

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
September 13, 2017**

**Hearing Room No. 3  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 3**

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I 9:00 A.M. SDAB-D-17-170

To add the use of a Minor Impact Utility  
Service to a Single Detached House site

18011 - 34 Street NW  
Project No.: 179669631-004

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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-17-170

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 179669631-004

APPLICATION TO: Add the use of a Minor Impact Utility Service to a Single Detached House site

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 3, 2017

DATE OF APPEAL: August 4, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 18011 - 34 Street NW

LEGAL DESCRIPTION: Plan 7722309 Lot 1

ZONE: AG-Agricultural Zone

OVERLAY: N/A

STATUTORY PLAN: Edmonton Energy and Technology Park Area Structure Plan

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*Grounds for Appeal*

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

We respectfully wish to appeal the decision of the City of Edmonton to disallow the application for a Development Permit for our livelihood on our premises. The refusal was based on the premise that our use does not qualify as a Discretionary Use under the Minor Impact Utility Services category, and the other point is that this is a General Industrial Use, which needs an IM Zoning to be acceptable. We wish to present two points to the Board:

(1) JUSTIFICATION : The justification for requesting approval for the Discretionary Use of Minor Impact Utility Services for this parcel, which is zoned AG, is as follows:

1. The general purpose of AG zoning is to "conserve agricultural and rural uses" (Section 610.1). For this purpose, the minimum size stipulated is 32 hectares or 80 acres. This parcel is only 2 hectares or 5 acres so it can never exist as a farm. So we have to look at the Discretionary uses.

2. Utility services are defined as "that which is used to provide for public consumption, benefit, convenience, or use" (Section 520.1)

3. While considering this application under the Minor Impact Service Utilities category, please consider that almost all our work is done for the City of Edmonton, and is addressed to the infrastructure of the City, e.g.

- Snow hauling in the winter
- Gravel and soil for road building during the summer
- Gravel and soil for municipal utilities during the summer
- We have been providing this service to the City for the last ten years, and consider ourselves an integral part of the Service Utilities of the City. The trucks come to our home to be parked for the night.

(2) THE Land (including our site) IS IN THE PROCESS OF BEING REZONED TO EET-IM Medium Industrial Zone

The IEETP ASP currently identifies four distinct land use precincts; Petrochemical Cluster, Manufacturing, Logistics, and Research and Development.

The amendment proposes to merge the Manufacturing and Logistics precincts into a single Medium Industrial precinct.

The new Medium Industrial precinct will also allow for the development of smaller commercial nodes that will provide services for the employees and businesses located within the plan area.

Creation of a new zone: (EETIM) Edmonton Energy and Technology Park Medium Industrial Zone.

The new precinct will be implemented through the creation of a new Special Area Zone, (EETIM) Edmonton Energy Technology Park Medium Industrial Zone.

This zone offers the core manufacturing and logistics uses as well as increased flexibility for other general industrial uses that are commonly found in standard medium industrial zones"

The above legislation is going to City Council on September 11, 2017, and is expected to be in force within a short period of time.

The City has identified our use (parking our trucks on our land) as a General Industrial Use, which will be a Permitted Use under the EET-IM designation of the land.

In view of the above, we pray to the Board that our Development Permit application be approved, and we be allowed to carry on our livelihood at our place of residence.

***General Matters***

**The Subdivision and Development Appeal Board made and passed the following motion:**

**"That the appeal hearing for Project No. 179669631-004 be tabled to Wednesday, September 13, 2017, or Thursday, September 14, 2017.**

**Appeal Information:**

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

**Grounds for Appeal**

**685(1)** If a development authority

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

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

**(2)** In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

**Appeals**

**686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
  - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

**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*:**

<i>Use</i>
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Under Section 610.3(5), a **Minor Impact Utility Service** is a **Discretionary Use** in the **(AG) Agricultural Zone**.

Under Section 7.7(7), a **Minor Impact Utility Services** means development for public utility infrastructure purposes which is likely to have some impact on the environment or adjacent land Uses by virtue of its appearance, noise, size, Traffic Generation or operational characteristics. Typical Uses include vehicle, equipment and material storage yards for utilities and services; telephone exchanges; wire centres; switching centres; snow dumping sites; Transit Centres; transit depots and transfer facilities; water towers; hydrospheres; water treatment plants; power terminals and distributing substations; communication towers and gate stations for natural gas distribution.

