

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
December 14, 2016**

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

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

I 9:00 A.M. SDAB-D-16-321

To allow for parking within the Front Yard (to keep the existing driveway and the crossing curb after the front attached Garage was converted into a living-room area)

6124 - 152A Avenue NW
Project No.: 228926774-006

II 10:30 A.M. SDAB-D-16-322

To operate a Major Home Based Business (Massage Therapy - Jasper 124 Massage Therapy Inc.)

12407 - Jasper Avenue NW
Project No.: 235409651-001

NOTE: *Unless otherwise stated, all references to “Section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-16-321

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 228926774-006

APPLICATION TO: Allow for parking within the Front Yard (to keep the existing driveway and the crossing curb after the front attached Garage was converted into a living-room area)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 24, 2016

DATE OF APPEAL: November 29, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6124 - 152A Avenue NW

LEGAL DESCRIPTION: Plan 5782NY Blk 37 Lot 45

ZONE: RF1-Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: McLeod West Neighbourhood Area Structure Plan

Grounds for Appeal

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

Please be advised that Permit Masters will be representing the property owner on the appeal of the above Development Permit. An application was submitted and subsequently refused to allow for parking within the Front Yard at 6124 152 Ave NW.

We believe that the Development Authority did not properly apply the requirements of the Land Use Bylaw in their review of the application.

Additional information in support of the appeal will be presented at the hearing.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

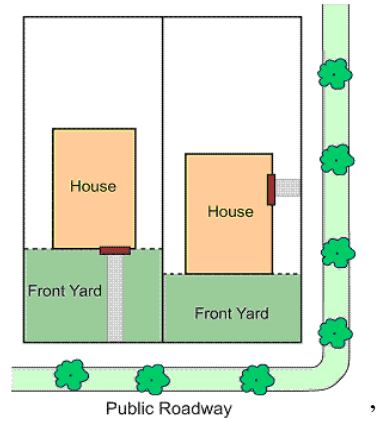
General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.2(4), **Single Detached Housing** is a **Permitted Use** in the RF1 Single Detached Residential Zone.

Under section 6.1(2), **Accessory** means “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.”

Under section 6.1(26), **Driveway** means “an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area.”

Under section 6.1(41), **Front Yard** means “the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



Under section 6.1(70), **Parking Area** means “an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.”

Section 110.1 states that the **General Purpose** of **RF1 Single Detached Residential Zone** is to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

Driveway

Section 54.1.5 states “The Driveway shall lead directly from the roadway to the required Garage or Parking Area.”

Development Officer’s Determination:

Driveway - The Driveway does not lead to a Garage or Parking Area. (Section 54.1.5)

Parking Area

Section 54.2.2.e.1 states parking spaces shall not be located within a Front Yard.

Development Officer’s Determination:

Parking Area - A Parking Area is proposed within the Front Yard. (Section 54.2.e.i)

<i>Landscaping</i>


Section 55.2.g states all Yards visible from a public roadway, other than a Lane, shall be seeded or sodded.

Development Officer's Determination:

Landscaping - A portion of the Front Yard is Hardsurfaced instead of seeded or sodded. (Section 55.2.g)

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

	Project Number: 228926774-006 Application Date: NOV 09, 2016 Printed: November 30, 2016 at 8:35 AM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Minor Development Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
Applicant <div style="border: 1px solid black; width: 200px; height: 50px; margin: 10px auto;"></div>	Property Address(es) and Legal Description(s) 6124 - 152A AVENUE NW Plan 5782NY Blk 37 Lot 45 Specific Address(es) Suite: 6124 - 152A AVENUE NW Entryway: 6124 - 152A AVENUE NW Building: 6124 - 152A AVENUE NW																				
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Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> # of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Exterior Alterations (Res.) Secondary Suite Included?: N </td> <td style="width: 50%; border: none;"> Class of Permit: Class A Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Exterior Alterations (Res.) Secondary Suite Included?: N	Class of Permit: Class A Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none)																		
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I/We certify that the above noted details are correct. Applicant signature: _____																					
Development Application Decision Refused Reason for Refusal 1. Driveway - The Driveway does not lead to a Garage or Parking Area. (Section 54.1.5) 2. Parking Area - A Parking Area is proposed within the Front Yard. (Section 54.2.e.i) 3. Landscaping - A portion of the Front Yard is Hardsurfaced instead of seeded or sodded. (Section 55.2.g) Rights of Appeal The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.																					
Issue Date: Nov 24, 2016 Development Authority: LAI, ECHO Signature: _____																					
Fees <table style="width: 100%; border: none;"> <thead> <tr> <th style="width: 40%;"></th> <th style="width: 15%; text-align: right;">Fee Amount</th> <th style="width: 15%; text-align: right;">Amount Paid</th> <th style="width: 15%; text-align: right;">Receipt #</th> <th style="width: 15%; text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$159.00</td> <td style="text-align: right;">\$159.00</td> <td></td> <td></td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right;">\$159.00</td> <td style="text-align: right;">\$159.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$159.00	\$159.00			Total GST Amount:	\$0.00				Totals for Permit:	\$159.00	\$159.00		
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THIS IS NOT A PERMIT																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-321



