

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
January 7, 2016**

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

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

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I	9:00 A.M.	SDAB-D-16-009	Construct an uncovered deck (deck extension for a deck 5.01m x 3.03m) to a Single Detached House, existing without permits  650 Albany Way NW Project No.: 165696822-002
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II	11:00 A.M.	SDAB-D-16-011	Change the Use from Professional, Financial, and Office Support Services to Minor Alcohol Sales and to construct interior alterations (Royal Centre South)  2407 - 90B Street SW Project No.: 181889299-001
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**NOTE:**                    *Unless otherwise stated, all references to “Section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-16-009

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

APPELLANT:

APPLICATION NO.: 165696822-002

ADDRESS OF APPELLANT:

APPLICATION TO: Construct an uncovered deck (deck extension for a deck 5.01m x 3.03m) to a Single Detached House, existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: November 26, 2015

DATE OF APPEAL: December 8, 2015

RESPONDENT:

ADDRESS OF RESPONDENT: 650 Albany Way NW

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 650 Albany Way NW

LEGAL DESCRIPTION: Plan 1124917 Blk 2 Lot 3

ZONE: RSL Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: Albany Neighbourhood Structure Plan  
Palisades Area Structure Plan

***Grounds for Appeal***

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

When our family purchased the our property (646 Albany way) we took the decision based on the location, proximity to neighbors, the panoramic views to the back pond but even more importantly, the safety and wellbeing of our children (2 years old and a newborn).

In comparison with other properties, we felt we paid a premium price to get all those factors covered. When we asked about the undeveloped property beside our house, they did not mention that the project was for such a big square footage home, as the lot didn't seem to be designed for a project such as that. Now that the construction is done we have concerns about the dimension of the house as it leaves little to no room for privacy especially the decks and balconies, which are so close to ours that you can reach it or climb to the other side without an effort, this fact is specially concerning as we have 2 little children and their privacy and safety can be easily compromised by this fact as you can't never choose your neighbors neither the people who enters their home. This is just want concern, not to mentioned that the panoramic views we paid for are now obstructed and there is no privacy to really enjoy our outdoor spaces. [unedited]

<i>General Matters</i>
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**Appeal Information:**

The decision of the Development Authority was appealed by an adjacent property owner.

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

**Grounds for Appeal**

**685(2)** In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

**Appeals**

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

(a) ...

(b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

The decision of the Development Authority was dated November 26, 2015. The Notice of Appeal was filed on December 8, 2015.

**General Provisions from the *Edmonton Zoning Bylaw*:**

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

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

Under Section 115.3(4), **Single Detached Housing** is a **Permitted Use** in the RSL Residential Small Lot Zone.

Section 7.2(9) states:

**Single Detached Housing** means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use Class in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use Class includes Mobile Homes which conform to Section 78 of this Bylaw.

***Variance: Projection into Setbacks and Separation Spaces***

Section 44(3) states:

The following features may project into a required Setback or Separation Space as provided for below:

...

3. a) Platform Structures less than 0.6 m in Height may be constructed to the Lot lines Abutting the interior Side Yard and Rear Yard;
- b) Platform Structures greater than 0.6 m in Height or less than 0.6 m in Height and located within the flanking Side Yard provided such projections do not exceed 2.0 m into Setbacks or Separation Spaces with a depth of at least 4.0 m;
- c) Platform Structures greater than 0.6 m in Height or less than 0.6 m in Height and located within the flanking Side Yard provided such projections do not exceed 0.6 m for Setbacks or Separation Spaces with a depth of less than 4.0 m; and
- d) Platform Structures provided such projections do not exceed 2.5 m into any Front Setback.

**Development Officer's Determination:**

1. Projection - The distance from the Uncovered Deck to the back property line (rear lot line) is 4.93m, instead of 5.50m (Section 44.3) [unedited]

***Variance: Site Coverage***

Section 115.4(5) states: “The maximum total Site Coverage shall not exceed 45%, inclusive of the attached Garage and any other Accessory buildings.”