Under sections 610.2 and 610.3, a **General Industrial Use** is neither a **Permitted Use** nor a **Discretionary Use** in the **(AG) Agricultural Zone**.

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

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

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

**Development Officer's Determination:**

Upon review, the Development Officer has determined the proposed development does not qualify as a Minor Impact Utility Service. The proposed development is determined to be a General Industrial Use, which is neither listed as a Permitted or Discretionary Use under the AG (Agricultural) Zone. (Reference Sections 610.2 and 610.3)

***Purpose***

Section 140.1 states that the **General Purpose** of the **(AG) Agricultural Zone** is “to conserve agricultural and rural Uses.”

Section 11.3(1)(d) states in approving a Development Permit Application pursuant to Section 11.2, the Development Officer shall adhere to the following: there shall be no variance to the General Purpose of the appropriate Zone or Overlay.

**Development Officer’s Determination:**

The General Purpose of the AG Zone is to conserve agricultural and rural Uses (Reference Section 610.1)

The proposed General Industrial Use (truck yard), does not meet the General Purpose of the AG Zone.

Note:

There shall be no variance to the General Purpose of the appropriate Zone (Reference Section 11.3(1)(d))

***Previous Subdivision and Development Appeal Board Decisions***

<b><u>Application Number</u></b>	<b><u>Description</u></b>	<b><u>Decision</u></b>
<b>SDAB-D-17-135</b>	An appeal of a Stop Order issued by the Development Authority issued on June 20, 2017, to:  Cease the General Industrial Use (Truck Yard) including all components of the business and remove all related materials by July 20, 2017.	August 11, 2017; The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The Stop Order is UPHELD and the compliance date is VARIED to September 15, 2017.
<b>SDAB-D-15-269</b>	To operate a Major Home Based Business (Trucking Business)	July 8, 2016; The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The development is GRANTED as applied for to the Development Authority, subject CONDITIONS.
<b>Edmonton (City) v Edmonton</b>		May 4, 2017; the Court of Appeal of Alberta overturned




