

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
March 2, 2016**

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

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

I 9:00 A.M. SDAB-D-16-067

Operate a Minor Home Based Business
(administration office for student
painting company - A.L.H.
ENTERPRISES)

11448 - 71 Avenue NW
Project No.: 185622971-001

II 11:00 A.M. SDAB-D-16-068

Expand a Child Care Services (increase
the number of children from 54 to 80)

8210 - 142 Street NW
Project No.: 182511406-001

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-16-067

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

APPELLANT:

APPLICATION NO.: 185622971-001

ADDRESS OF APPELLANT: 11419 – 73 Avenue NW

APPLICATION TO: Operate a Major Home Based
Business (administration office
for student painting company -
A.L.H. ENTERPRISES)

DECISION OF THE
DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: January 15, 2016

DATE OF APPEAL: February 2, 2016

RESPONDENT:

ADDRESS OF RESPONDENT: 11448 - 71 Avenue NW

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 11448 - 71 Avenue NW

LEGAL DESCRIPTION: Plan 2938HW Blk 13 Lot 69

ZONE: RF1 Single Detached Residential
Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLANS IN EFFECT: McKernan-Belgravia Station Area
Redevelopment Plan

Grounds for Appeal

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

The Belgravia Community League (BCL) does not support the Development Officer's decision to Permit an Application to Operate a Major Home Based Business (Painting Company) at the above address (11448 71 Ave NW)

Before stating the reasons for the BCL opposition to the granting of the permit, I would like to point out that in the notice that was sent out by the city to inform neighbours of the approval of the class B Development Permit, it is stated "The development is for a Minor home based business (administration office for student painting company ? A.L.H. ENTERPRISES)." Later on in the notice, in the description of the discretionary use it says Major home business and indeed when asked, the development officer stated that the permit is indeed for a Major home business. Further he said there would be storage of 6 ladders in the back yard, not in a garage, but rather in the yard propped up against a tree. He also said that the paint and all the other supplies, some of which would certainly be flammable, would be stored in the house. I am concerned that some people may have read the first line and believed that it was a minor home business being permitted. Certainly neighbours should get the correct notification so that they have the opportunity to respond accordingly.

Further to NOT supporting the decision to permit a major home business, we do not support the permit for the following reasons:

1.The lot is registered as a single family dwelling. There are other families beside and around this dwelling. There are children in the area not used to commercial traffic coming in and out. The street is very narrow with parking only on one side, and the alley is not suitable to commercial traffic. It is designed for the light traffic associated with single family homes. Also please note that the commercial traffic would have to enter the neighbourhood via 76 Ave and then go down 115 St and then turn right on 73 Ave and go past the school and then left onto 116 St and then left again on 71 Ave. Or the other option is to go right at 115th St. and 73 Ave and weave around until accessing the alley at 115th street and 72 Ave. All this commercial traffic through the neighbourhood will severely negatively impact our family oriented community.

2.The lot is outside of the designated areas deemed appropriate for such commercial/home based businesses by the McKernan-Belgravia Area Redevelopment Plan (Approved by Council, June, 2013).

3.It is likely that a Major home based business will be storing more than a few ladders in the yard. It is also concerning that the house on a block with families all around will be storing flammable materials. Will the house actually have the correct storage facilities? Will neighbours be notified of the hazards associated with these products being stored close by? What happens when there is an accident? Families and their children will be exposed to potentially toxic contamination of the air and soil.

4.Section 75.5 of the Edmonton Zoning Bylaw prohibits outdoor business activity or outdoor storage of material or equipment associated with the business.

5. This business is not compatible with the residential character of the neighbourhood and would be more appropriately located in a commercial zone. This is because of the storage of a large amount of flammable products. Also the business may grow and become an increasing nuisance (commercial traffic and outdoor storage) and danger (storage of flammable materials) not only to the families surrounding it but to the whole community affected by the commercial traffic and the potential danger of the presence of large amounts of flammable materials.

