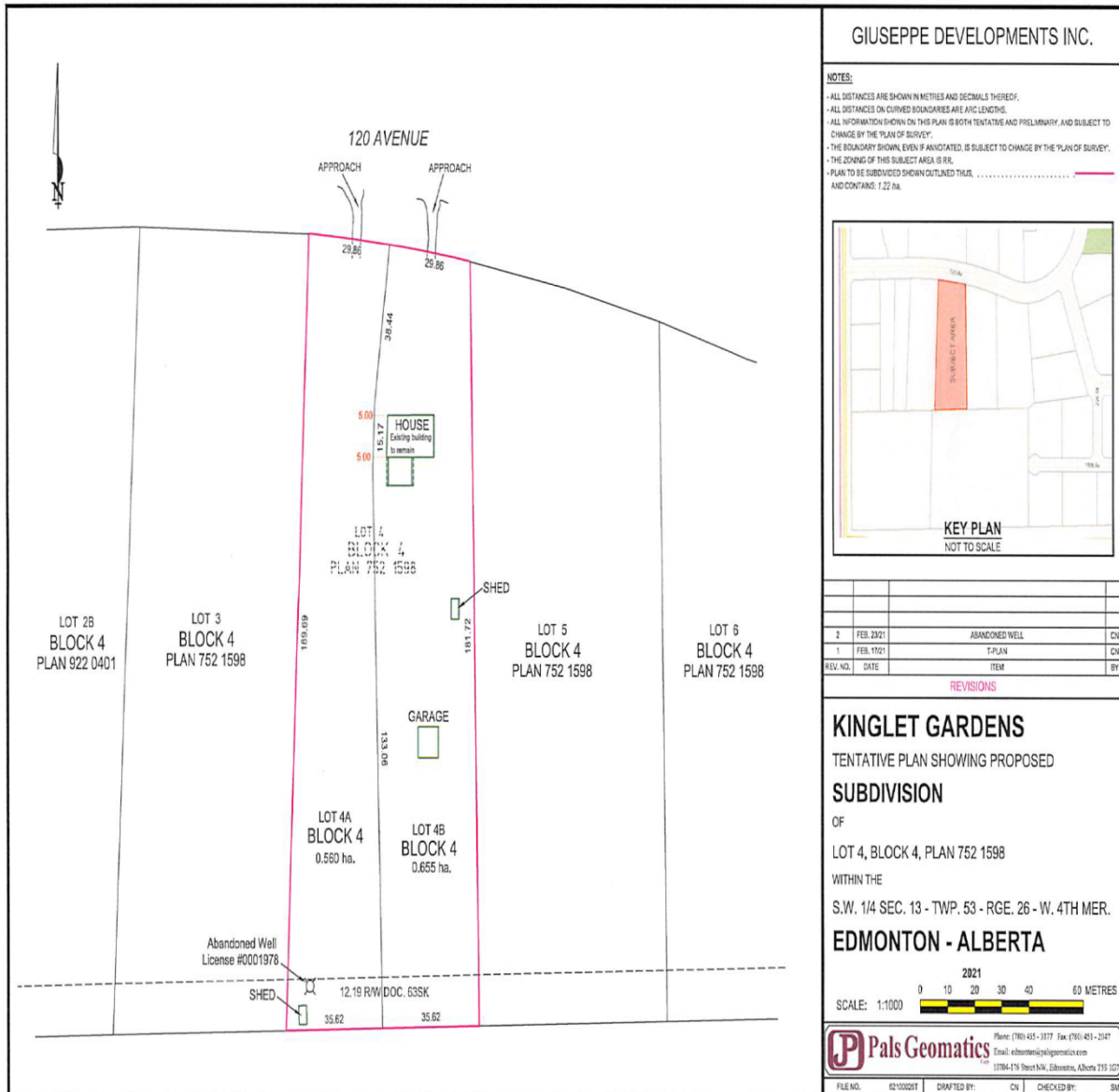
If you have further questions, please contact subdivisions@edmonton.ca.