**Development Officer’s Determination:**

2. Site Coverage - The House covers 46.14% of the site, instead of 45% (Section 115.4(5)). [unedited]

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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: **165696822-002**  
 Application Date: OCT 08, 2015  
 Printed: December 23, 2015 at 1:44 PM  
 Page: 1 of 2

## Deck Development and Building Permit

This document is a record of a Development Permit and/or Building 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, Safety Codes Act RSA 2000, Safety Codes Act Permit Regulation, Alberta Building Code 2006 and City of Edmonton Bylaw 15894 Safety Codes Permit

<p><b>Applicant</b></p> <p>SATCHA INVESTMENTS LTD</p>	<p><b>Property Address(es) and Legal Description(s)</b></p> <p>650 - ALBANY WAY NW                  Plan 1124917 Blk 2 Lot 3</p>
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**Scope of Permit**  
 To construct an uncovered deck (deck extension for a deck 5.01m x 3.03m) to a Single Detached House, existing without permits.

<p><b>Permit Details</b></p> <p>Class of Permit: Class B                  Guardrail (decks):                  Stat. Plan Overlay/Annex Area: (none)</p>	<p>Deck Height Above Grade: 3.18                  Size of Structure(s): 15.18                  Total Deck (Railing) Height Above Grade: 4.25</p>
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I/We certify that the above noted details are correct.

Applicant signature: \_\_\_\_\_

**Development Permit Decision**  
 Approved

**Subject to the Following Conditions**  
 This Development Permit authorizes the development of an uncovered deck (deck extension for a deck 5.01m x 3.03m) to a Single Detached House, existing without permits. The development shall be constructed in accordance with the stamped and approved drawings.

Any future deck enclosure or cover requires a separate development and building permit approval.

Advisements:  
 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. (Reference Section 5.2)

Unless otherwise stated, all references to section numbers refer to the Edmonton Zoning Bylaw 12800.

**Variations**

1. Projection - The distance from the Uncovered Deck to the back property line (rear lot line) is 4.93m, instead of 5.50m (Section 44.3)
2. Site Coverage - The House covers 46.14% of the site, instead of 45% (Section 115.4(5)).

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

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



Project Number: **165696822-002**  
 Application Date: OCT 08, 2015  
 Printed: December 23, 2015 at 1:44 PM  
 Page: 2 of 2

## Deck Development and Building Permit

**Issue Date:** Nov 26, 2015    **Development Authority:** LANGILLE, BRANDON    **Signature:** \_\_\_\_\_  
**Notice Period Begins:** Dec 03, 2015    **Ends:** Dec 16, 2015