ITEM II: 10:30 A.M.

FILE: SDAB-D-16-322

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 235409651-001

ADDRESS OF APPELLANT: 12407 Jasper Avenue NW

APPLICATION TO: Operate a Major Home Based Business
(Massage Therapy - Jasper 124 Massage
Therapy Inc.)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 25, 2016

DATE OF APPEAL: November 25, 2016

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 12407 Jasper Avenue NW

LEGAL DESCRIPTION: Plan RN22 Blk 35 Lot 2

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

This home based business does not generate foot or vehicular traffic beyond what is characteristic of the zone DC 2 in which the home is located. Never are there more than two patients expected in the building at any given time. The Maximum business visits per day span over an estimated 12 hour time frame (ex. 8am - 8pm). Each house is given 2 parking permits for street parking.

Board Officer’s Comments

The Appellant references a DC2 direct control district. DC2.197, Bylaw 9370, passed on January 30, 1990, applies to “Lot 1 and part of 2, Block 35, Plan XXII, RL 2”. The proposed development is located at Plan RN22 Block 35 Lot 2.

For reference, DC2.197.2 states:

DC2.197.2. Area of Application

Lot 1 and part of 2, Block 35, Plan XXII, RL 2; located on the south side of Jasper Avenue between 124 Street and 125 Street; Westmount, Groat Estate.

Under section DC2.197.3, Major Home Based Business is not a Listed Use. However, “Conversion of Single Detached Dwellings to Personal Service Shops” is a Listed Use under section DC2.197.3.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

...

The decision of the Development Officer is dated November 25, 2016. The Notice of Appeal was filed on November 25, 2016.

Determining an Appeal

The *Municipal Government Act* states the following:

Hearing and decision

687(3) In determining an appeal, the subdivision and development appeal board

(a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

(c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

(ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 110.1 states that the **General Purpose** of the **RF1 Single Detached Residential Zone** is:

...to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

Under Section 110.3(7), **Major Home Based Business** is a **Discretionary Use** in the RF1 Single Detached Residential Zone.

Section 7.3(7) states:

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

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

...to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

<p><i>Major Home Based Business</i></p>
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Section 75 provides as follows:

75. Major Home Based Business

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

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

related to the business activity shall be allowed in either the Dwelling or Accessory buildings;

6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;

7. a Bed and Breakfast Operation, operating as a Major Home Based Business shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;

8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Class Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and

9. the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.

10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garage Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

Development Officer's Determination

The Development Officer referenced section 75(9) and made the following determination:

In the opinion of the Development Officer, this Use would be more appropriately located in a Commercial or Industrial Zone as a Personal Service Shop Use (Section 7.4.41). A Personal Service Shop is neither a Permitted nor Discretionary Use within the RF1 Zone. Reference Sections 110(2) and 110(3). [unedited]

The Development Officer also referenced section 75(3), but made no determination with respect to this section:

2) the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located. Reference Section 75(3). [unedited]



Board Officer's Comments

The Development Officer determined that the proposed development is more appropriately characterized as a Personal Service Shop Use, which is neither a Permitted Use or a Discretionary Use in the RF1 Zone. Section 7.4(41) states:

Personal Service Shops means development used for the provision of personal services to an individual which are related to the care and appearance of the body, or the cleaning and repair of personal effects. This Use Class includes barbershops, hairdressers, beauty salons, tailors, dressmakers, shoe repair shops, and dry cleaning establishments and laundromats. This Use Class does not include Health Services.