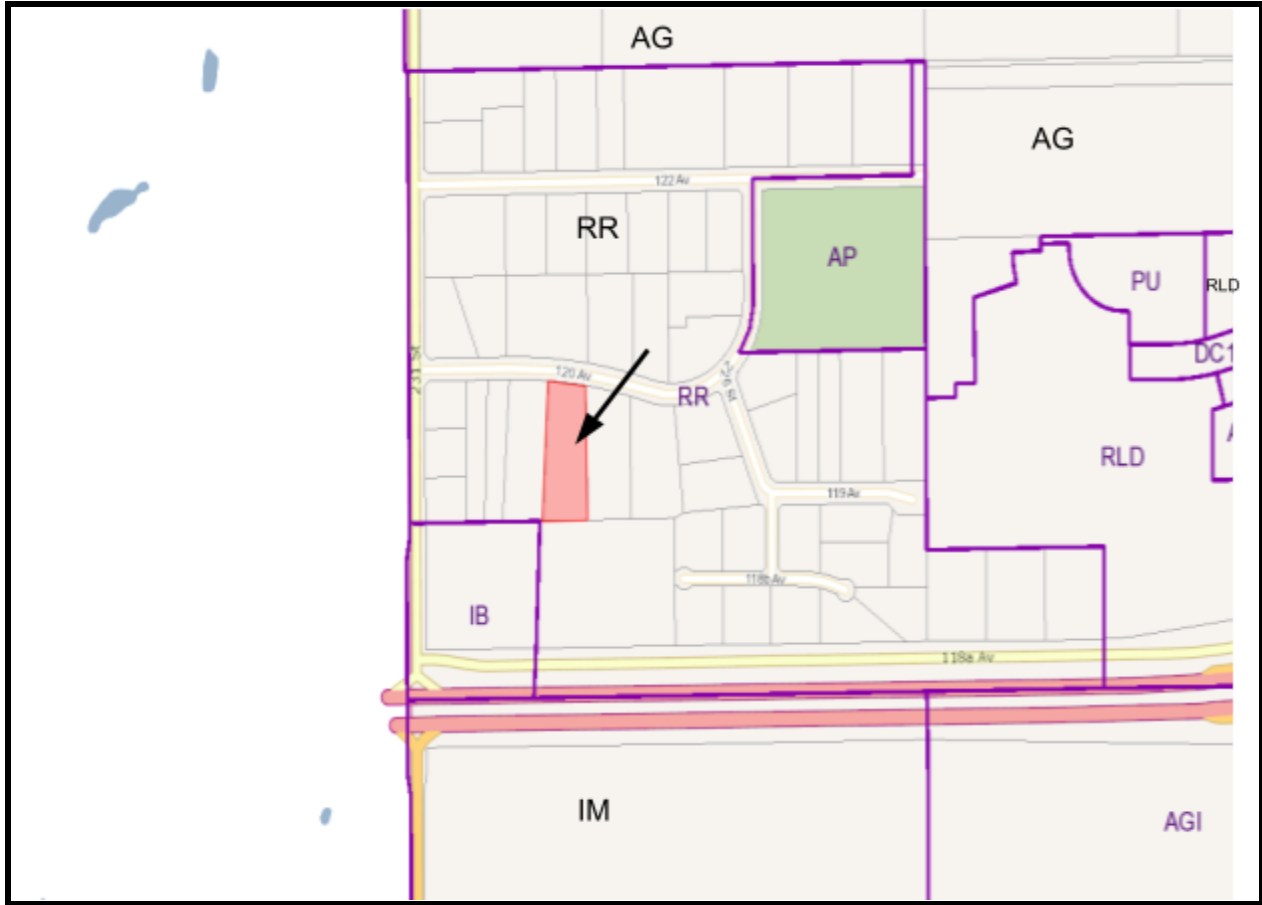
Regards,

for 
Blair McDowell
Subdivision Authority

BM/kr/Posse #386955119-001

Enclosure





SURROUNDING LAND USE DISTRICTS

Site Location ← **File: SDAB-S-21-004** ▲
N

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 401846397-001

APPLICATION TO: Create one (1) additional single detached residential lot

DECISION OF THE
SUBDIVISION AUTHORITY: Refused

DECISION DATE: August 19, 2021

DATE OF APPEAL: August 24, 2021

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 10976 - 126 Street NW

LEGAL DESCRIPTION: Plan RN39B Blk 49 Lot 5

ZONE: DC1 - Direct Development Control Provision (Bylaw
18934)

OVERLAY: N/A

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

I would like to appeal this decision because we are trying to save a historical home built in 1914 and build another home for someone to live.

We would like to work with the city to make something work to save the old house. Maybe we could make the north lot slightly smaller to get the proper setback from the existing house.

<i>General Matters</i>

Appeal Information:

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

Appeals

678(1) The decision of a subdivision authority on an application for subdivision approval may be appealed

- (a) by the applicant for the approval,
- (b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- (c) by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the municipal planning commission of the municipality is not the subdivision authority, or
- (d) by a school board with respect to
 - (i) the allocation of municipal reserve and school reserve or money in place of the reserve,
 - (ii) the location of school reserve allocated to it, or
 - (iii) the amount of school reserve or money in place of the reserve.