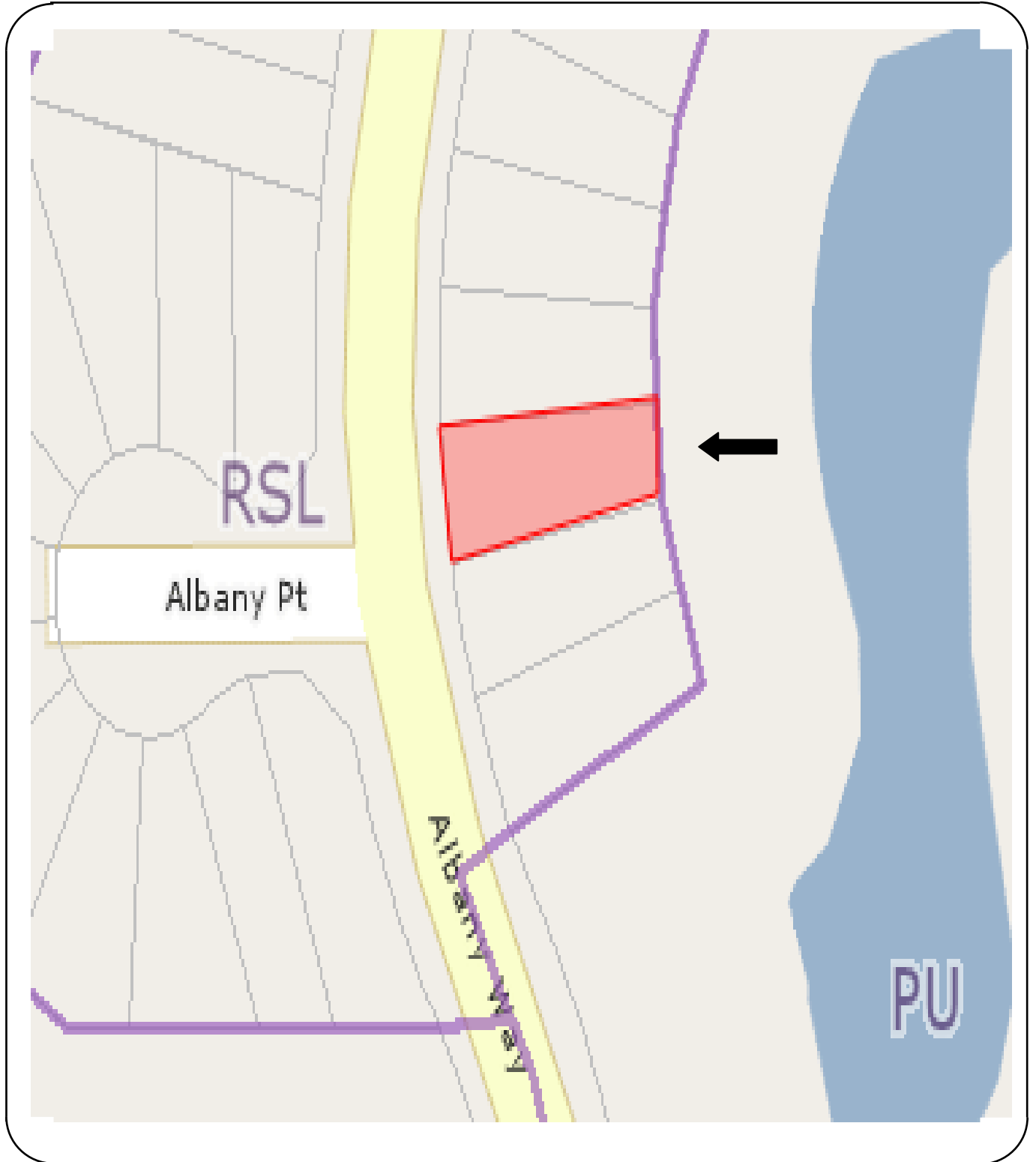
**Building Permit Decision**  
 Issued

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$40.00			
Building Permit Fee	\$100.00	\$100.00	02807004	Oct 08, 2015
Dev. Application Fee	\$105.00	\$105.00	02807004	Oct 08, 2015
Safety Codes Fee	\$4.50	\$4.50	02807004	Oct 08, 2015
Existing Without Permit Penalty Fee	\$205.00	\$205.00	02807004	Oct 08, 2015
Total GST Amount:	\$0.00			
Totals for Permit:	\$454.50	\$414.50		
(\$40.00 outstanding)				

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





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-16-009



ITEM II: 11:00 A.M.

FILE: SDAB-D-16-011

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 181889299-001

ADDRESS OF APPELLANT: 2407 - 90B Street SW

APPLICATION TO: Change the Use from Professional, Financial, and Office Support Services to Minor Alcohol Sales and to construct interior alterations (Royal Centre South)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 30, 2015

DATE OF APPEAL: December 4, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2407 - 90B Street SW

LEGAL DESCRIPTION: Plan 1320200 Blk 42 Lot 101

ZONE: DC2 (909) Site Specific Development Control

OVERLAY: Special Area Ellerslie Industrial

STATUTORY PLAN: Ellerslie Area Structure Plan  
Summerside Neighbourhood Structure Plan

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***Grounds for Appeal***

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

The Applicant, Sid Gupta of Boss Liquor, has applied for a Development Permit for the site at 2407 - 90B Street. The Building is a recently completed commercial condominium and he wishes to purchase the property, subject to being able to operate a liquor store from the premises. The development permit for the liquor store was submitted on August 2, 2015, one day after the development permit was submitted for a liquor store on the site to the west at 9080 - 25 Avenue. The two sites

have been determined to be 170 m apart, resulting in the refusal of the development permit.

