

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
April 21, 2016**

**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-16-102

To change the Use from General Retail Stores to  
Specialty Food Services (ECLIPSE - 97.36  
square metres Public Space)

9319 - 111 Avenue NW  
Project No.: 185396289-002

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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-16-102

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 185396289-002

ADDRESS OF APPELLANT: 9319 - 111 Avenue NW

APPLICATION TO: Change the Use from General Retail Stores to Specialty Food Services (ECLIPSE - 97.36 square metres Public Space)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 17, 2016

DATE OF APPEAL: March 23, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9319 - 111 Avenue NW

LEGAL DESCRIPTION: Plan 760BW Lots 5-6

ZONE: CB1-Low Intensity Business Zone

OVERLAY: Pedestrian Commercial Shopping Street Overlay

STATUTORY PLAN: Boyle Street McCauley Area Redevelopment Plan

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**Grounds for Appeal**

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

The hours of operation for Eclipse Hookah Lounge are generally after the neighbouring businesses close which gives additional parking spaces. More than six bus routes stop in front of our location and the demographic of our customers are students who don't drive and/or carpool.

**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,

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

Section 330.1 states the **General Purpose** of the **CB1 Low Intensity Business Zone** is to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

Under Section 330.2(14), **Specialty Food Services**, for less than 100 occupants and 120 square metres of Public Space, is a **Permitted Use** in the CB1 Low Intensity Business Zone.

Section 7.4(47) states **Specialty Food Services** means development where limited types of prepared foods and beverages, excluding alcoholic beverages, are offered for sale to the public, for consumption within the premises or off the Site. This Use Class typically relies primarily on walk-in clientele, and includes coffee, donut, bagel or sandwich shops, ice cream parlours, and dessert shops.

Section 819.1 states the **General Purpose** of the **Pedestrian Commercial Shopping Street Overlay** is to maintain the pedestrian-oriented character of commercial areas, comprised of shopping streets in close proximity to residential areas of the City.

**Development Officer's Determination**

Section 54.1.1.b.ii states notwithstanding the above, the regulations contained within this Section shall not apply to buildings or Uses existing at the time of the adoption of this Bylaw, except that: where any building or Use undergoes a change of Use, intensity of Use or capacity and the change results in an increase in the parking requirements, the off-

street parking, including parking for the disabled and visitors, shall be increased to equal or exceed the off-street parking requirements resulting from application of the provisions of this Bylaw to the entire building, structure or Use as modified in use.

Required: 24 spaces  
Proposed: 2 spaces  
Deficient by: 22 spaces

### **Board Officer's Comments**

Section 819.3(8)(b) states the minimum number of off-street parking spaces required shall be in accordance with the provisions of Section 54, Schedule 1 of this Bylaw, except that, for **Specialty Food Services**, Restaurants, Bars and Neighbourhood Pubs, and Nightclubs, parking shall be provided on the basis of one parking space per 4.8 square metres of Public Space.

Section 819.3(8)(a) states the minimum number of off-street parking spaces required shall be in accordance with the provisions of Section 54, Schedule 1 of this Bylaw, except that, for **Professional, Financial and Office Support Services** at Grade, parking shall be provided on the basis of 1 parking space per 90.9 square metres of Floor Area and no parking spaces shall be required for this Use on upper floors.

Under Section 6.1(80), **Public Space** means space that is part of an establishment, which is open to the public and not restricted to only employees. This definition does not include kitchens, administrative offices, food or drink preparation areas.

Under Section 6.1(34), **Floor Area** means the total Floor Area of the building or structure, contained within the outside surface of the exterior and Basement walls, provided that in the case of a wall containing windows, the glazing line of windows may be used.

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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: **185396289-002**  
 Application Date: JAN 20, 2016  
 Printed: March 29, 2016 at 10:58 AM  
 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>  ECLIPSE Care of: ABDISALAM DAHIR NUR <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div>	<b>Property Address(es) and Legal Description(s)</b> 9319 - 111 AVENUE NW Plan 760BW Lots 5-6  <b>Specific Address(es)</b> Suite: 9317 - 111 AVENUE NW Entryway: 9317 - 111 AVENUE NW Building: 9319 - 111 AVENUE NW
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**Scope of Application**

To change the Use from General Retail Stores to Specialty Food Services (ECLIPSE - 97.36 sqm Public Space).

**Permit Details**

Class of Permit: Gross Floor Area (sq.m.): 119.74 New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 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) Where any building or Use undergoes a change of Use, intensity of Use or capacity and the change results in an increase in the parking requirements, the off-street parking, including parking for the disabled and visitors, shall be increased to equal or exceed the off-street parking requirements resulting from application of the provisions of this Bylaw to the entire building, structure or Use as modified in use (Reference Section 54.1.1.b.ii)

Required: 24 spaces  
 Proposed: 2 spaces  
 Deficient by: 22 spaces

**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:** Mar 17, 2016    **Development Authority:** LI, CINDY    **Signature:** \_\_\_\_\_

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$260.00	\$260.00	03017906	Jan 20, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$260.00	\$260.00		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-16-102



***BUSINESS LAID OVER***

SDAB-D-16-094	An appeal to operate a Major Home Based Business (Auction to Auction – SAIHAJ Enterprises Ltd.) <b><i>April 27 or 28, 2016</i></b>
SDAB-D-16-084	An appeal to construct an addition and exterior alterations, and a rear covered deck (3.05 m by 6.25 m) to a Single Detached House <b><i>April 28, 2016</i></b>
SDAB-D-16-501	An appeal to demolish an existing building <b><i>May 25 or 26, 2016</i></b>
SDAB-D-16-093	An appeal to construct and operate a Child Care Services Use Building (95 children – 12, 0-11 months/15, 12-19 months/14, 19 months – 3 years/22, 3 – 4.5 years/15, 4.5 – 6 years/ 17, 6-12 years) and to construct exterior alterations (developing on-site outdoor play spaces and revisions to approved landscaping) <b><i>May 13, 2016</i></b>

***APPEAL HEARINGS TO BE SCHEDULED***

172854843-001	An appeal to comply with a Stop Order to comply with all conditions of Development Permit No. 139511609-001 before April 1, 2016 or Cease the Use (Operation of Automotive and Minor Recreation Vehicle Sales/Rentals Use and any subsequent Use) before April 1, 2016 and remove all stored material and equipment associated with the Use; including vehicles, tires, and vehicle parts before April 1, 2016 <b><i>May 25, 2016</i></b>
175846220-001	An appeal to remove all advertising signs located on the building before April 2, 2016 or submit a complete Development Permit Application which reflects the current sign(s) installed on the building before April 1, 2016 <b><i>May 25, 2016</i></b>