In the opinion of the BCL, allowing this permit will unduly interfere with the amenities of the neighbourhood and materially interfere with or affect the use and enjoyment of neighbouring lots. It is also probable that the value of those neighbouring lots will be negatively affected.

We respectfully ask the SDAB to NOT support the Development Officer's decision in this case and request that the applicant consider establishing this business in an area of the city where this kind of commercial activity is allowed. Bylaws separating residential and commercial enterprises are established for good reasons. We see no reason to introduce a Major Home Business of this type in the middle of an area designed for family living. [unedited]

<p><i>General Matters</i></p>

Appeal Information:

The decision of the Development Authority was appealed by the Appellant, Belgravia Community League.

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.

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) 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,

The decision of the Development Officer is dated January 15, 2016. The Notice of Appeal was filed on February 2, 2016.

General Provisions from the *Edmonton Zoning Bylaw*:

Pursuant to Section 110.1, 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.

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

“**Major Home Based Business**” is defined under Section 7.3(7) as:

... 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.

“**Minor Home Based Business**” is defined under Section 7.3(8) as:

...development consisting of the Use of an approved Dwelling by a resident of that Dwelling for one or more businesses such businesses shall not require more than one business associated visit per day at the Dwelling. The business Use must be secondary to the residential Use of the building and no aspects of the business operations shall be detectable from outside the property. The Dwelling shall not be used as a workplace for non-resident employees of the business. This Use Class does not include General Retail Sales.

Board Officer's Comments:

The Appellant, Belgravia Community League, indicated that the Notice of Decision sent to those within the 60 metres notification radius described the proposed development as a Minor Home Based Business.

The approved Development Permit is for a Major Home Based Business.

Outdoor Storage

Pursuant to Section 75(5), for a Major Home Based Business:

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.

Development Officer's Determination:

Variances

Outdoor Storage – The storage of equipment (i.e. 6 ladders only) in the Rear Yard (Section 75.5).

Discretionary Use – Major Home Based Business is approved as a Discretionary Use (Section 110.3.7). [unedited]

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: 185622971-001
Application Date: JAN 11, 2016
Printed: February 2, 2016 at 8:36 AM
Page: 1 of 3

Home Occupation

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 HENDERSON, AMBER L. 	Property Address(es) and Legal Description(s) 11448 - 71 AVENUE NW Plan 2938HW Blk 13 Lot 69 Specific Address(es) Suite: 11448 - 71 AVENUE NW Entryway: 11448 - 71 AVENUE NW Building: 11448 - 71 AVENUE NW
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Scope of Permit
To operate a Minor Home Based Business (administration office for student painting company - A.L.H. ENTERPRISES).

Permit Details # of businesss related visits/day: 1 Administration Office Only?: Y Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: Y	# of vehicles at one time: 1 Business has Trailers or Equipment?: N Description of Business: Administration office for student painting company. Expiry Date: 2021-01-15 00:00:00
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I/We certify that the above noted details are correct.
Applicant signature: _____

Development Permit Decision
Approved

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



Project Number: **185622971-001**
Application Date: JAN 11, 2016
Printed: February 2, 2016 at 8:36 AM
Page: 2 of 3

Home Occupation

Subject to the Following Conditions

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

1. The business owner must live at the site. 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 (Section 7.3(7)).
2. There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling (Section 75.1).
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 (Section 75.3).
4. The number of non-resident employees or business partners working on-site shall not exceed two at any one time (Section 75.4).
5. The site shall not be used as a daily rendezvous for employees or business partners.
6. The site shall not be used by employees or business partners as a parking or storage location.
7. Maximum business associated visits shall not exceed 5 per day.
8. Unless a variance has been granted for this Major Home Based Business, there shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
9. The storage of equipment (i.e. 6 ladders only) must be contained within the Rear Yard. Additional storage of equipment shall not be detectable from the outside of the property.
10. No person shall keep in any part of a Site in any Residential Zone any commercial vehicle, loaded or unloaded, of a maximum gross vehicle weight (G.V.W.) exceeding 4 500 kg. (Reference Section 45.1(a))
11. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
12. The business use must maintain the privacy and enjoyment of adjacent residences and the characteristic of the neighbourhood.
13. All parking for the Dwelling and Home Based Business must be accommodated on site unless a parking variance has been granted for this Major Home Based Business.
14. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
15. This approval is for a 5 year period from the date of this decision. This Development Permit expires on January 15, 2021. Should the business continue to locate at this location, an extension of Development Permit must be approved prior to January 15, 2021.