<b>(Subdivision and Development Appeal Board), 2017 ABCA 140</b>		the Approval of the Subdivision and Development Appeal Board and reinstated the Refusal of the Development Authority.
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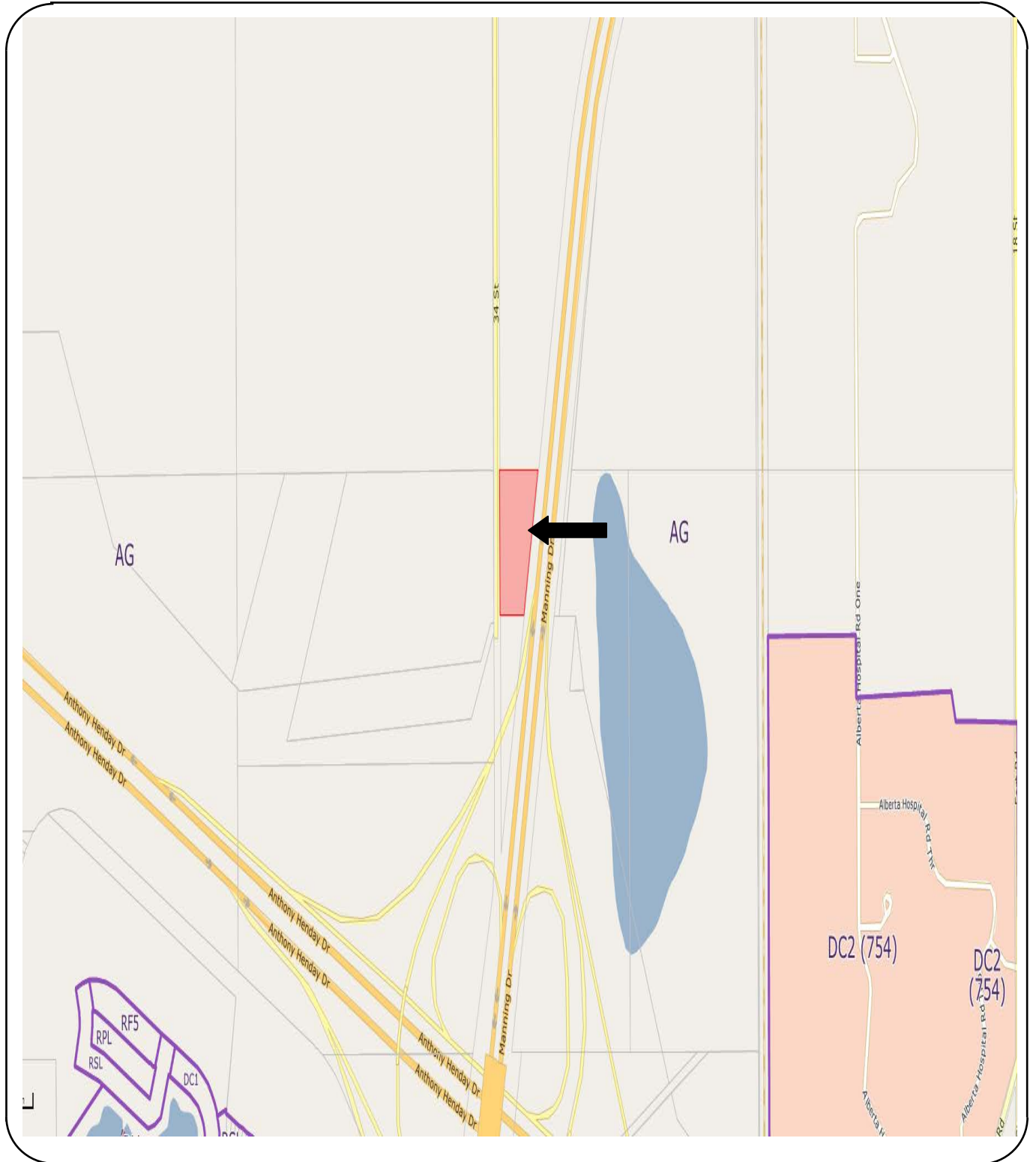
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Notice to Applicant/Appellant

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*.

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	Project Number: <b>179669631-004</b> Application Date: MAY 17, 2017 Printed: August 4, 2017 at 12:32 PM Page: 1 of 2		
<h2 style="margin: 0;">Application for Major Development Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
<b>Applicant</b>  <div style="border: 1px solid black; height: 30px; width: 100%;"></div>	<b>Property Address(es) and Legal Description(s)</b> 18011 - 34 STREET NW Plan 7722309 Lot 1  <b>Specific Address(es)</b> Suite: 18011 - 34 STREET NW Entryway: 18011 - 34 STREET NW		
<b>Scope of Application</b> To add the use of a Minor Impact Utility Service to a Single Detached house site.			
<b>Permit Details</b>  <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                             Class of Permit: Class B                              Gross Floor Area (sq.m.):                              New Sewer Service Required: N                              Site Area (sq. m.): 19720.66                         </td> <td style="width: 50%; border: none; vertical-align: top;">                             Contact Person:                              Lot Grading Needed?: N                              NumberOfMainFloorDwellings:                              Stat. Plan Overlay/Annex Area: (none)                         </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 19720.66	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 19720.66	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)		
I/We certify that the above noted details are correct.  Applicant signature: _____			
<b>Development Application Decision</b> Refused  <b>Reason for Refusal</b> 1) Upon review, the Development Officer has determined the proposed development does not qualify as a Minor Impact Utility Service. The proposed development is determined to be a General Industrial Use, which is neither listed as a Permitted or Discretionary Use under the AG (Agricultural) Zone. (Reference Sections 610.2 and 610.3)  2) The General Purpose of the AG Zone is to conserve agricultural and rural Uses (Reference Section 610.1)  The proposed General Industrial Use (truck yard), does not meet the General Purpose of the AG Zone.  Note:  There shall be no variance to the General Purpose of the appropriate Zone (Reference Section 11.3(1)(d))  <b>Rights of Appeal</b> 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.			
<b>Issue Date:</b> Aug 03, 2017 <b>Development Authority:</b> BELZILE, PAUL <b>Signature:</b> _____			
<b>THIS IS NOT A PERMIT</b>			



### SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-170