(2) An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681

- (a) with the Land and Property Rights Tribunal
 - (i) unless otherwise provided in the regulations under section 694(1)(h.2)(i), where the land that is the subject of the application
 - (A) is within the Green Area as classified by the Minister responsible for the Public Lands Act,

- (B) contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site,
 - (C) is the subject of a licence, permit, approval or other authorization granted by the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Alberta Energy RSA 2000 Section 679 Chapter M-26 MUNICIPAL GOVERNMENT ACT 437 and Utilities Board or Alberta Utilities Commission, or
 - (D) is the subject of a licence, permit, approval or other authorization granted by the Minister of Environment and Parks, or
- (ii) in any other circumstances described in the regulations under section 694(1)(h.2)(ii), or (b) in all other cases, with the subdivision and development appeal board.

(2.1) Despite subsection (2)(a), if the land that is the subject-matter of the appeal would have been in an area described in subsection (2)(a) except that the affected Government department agreed, in writing, to vary the distance under the subdivision and development regulations, the notice of appeal must be filed with the subdivision and development appeal board.

(3) For the purpose of subsection (2), the date of receipt of the decision is deemed to be 7 days from the date the decision is mailed.

(4) A notice of appeal under this section must contain

- (a) the legal description and municipal location, if applicable, of the land proposed to be subdivided, and
- (b) the reasons for appeal, including the issues in the decision or the conditions imposed in the approval that are the subject of the appeal.

(5) If the applicant files a notice of appeal within 14 days after receipt of the written decision or the deemed refusal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board.

Hearing and decision

680(1) The board hearing an appeal under section 678 is not required to hear from any person or entity other than

- (a) a person or entity that was notified pursuant to section 679(1), and
- (b) each owner of adjacent land to the land that is the subject of the appeal,

or a person acting on any of those persons' behalf.

(1.1) For the purposes of subsection (1), "owner" has the same meaning as in section 653.

(2) In determining an appeal, the board hearing the appeal

- (a) repealed 2020 c39 s10(48);
 - (a.1) must have regard to any statutory plan;
 - (b) must conform with the uses of land referred to in a land use bylaw;
 - (c) must be consistent with the land use policies;
 - (d) must have regard to but is not bound by the subdivision and development regulations;
 - (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;
 - (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

(2.1) In the case of an appeal of the deemed refusal of an application under section 653.1(8), the board must determine whether the documents and information that the applicant provided met the requirements of section 653.1(2).

(2.2) Subsection (1)(b) does not apply to an appeal of the deemed refusal of an application under section 653.1(8).

...

Approval of application

654(1) A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any growth plan under Part 17.1, any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,
- (c) the proposed subdivision complies with this Part and Part 17.1 and the regulations under those Parts, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.

(1.1) Repealed 2018 c11 s13.

(1.2) If the subdivision authority is of the opinion that there may be a conflict or inconsistency between statutory plans, section 638 applies in respect of the conflict or inconsistency.

(2) A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,

- (a) the proposed subdivision would not
 - (i) unduly interfere with the amenities of the neighbourhood, or
 - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.

(3) A subdivision authority may approve or refuse an application for subdivision approval.

General Provisions from the DC1 - Direct Development Control Provision (Bylaw 18934) (“DC1”):

Section 1 states that the **General Purpose** of the **DC1** is:

To ensure that development is sensitively integrated with the historic context of the area and reinforces elements of the area’s character including the traditional pattern of single-detached development, urban design characteristics, and historic craftsman and foursquare architecture.

Section 4.j states “The minimum Side Setback shall be 1.2m.”

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.



Subdivision Authority

7th Floor, Edmonton Tower
10111 – 104 Avenue NW
Edmonton, Alberta T5J 0J4

August 19, 2021

File No. LDA21-0344

RE: Tentative plan of subdivision to create one (1) additional single detached residential lot from Lot 5B, Block 49, Plan RN 39B, located north of 109A Avenue NW and west of 126 Street NW;
WESTMOUNT

The Subdivision by Plan is REFUSED on August 19, 2021, for the following reasons:

1. The proposed subdivision does not comply with the minimum development regulation identified in Charter Bylaw 18934(4)(j) of the City of Edmonton Zoning Bylaw 12800. The site is zoned (DC1) Westmount Heritage Area Zone. The minimum side setback identified in the (DC1) Westmount Heritage Area Zone for single detached housing is 1.20 metres. The side setback of proposed Lot 5A, between the existing single detached house (proposed to be retained) and the proposed lot line, is 1.07 metres. It is therefore deficient by 0.13 metres or 10.8%.