NOTES:

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. This Development Permit is not a Business License.
3. Subject to the right of appeal. The permit is not valid until the required Notification Period expires (date noted below in accordance with Section 21.1 and 17.1).

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



Project Number: **185622971-001**
Application Date: JAN 11, 2016
Printed: February 2, 2016 at 8:36 AM
Page: 3 of 3

Home Occupation

Variations

Outdoor Storage - The storage of equipment (i.e. 6 ladders only) in the Rear Yard (Section 75.5).

Discretionary Use - Major Home Based Business is approved as a Discretionary Use (Section 110.3.7).

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.

Issue Date: Jan 15, 2016 **Development Authority:** YEUNG, KENNETH

Signature: _____

Notice Period Begins: Jan 21, 2016 **Ends:** Feb 03, 2016

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$297.00	\$117.00	03000261	Jan 11, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$297.00	\$117.00		
(\$180.00 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-16-067



ITEM II: 11:00 A.M.

FILE: SDAB-D-16-068

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

APPELLANT:

APPLICATION NO.: 182511406-001

ADDRESS OF APPELLANT: 14230 - 85 Avenue NW

APPLICATION TO: Expand a Child Care Services
(increase the number of children
from 54 to 80)

DECISION OF THE
DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: February 2, 2016

DATE OF APPEAL: February 6, 2016

RESPONDENT:

ADDRESS OF RESPONDENT: 8210 - 142 Street NW

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 8210 - 142 Street NW

LEGAL DESCRIPTION: Plan 2597KS Blk 7 Lot 1

ZONE: US Urban Services Zone

OVERLAY: None

STATUTORY PLANS IN EFFECT: None

Grounds for Appeal

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

The property for which the permit has been granted has insufficient parking to accommodate the increased number of children. The bylaw requires 53 parking spaces and the permitted property has only 17 parking spaces.

Our property, a strip mall, is located directly across the street from the permitted property and our parking lot fills up several times a day with cars parking to drop off children and pick them up. The applicant wants to increase the number of children by 26 and the additional vehicles coming to our parking lot will substantially exacerbate a difficult situation on our property.

My tenants have complained to me about vehicles parking on our lot while dropping off/picking up children at the applicant's site stating that my tenants, their employees and customers have no place to park. These vehicles bring road debris onto our parking lot which has to be cleaned at our expense. There have been vehicle collisions on our lot due to traffic congestion caused by vehicles parking on our lot to drop off/pick up children. This potentially exposes us to legal liability. Further, the unauthorized use of our property to drop off/pick up children causes wear and tear of the asphalt which is extremely costly to repair and this will only be exacerbated with additional traffic caused by the increase of children attending at the applicant's business. It is not possible to recover these costs from those who drop off and pick up their children.

Almost no driver who drops off/picks up children does any business at our mall. There is room next to the applicant's premises to construct parking spaces and the applicant should only be permitted to increase the number of children if the applicant constructs those parking spaces. Our property should not be burdened with what will become unmanageable traffic congestion if the permit is granted. The permit will be a benefit to the applicant without cost to them and the burden which will arise will be solely borne by us. [unedited]

<i>General Matters</i>

Appeal Information:

The decision of the Development Authority was appealed by the Appellant, 722383 Alberta Inc.

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.

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) 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,

The decision of the Development Officer is dated February 2, 2016. The Notice of Appeal was filed on February 6, 2016.

General Provisions from the *Edmonton Zoning Bylaw*:

Pursuant to Section 510.1, the **General Purpose** of the **US Urban Service Zone** is to “...provide for publicly and privately owned facilities of an institutional or community service nature”.