Both sites are in separate DC2 Direct Control Provisions which allow for Minor Alcohol Sales and both were rezoned from EIG (Ellerslie Business Industrial) Zone to DC2 Direct Control Provision by City Council on November 16, 2015, DC2 909(4) Bylaw 17441 and DC2 910(4) Bylaw 17437 (see enclosed maps). The previous EIB Zone did not allow for a liquor store use on either site, therefore the Development Officer could not consider either development permit application until such time as City Council approved the new DC2 provisions.

the building at 2407 - 90B Street is completed and ready for occupancy whereas the site at 9080 - 25 Avenue is vacant awaiting development approvals and will not be ready for occupancy for at least a year, possibly longer. The intent of Council's separation distance is to prevent two stores from co-existing within 500 m separation distance, however this will not occur given the status of the site at 9080 - 25 Avenue as vacant for the foreseeable future. As the applications were both made prior to the approval of the DC2 Provisions for both sites, the Development Officer was not able to make a decision on either application until such time as zoning was in place to allow the liquor store use. In this instance we submit that the Development Officer should then consider both applications and proceed with the application that can meet the requirements to obtain a Development Permit, Building Permit and business licence to open and operate the business. Otherwise the separation distance could be seen as a "placeholder" for future liquor stores uses which is not the intent of City Council. The 500 m separation distance regulation did not intend to impact liquor stores already operating or able to meet the requirements to operate. The separation distance is intended to be applied to the location of future liquor stores at the time that they are able to operate in the vicinity.

The 500 m separation distance for liquor stores initially arose from community concerns in mature neighbourhoods and was intended to prevent a proliferation of this use along existing commercial corridors in these neighbourhoods. From a land use perspective there does not appear to be a need to "single out" the retail use for a liquor store over other retail uses for a separation distance. In addition to creating the need by the civic administration for a comprehensive tracking system, the separation distance can create issues for owners of commercial property wishing to sell or lease to liquor store owners as well as the store owners. As a result, the city administration has been asked to examine the current situation and is considering changes to the current 500 m separation distance, including reducing or eliminating it. To this issue, I attach a letter to the Zoning Bylaw implementation section requesting revisions to the current regulations to eliminate the separation distance in suburban locations or at least site related exemptions.  
[unedited]

***General Matters***

**Appeal Information:**

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

**Grounds for Appeal**

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

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

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

**Appeals**

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

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

The decision of the Development Authority was dated November 30, 2015. The Notice of Appeal was filed on December 4, 2015.

**Direct Control Districts**

The *Municipal Government Act* states:

**Designation of direct control districts**

**641(1)** The council of a municipality that has adopted a municipal development plan, if it wishes to exercise particular control over the use and development of land or buildings within an area of the municipality, may in its land use bylaw designate that area as a direct control district.

**(2)** If a direct control district is designated in a land use bylaw, the council may, subject to any applicable statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary.

(3) In respect of a direct control district, the council may decide on a development permit application or may delegate the decision to a development authority with directions that it considers appropriate.

(4) Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

(a) is made by a council, there is no appeal to the subdivision and development appeal board, or

(b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

**General Provisions from the *Edmonton Zoning Bylaw*:**

Section DC2.909.1 of the DC2 Site Specific Development Control Provision states the following with respect to the General Purpose of the zone:

To allow for light industrial development and limited retail uses, all of which carry out their operations such that no nuisance factor is created or apparent outside an enclosed building and such that the site is compatible with any adjacent Non-industrial Zone.

Under Section DC2.909.3(h), **Minor Alcohol Sales** is a listed Use.

Section 7.4(32) states:

**Minor Alcohol Sales**, means development used for the retail sale of any and all types of alcoholic beverages to the public. This Use Class may include retail sales of related products such as soft drinks and snack foods. The maximum Floor Area for this Use Class shall be no more than 275 m<sup>2</sup> per individual business premises.

***Separation Distance Between Alcohol Sale Uses***

Section 85(3) states:

Major and Minor Alcohol Sales shall comply with the following regulations:

...