Enclosure I is a map of this subdivision refusal.

Please note that the proposed subdivision creates a non-conformance with regard to the deficient side yard setback, and therefore current and future landowners may experience hardship at the development permit application stage.

Please be advised that an appeal may be lodged in accordance to Section 678 of the Municipal Government Act with the Subdivision and Development Appeal Board, 10019 - 103 Avenue NW, Edmonton Alberta, T5J 0G9, within 14 days from the date of the receipt of this decision. The date of receipt of the decision is deemed to be seven (7) days from the date the decision is mailed.

The Subdivision Authority did not receive comments from adjacent landowners. Because the application does not comply with the regulations set out in the Edmonton Zoning Bylaw, the Subdivision Authority is of the opinion, after considering factors set out in Section 7 of the Subdivision and Development Regulation, that the land is not suitable for the purpose for which the subdivision is intended.

If you have further questions, please contact subdivisions@edmonton.ca.

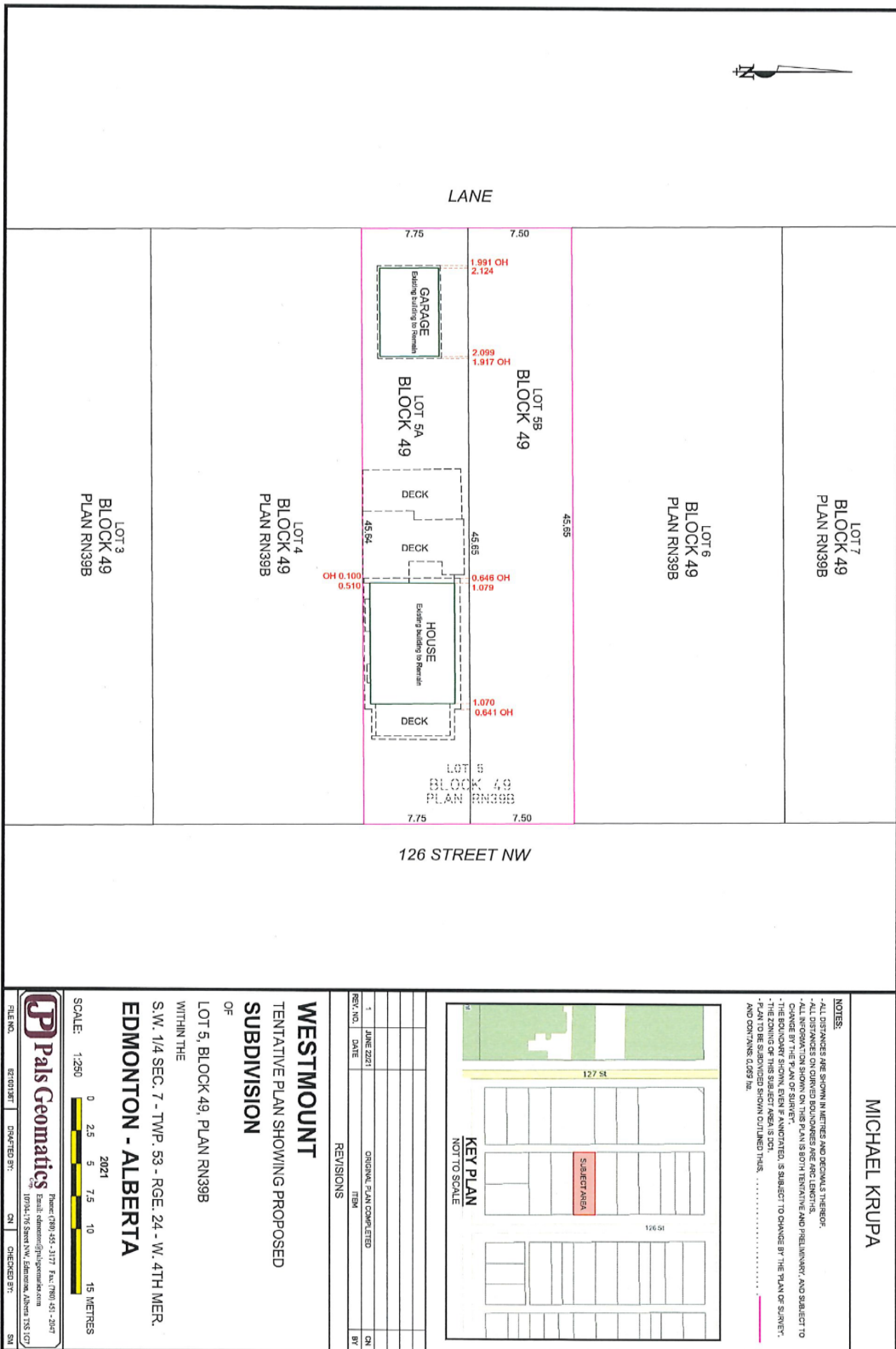
Regards,

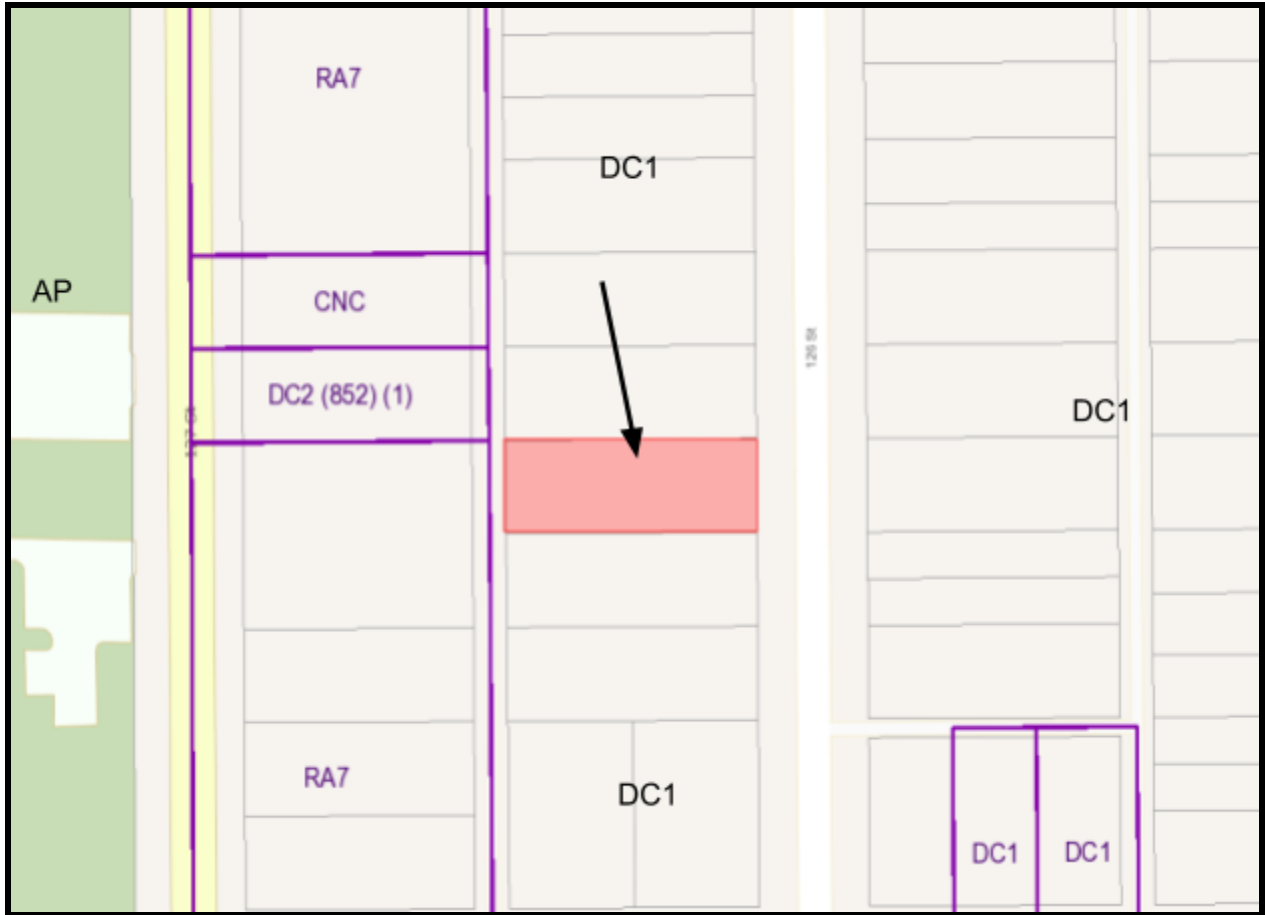


Blair McDowell
Subdivision Authority

BM/cb/Posse #401846397-001

Enclosure





SURROUNDING LAND USE DISTRICTS

Site Location ← File: SDAB-S-21-005 ▲
N

TO BE RAISED

ITEM III: 2:00 P.M.