Pursuant to Section 510.2, **Child Care Services** is a **Permitted Use** in the **US Urban Service Zone**.

“**Child Care Services**” is defined under Section 7.8(2) and means:

...a development intended to provide care, educational activities and supervision for groups of seven or more children under 13 years of age during the day or evening, but does not generally include overnight accommodation. This Use Class typically includes daycare centres; out-of-school centres; preschools; and dayhomes (providing child care within the care provider’s residence).

Parking Variance

Pursuant to Section 54.2(33) Schedule 1 sets out the parking requirements for Child Care Services as follows:

1 parking space for the first 2 employees, plus 0.5 spaces per additional employee

Except:

a. Dayhomes (providing care to 7 or more children within the residence of the child care provider):

1 parking space per non-resident employee, in addition to parking required for Primary Dwelling.

Where a Front Yard driveway provides access to a parking space that is not within the Front Yard, the Development Officer may consider this driveway as the provision of a second car parking space that is in tandem.



Development Officer's Determination:

Variances

Parking - The site has 17 parking spaces, instead of 53; (Section 54.2, Schedule 1) [unedited]

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: 182511406-001 Application Date: NOV 16, 2015 Printed: February 2, 2016 at 7:49 AM Page: 1 of 2		
Major Development Permit			
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 LAURIER HEIGHTS OUT OF SCHOOL CARE 	Property Address(es) and Legal Description(s) 8210 - 142 STREET NW Plan 2597KS Blk 7 Lot 1 Specific Address(es) Suite: 8210 - 142 STREET NW Entryway: 14225 - 85 AVENUE NW Entryway: 8210 - 142 STREET NW Building: 14225 - 85 AVENUE NW		
Scope of Permit To expand a Child Care Services (increase the number of children from 54 to 80).			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Class B Gross Floor Area (sq.m.): 202 New Sewer Service Required: N/A Site Area (sq. m.): 31467.16 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): 202 New Sewer Service Required: N/A Site Area (sq. m.): 31467.16	Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class B Gross Floor Area (sq.m.): 202 New Sewer Service Required: N/A Site Area (sq. m.): 31467.16	Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Permit Decision Approved Subject to the Following Conditions <ol style="list-style-type: none"> 1) The applicant or property owner shall pay a DP Notification Fee of \$100.00. 2) Access from the site to 142 Street exists. Any modification to the existing access requires the review and approval of Transportation Services. 3) 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. 4) This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1) Notes: i) 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.			
VariANCES Parking - The site has 17 parking spaces, instead of 53; (Section 54.2, Schedule 1)			
The permit holder is advised to read the reverse for important information concerning this decision.			



Project Number: 182511406-001
Application Date: NOV 16, 2015
Printed: February 2, 2016 at 7:49 AM
Page: 2 of 2