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

	Project Number: 235409651-001 Application Date: NOV 18, 2016 Printed: December 7, 2016 at 10:13 AM Page: 1 of 2		
<h2 style="margin: 0;">Application for Home Occupation</h2>			
This document is a Development Permit Decision for the development application described below.			
Applicant 	Property Address(es) and Legal Description(s) 12407 - JASPER AVENUE NW Plan RN22 Blk 35 Lot 2 Specific Address(es) Suite: 12407 - JASPER AVENUE NW Entryway: 12407 - JASPER AVENUE NW Building: 12407 - JASPER AVENUE NW		
Scope of Application To operate a Major Home Based Business (Massage Therapy - JASPER 124 MASSAGE THERAPY INC).			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> # of business related visits/day: 10 Administration Office Only?: N Class of Permit: Do you live at the property?: Y Outdoor storage on site?: N </td> <td style="width: 50%; border: none; vertical-align: top;"> # of vehicles at one time: 5 Business has Trailers or Equipment?: N Description of Business: Massage Therapy Expiry Date: </td> </tr> </table>		# of business related visits/day: 10 Administration Office Only?: N Class of Permit: Do you live at the property?: Y Outdoor storage on site?: N	# of vehicles at one time: 5 Business has Trailers or Equipment?: N Description of Business: Massage Therapy Expiry Date:
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I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused Reason for Refusal 1. The Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area. Reference Section 75(9). In the opinion of the Development Officer, this Use would be more appropriately located in a Commercial or Industrial Zone as a Personal Service Shop Use (Section 7.4.41). A Personal Service Shop is neither a Permitted nor Discretionary Use within the RF1 Zone. Reference Sections 110(2) and 110(3). 2) the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located. Reference Section 75(3). Rights of Appeal The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.			
Issue Date: Nov 25, 2016 Development Authority: VASQUEZ, MARTY Signature: _____			
THIS IS NOT A PERMIT			