FILE: SDAB-D-21-136

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 220574097-001

APPLICATION TO: Develop a Temporary Storage and General Industrial Uses facility as a Temporary Use (5 years)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: June 30, 2021

DATE OF APPEAL: July 21, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10651 - 199 Street NW

LEGAL DESCRIPTION: Plan 6790MC Lot C

ZONE: (IM) Medium Industrial Zone

OVERLAY: N/A

STATUTORY PLAN: Winterburn Industrial Area Structure Plan

Grounds for Appeal

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

Please refer to the detailed reasons included in the file.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on August 19, 2021:

“That the appeal hearing be rescheduled to September 22 or 23, 2021, at the written request of the Appellant and with no objection from the Development Authority”

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 the decision in accordance with subsection (2.1).

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,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of

that period under section 684, within 21 days after the date the period or extension expires,

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days 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 board hearing the appeal referred to in subsection (1)

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (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(6), a **General Industrial Use** is a **Permitted Use** in the **(IM) Medium Industrial Zone**

Under section 420.2(12), a **Temporary Storage** is a **Permitted Use** in the **(IM) Medium Industrial Zone**

Under Section 7.5(3) states **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 Uses defined in this Bylaw for resale to individual customers; or
- f. the training of personnel in general industrial operations.

This Use includes vehicle body repair and paint shops and Cannabis Production and Distribution licensed and operating pursuant to provincial or federal legislation. This Use 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.

Under Section 7.5(6), **Temporary Storage** means:

development used exclusively for temporary outdoor storage of goods and materials where such storage of goods and materials does not involve the erection of permanent structures or the material alteration of the existing state of the land. Typical Uses include pipe yards, or vehicle or heavy equipment storage compounds.

Section 420.1 states that the **General Purpose of (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.

Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-02-239	Operate a Temporary Storage Facility (Bin storage for rental purposes) and to move on a temporary trailer for office use	September 9, 2002 “that the appeal be DENIED and the development GRANTED subject to the following conditions: 1. this Development Permit is valid for a period of three years from the date of issuance; ...

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.

	Project Number: 220574097-001 Application Date: APR 28, 2016 Printed: July 21, 2021 at 3:27 PM Page: 1 of 4		
<h2>Major Development Permit</h2>			
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) 10651 - 199 STREET NW Plan 6790MC Lot C Specific Address(es) Entryway: 10651 - 199 STREET NW Building: 10651 - 199 STREET NW		
Scope of Permit To develop a Temporary Storage and General Industrial Uses facility as a Temporary Use (5 years).			
Permit Details <table border="1" style="width: 100%;"> <tr> <td data-bbox="272 842 808 951"> Class of Permit: Class A Gross Floor Area (sq.m.): 342 New Sewer Service Required: Y Site Area (sq. m.): 32525.35 </td> <td data-bbox="815 842 1398 951"> Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class A Gross Floor Area (sq.m.): 342 New Sewer Service Required: Y Site Area (sq. m.): 32525.35	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class A Gross Floor Area (sq.m.): 342 New Sewer Service Required: Y Site Area (sq. m.): 32525.35	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)		
Development Permit Decision Approved Issue Date: Jun 30, 2021 Development Authority: WELCH, IMAI Subject to the Following Conditions GENERAL: 1) 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. 2) Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51 of the Edmonton Zoning Bylaw 12800). 3) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or landowner must pay the Lot Grading Fee of \$715.56. DRAINAGE SERVICES: 1) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or landowner must pay the Permanent Area Contribution (PAC) charge. The PACs must be paid by entering into a servicing agreement, which will be prepared by the Sustainable Development. The applicant/owner should contact Raghda Abdelmonem at 780-442-7042, upon issuance of the Development Permit when he/she is ready to initiate the servicing agreement and make payment. The assessment area is 3.2533 ha. The assessment area is obtained from the City's information computer program called POSSE. The following is for information purposes and the rates are in year 2020. The final PAC amounts will be based on the prevailing rates at the time the applicant/owner pays and enters into a servicing agreement with the City. Development Assessment- Rate			

Major Development Permit

Permanent Area Contributions

- Winterburn Industrial South Onsite Storm (2019 Rate) - \$118,552/ha
- Winterburn Industrial Offsite Storm (2019 Rate) - \$4,974/ha
- Winterburn Industrial AMP (2020 Rate) - \$130/ha
- Master Drainage Study (2020 Rate) - \$43/ha
- Expansion Assessment (EA) (WESS) (2020 Rate) - \$30,536/ha
- Arterial Roadway Assessment (ARA) (2019 Rate) - \$47,379/ha

There may also be PAC over-expenditure, boundary condition & oversizing payment which can only be determined at the time the applicant/owner is ready to enter into a servicing agreement.

2) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or landowner must pay the Sanitary Sewer Trunk Charge (SSTC). Based on our records, this property was never assessed for SSTC.

SSTC is applicable to the entire property of 3.2533 ha at the rate of \$8,560/ha, under the current DP#220574097-001. The property area is obtained from the City's information program called POSSE and the number of dwellings is based on the drawings submitted with this Application for Major Development Permit.

Payment should be made at the Edmonton Service Centre, 2nd Floor, 10111 – 104 Avenue NW. For information purposes, the 2020 rate is \$8,560/ha. However, the final SSTC is based on the prevailing rate at the time the applicant/owner makes payment.

(NOTE:

The above assessment is made based on information currently available to our Department. Should such information change in the future, a new assessment may be made.

In addition to the above items, the applicant/owner may need to pay for the installation cost of sewer services to the property line. For details, please contact EPCOR Drainage.

More information about the above charges can be found on the City of Edmonton's website:

oPermanent Area Contributions

https://www.edmonton.ca/city_government/utilities/permanent-area-contributions.aspx

oSanitary Servicing Strategy Expansion Assessment

https://www.edmonton.ca/city_government/utilities/expansion-assessment-charge-ea.aspx

oArterial Roadway Assessment

https://www.edmonton.ca/projects_plans/roads/design_planning/arterial-roadway-assessments.aspx

oSanitary Sewer Trunk Charge

https://www.edmonton.ca/city_government/utilities/sanitary-sewer-trunk-charge-sstc.aspx

LANDSCAPING:

1) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Development Permit Inspection Fee of \$528.00 (this can be paid by phone with a credit card - 780-442-5054).

2) Landscaping shall be in accordance with the approved Landscape Plan, and Section 55 of the Zoning Bylaw, to the satisfaction of the Development Officer.

3) Any changes to an approved Landscape Plan require the approval of the Development Officer prior to the Landscaping being installed.

4) Landscaping shall be installed within 18 months of receiving the Final Occupancy Permit. Landscaping shall be maintained in a healthy condition for a minimum of 24 months after the landscaping has been installed, to the satisfaction of the Development



Project Number: **220574097-001**
Application Date: APR 28, 2016
Printed: July 21, 2021 at 3:27 PM
Page: 3 of 4

Major Development Permit

Officer.

5) A Landscape Security shall be provided to the City of Edmonton at the time of initial Landscape Inspection, to the satisfaction of the Development Officer. The initial Landscape Inspection shall be requested within 14 days of the Landscape installation being completed (www.edmonton.ca/landscapeinspectionrequest).

6) Upon determination that landscaping has been installed in compliance with the approved Landscape Plan, 20% of the full Landscape Security value as determined by the Development Officer shall be collected. The Landscape Security shall be retained for a period of 24 months from the date of the initial Landscape Inspection.

7) Sites that are not completed or are not compliant with approved Landscape Plans at the initial Landscape Inspection shall, in addition, be required to submit a Security for incomplete work; up to the full value of the Landscape Security, as determined by the Development Officer.

SUBDIVISION PLANNING (TRANSPORTATION):

1) Two (2) accesses from the site to 199 Street exist. Any modification to the existing accesses requires the review and approval of Subdivision Planning.

2) The Shop Tent shown on the site plan must be relocated within the site to allow the north access/drive aisle to function.

3) Any proposed gates for the accesses to 199 Street must not swing out over road right-of-way. The gates must either swing into the property or slide along the fence. No objects are permitted to encroach onto, over or under road right-of-way.

4) Any boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Development Inspections, as per Section 15.5(f) of the Zoning Bylaw. All expenses incurred for repair are to be borne by the owner.



Project Number: **220574097-001**
 Application Date: APR 28, 2016
 Printed: July 21, 2021 at 3:27 PM
 Page: 4 of 4

Major Development Permit

Subject to the Following Advisements

GENERAL:

- 1) An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.
- 2) The Development Permit shall not be valid unless and until the conditions of approval, save those of a continuing nature, have been fulfilled; and no notice of appeal from such approval has been served on the Subdivision and Development Appeal Board within the time period specified in subsection 21.1 (Ref. Section 17.1).
- 3) Signs require separate Development Applications.
- 4) The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.
- 5) 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.
- 6) This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.
- 7) Any future development on the subject property shall be subject to the setback and landscaping requirements in effect at the time of application.