3. any Major or Minor Alcohol Sales Use shall not be located closer than 500.0 m from any other Major or Minor Alcohol Sales Use. For the purposes of this subsection only:

- a. the 500.0 m separation distance shall be measured from the closest point of the Major or Minor Alcohol Sales Use to the closest point of any other existing or approved Major or Minor Alcohol Sales Use; and
- b. if there are two or more Major or Minor Alcohol Sales Uses lawfully operating within 500 m of each other as of the date of the enactment of this Section they shall be considered legal non-conforming uses.

**Development Officer's Determination**

1. Section 85(3) - The proposed Minor Alcohol Sales is located 170.0 m and not 500.0 m away from an approved Minor Alcohol Sales to the west at 9080-25 Avenue SW, approved under project number 175944905-001.  
[unedited]

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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: **181889299-001**  
 Application Date: NOV 03, 2015  
 Printed: January 4, 2016 at 2:41 PM  
 Page: 1 of 1

## Application for Major Development Permit

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

<b>Applicant</b>  1675481 ALBERTA LTD 	<b>Property Address(es) and Legal Description(s)</b> 2407 - 90B STREET SW Plan 1320200 Blk 42 Lot 101  <b>Specific Address(es)</b> Suite: 2439 - 90B STREET SW Entryway: 2439 - 90B STREET SW Building: 2407 - 90B STREET SW
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**Scope of Application**  
 To change the Use from Professional, Financial, and Office Support Services to Minor Alcohol Sales and to construct interior alterations (Royal Centre South)

<b>Permit Details</b>  Class of Permit: Gross Floor Area (sq.m.): 199 New Sewer Service Required: N Site Area (sq. m.): 7584.21	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)
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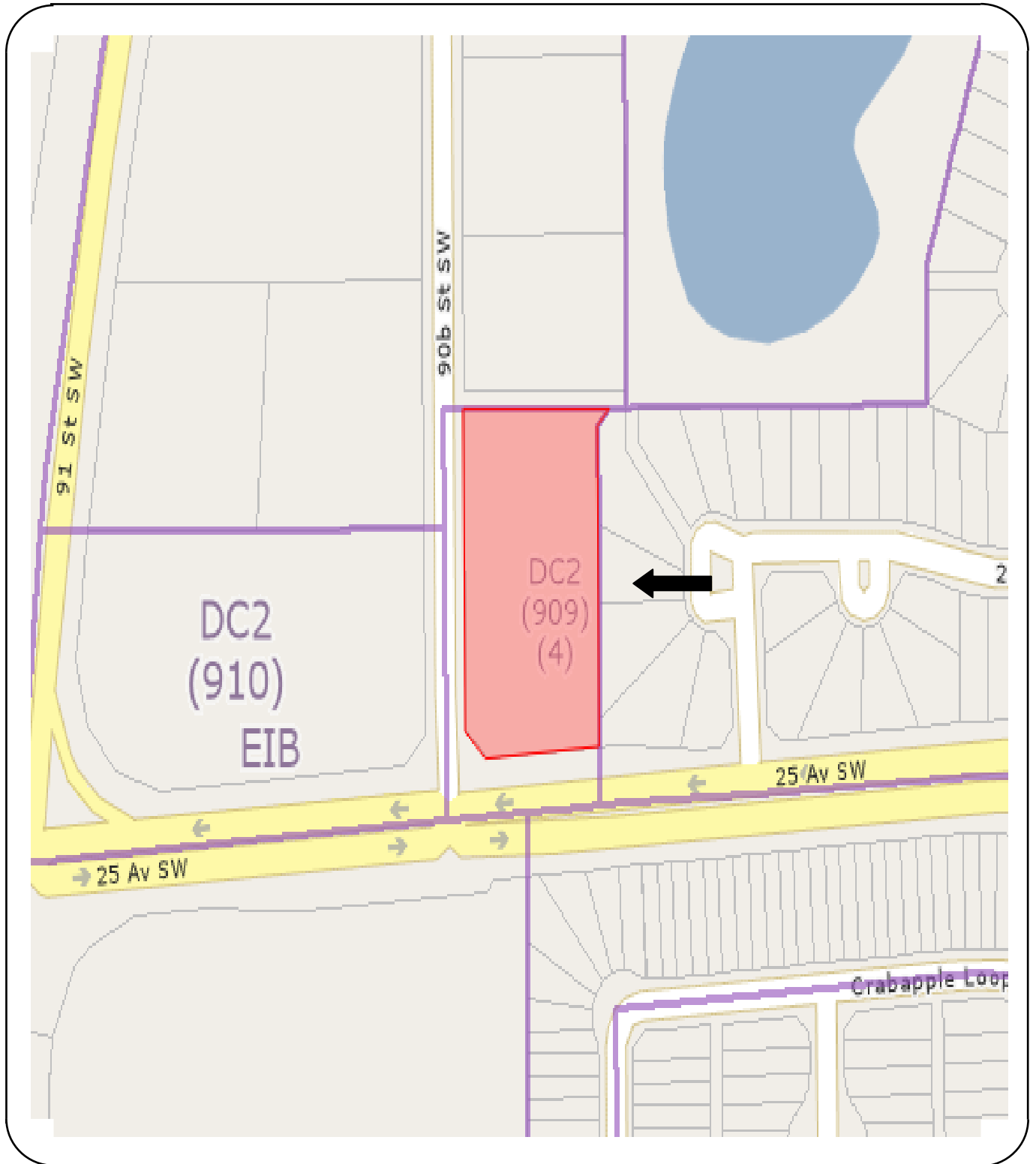
I/We certify that the above noted details are correct.  
 Applicant signature: \_\_\_\_\_