Major Development Permit

Rights of Appeal

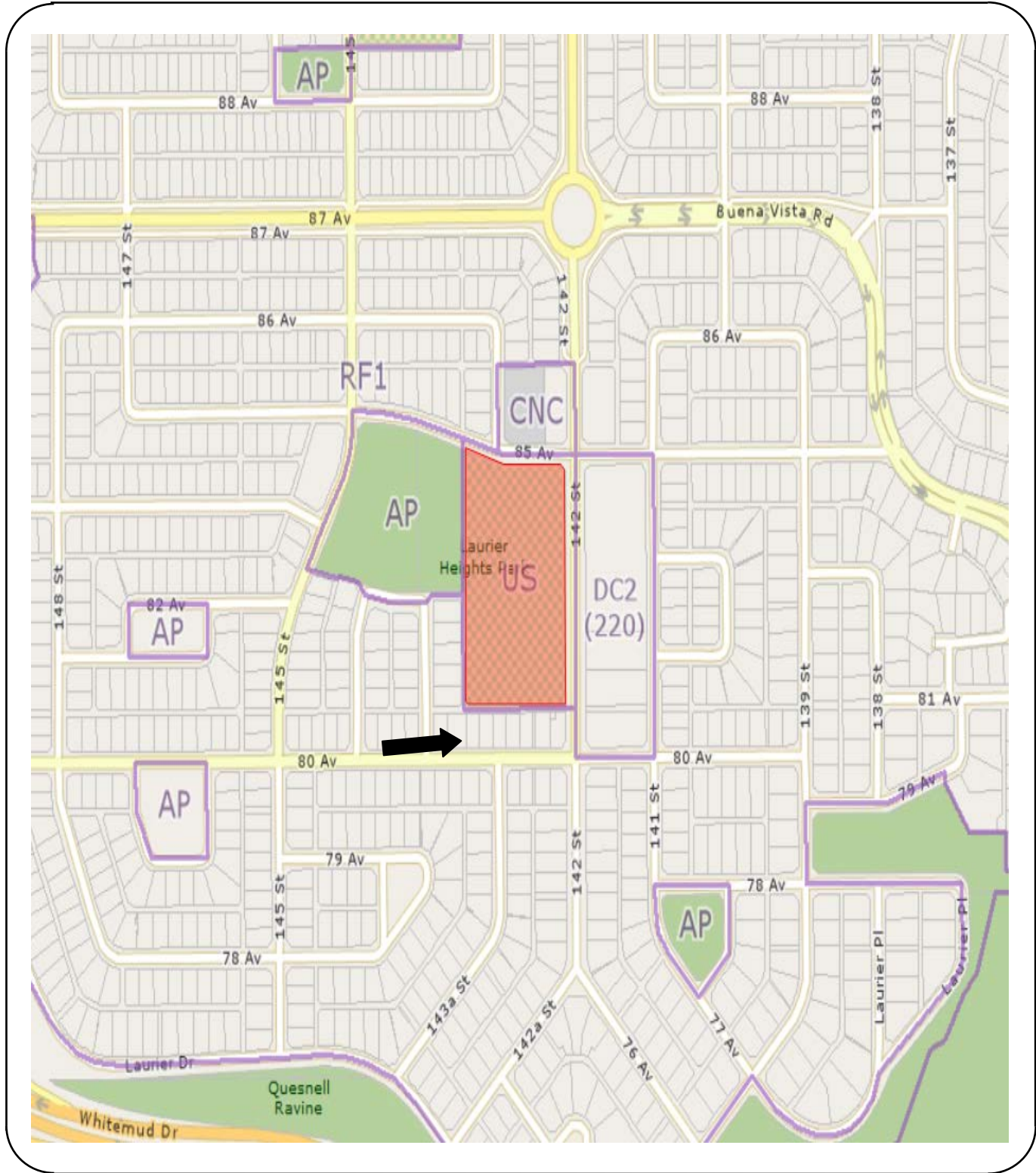
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Feb 02, 2016 Development Authority: KOWAL, PAUL Signature: _____
Notice Period Begins: Feb 09, 2016 Ends: Feb 22, 2016

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$379.00	\$379.00	02894751	Nov 16, 2015
DP Notification Fee	\$100.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$479.00	\$379.00		
(\$100.00 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-16-068



BUSINESS LAID OVER

SDAB-D-15-247	An appeal to 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). <i>March 9 or 10, 2016</i>
SDAB-D-16-048	An appeal to construct a Freestanding Off-premises Sign <i>March 9 or 10, 2016</i>
SDAB-D-16-049	An appeal to develop a Parking Area Accessory to an existing Apartment House. <i>March 9 or 10, 2016</i>
SDAB-D-16-050	An appeal to install (1) Fascia On-premises Sign (Boardwalk) <i>March 16, 2016</i>
SDAB-D-16-062	An appeal to operate an Automotive/Minor Recreation Vehicle Sales/Rental and to relocate an existing mobile office (Peace Motors). <i>March 23, 2016</i>
SDAB-D-16-501	An appeal to demolish an existing building. <i>March 30 or 31, 2016</i>

APPEAL HEARINGS TO BE SCHEDULED

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