SUBDIVISION PLANNING (TRANSPORTATION):

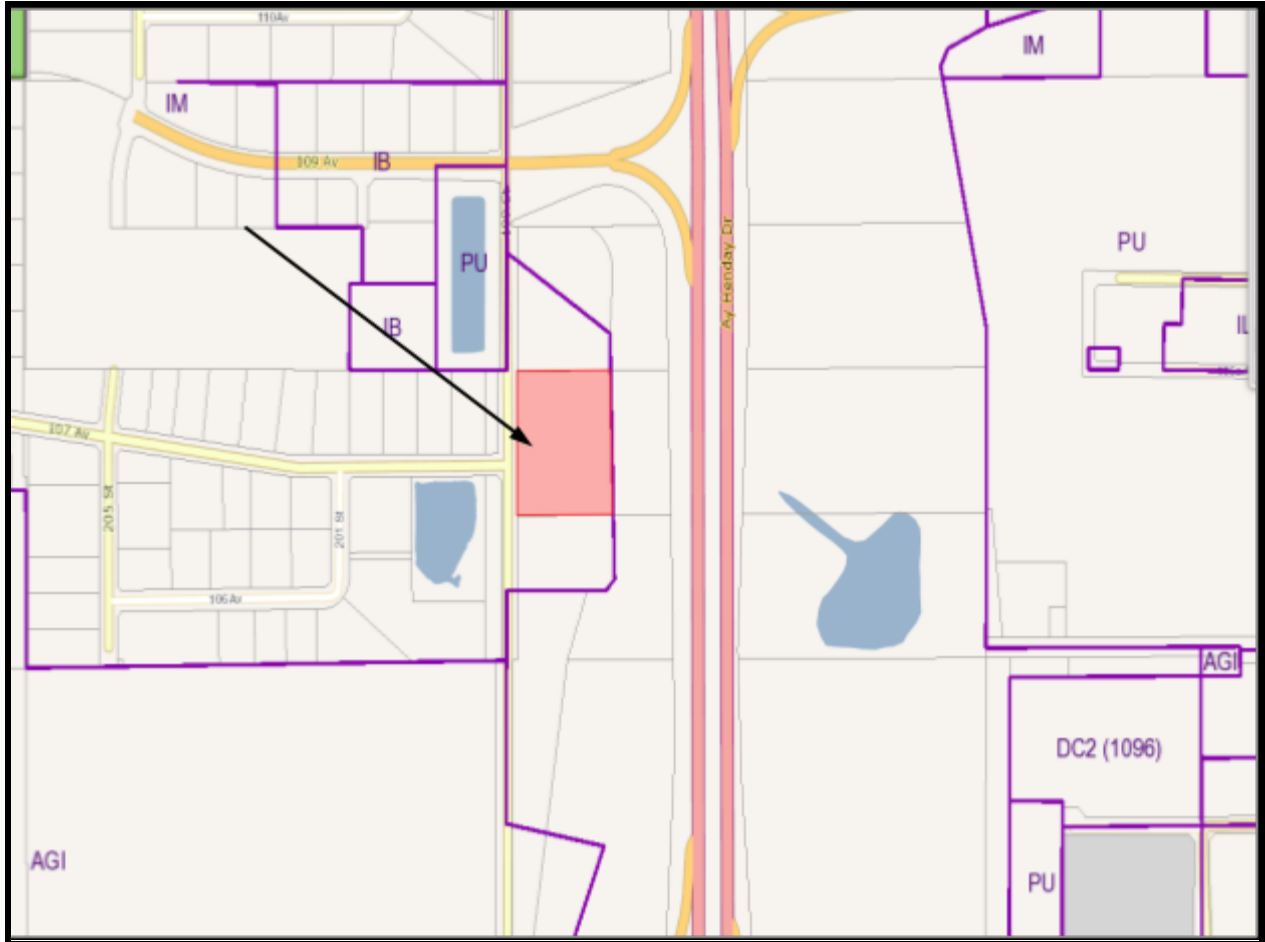
- 1) Upon future development of the site, the existing accesses may require upgrading to meet current City of Edmonton standards which may include relocation and reconstruction. All costs associated with the upgrades shall be borne by the owner/applicant.

Rights of Appeal

This approval is subject to the right of appeal to the Subdivision and Development Appeal Board (SDAB) as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$893.00	\$893.00	03345705	Jun 09, 2016
Lot Grading Fee	\$715.56			
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,608.56	\$893.00		
(\$715.56 outstanding)				



SURROUNDING LAND USE DISTRICTS

Site Location ←

▲
N

File: SDAB-D-21-136