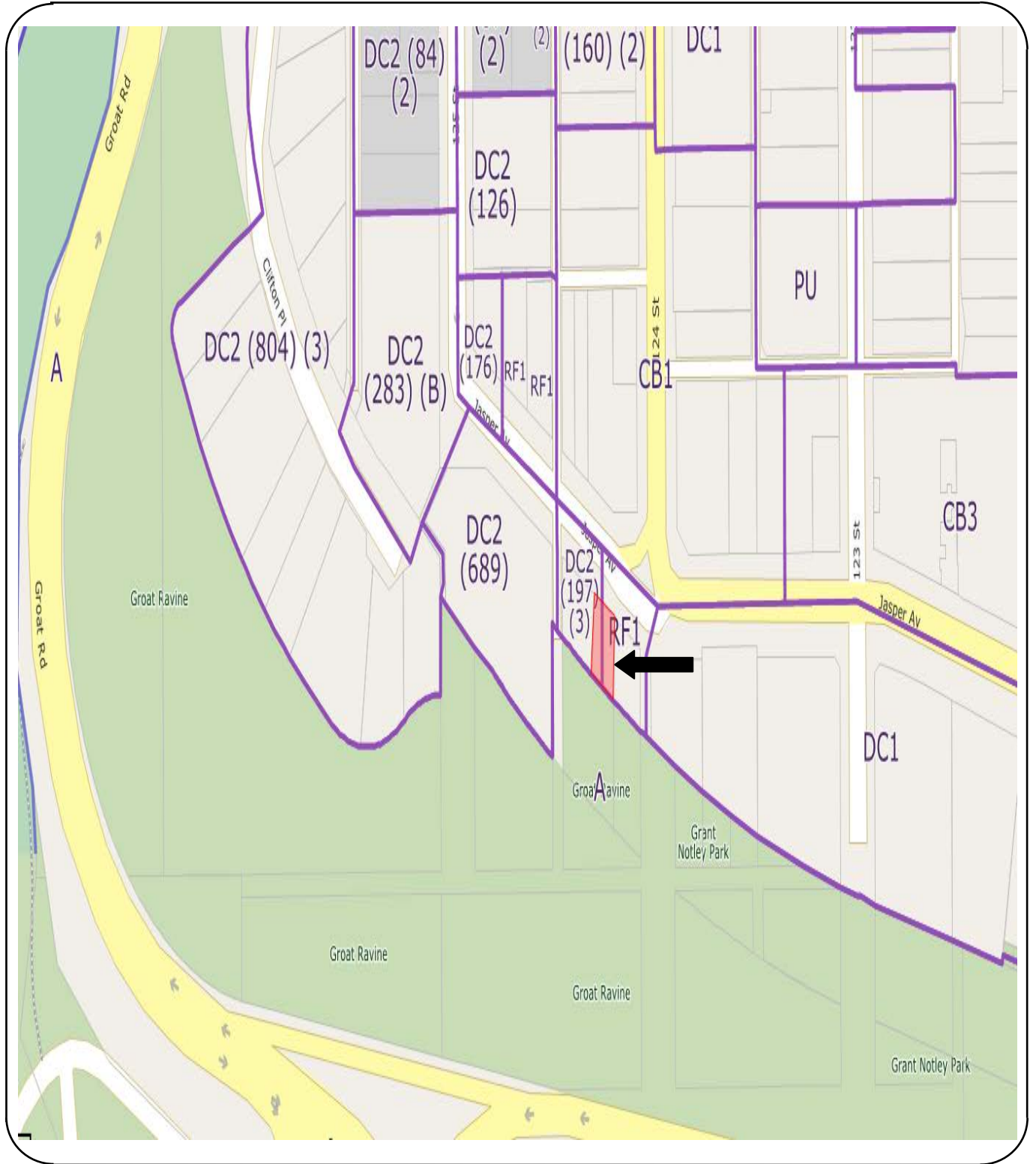
Application for Home Occupation

Project Number: **235409651-001**
Application Date: NOV 18, 2016
Printed: December 7, 2016 at 10:13 AM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$297.00	\$297.00	03759198	Nov 18, 2016
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$297.00	\$297.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-322



BUSINESS LAID OVER

SDAB-D-16-292	An appeal to change the Use of a General retail Store to a Major Alcohol Sales. <i>January 11, 2017</i>
SDAB-S-16-003	An appeal to create (1) additional rural residential lot <i>January 11, or 12, 2017</i>
SDAB-D-16-294	An appeal to comply with a Stop Order to CEASE the Non-Accessory Parking, REMOVE all meters, signage, and material related to parking and REFRAIN from allowing Non-Accessory Parking. This Order is to be complied with on or before September 28, 2016. <i>January 18, 2017</i>
SDAB-D-16-295	An appeal to comply with a Stop Order to CEASE the Non-Accessory Parking, REMOVE all meters, signage, and material related to parking and REFRAIN from allowing Non-Accessory Parking. This Order is to be complied with on or before September 28, 2016. <i>January 18, 2017</i>
SDAB-S-14-001	An appeal to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 <i>January 25, 2017</i>
SDAB-D-16-144	An appeal to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>February 2017</i>

APPEAL HEARINGS TO BE SCHEDULED

231692613-001	An appeal to change the use of a Restaurant to a Pawn Store, a Secondhand Store and a Professional, Financial and Office Support Service, and to construct interior alterations. (Cash Canada) <i>January 4 or 5, 2017</i>
232104801-001 LDA16-0435	An appeal to create one (1) additional single detached residential lot <i>January 11, 2017</i>
226113444-003	An appeal to operate a Major Home Based Business (Administration Office and Sandblasting Contractor k- Western Canadian Soda Blasting) <i>January 11 or 12, 2017</i>
232482794-001	An appeal to install (1) Freestanding On-premises Sign and remove (1) existing Freestanding On-premises Sign (ST. PAUL'S UNITED CHURCH). <i>January 12, 2017</i>
230469969-001	An appeal by to install (1) freestanding Minor Digital Off-premises Sign (14.6m x 4.3m digital panel facing South, and static panel facing North); and to remove an existing Freestanding Off-premises Sign on 2920-101 Street, existing Freestanding Off-premises Signs on 2303 Gateway Boulevard NW, and existing Freestanding Off-premises Sign on 2950

	Calgary Trail NW as shown on plans submitted. (PATTISON - KBR CANADA LTD.) <i>January 26, 2017</i>
152674334-001	An appeal to construct an Auctioneering Establishments building and operate an Auctioneering Establishment on the entire Site (including existing storage building and shed), and demolish an existing storage building (Osman Auction Inc.) <i>February 22, 2017</i>