**Development Application Decision**  
 Refused  
**Reason for Refusal**  
 1. Section 85(3) - The proposed Minor Alcohol Sales is located 170.0 m and not 500.0 m away from an approved Minor Alcohol Sales to the west at 9080-25 Avenue SW, approved under project number 175944905-001.  
  
**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 30, 2015    **Development Authority:** PEACOCK, ERICA    **Signature:** \_\_\_\_\_

Fees	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$254.00	\$254.00	02868960	Nov 03, 2015
Total GST Amount:	\$0.00			
Totals for Permit:	\$254.00	\$254.00		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-15-011





**BUSINESS LAID OVER**

SDAB-D-15-298	An appeal by <u>Peter Rausch VS Davut Gokce</u> to erect an over height Fence (5.44 m in length on west property line at 2.44 m in Height) in the Rear Yard of a Single Detached House <b><i>January 13 or 14, 2016</i></b>
SDAB-D-15-247	An appeal by <u>Kennedy Agrios LLP VS. Eton-West Construction (Alta) Inc.</u> change the use of "Building E" from Professional, Financial and Office Support Services to General Retail Stores and to construct interior and exterior alterations (increase building size and change dimensions, revision to parking layout and Drive-thru). <b><i>March 9 or 10, 2016</i></b>
SDAB-D-15-268	An appeal by <u>Ken Chen / Ogilvie LLP</u> to Leave as built a Single Detached House. <b><i>January 15, 2016</i></b>
SDAB-D-15-238	An appeal by <u>Ogilvie LLP</u> to comply with an Order to acquire valid development permits by September 25, 2015 or cease the Use and demolish and remove all materials by September 25, 2015; and to comply with all conditions of development permit No. 149045660-001. <b><i>February 17 or 18, 2016</i></b>
SDAB-D-15-252	An appeal by <u>Southwest Muslim Community Centre</u> to change the se from an Indoor Participant Recreation Service to a Religious Assembly with a capacity of 456 seats, and to construct interior alterations (SouthWest Muslim Community Centre). <b><i>February 10 or 11, 2016</i></b>

**APPEAL HEARINGS TO BE SCHEDULED**

176013858-001	An appeal by <u>Abington Homes Ltd.</u> to construct a Single Detached House with a rear attached Garage, a front veranda, fireplace, basement development (NOT to be used as an additional Dwelling) <b><i>January 13 or 14, 2016</i></b>
171838918-001	An appeal by <u>Icewerx Consulting Inc.</u> to install one Minor Digital Off-premises Sign (Icewerx). <b><i>January 13 or 14, 2016</i></b>
159269966-003	An appeal by <u>Anh Padmore</u> to construct an exterior alteration to an existing Singe Detached House, (Driveway Extension 2.8m x 8.4m existing without permits). <b><i>January 21, 2016</i></b>