

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
August 10, 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-16-193 | Change the Use from General Retail Store to Indoor Participant Recreation Services and construct interior alterations (SNAP FITNESS) 2812 - Calgary Trail NW 2814 - Calgary Trail NW 2804C - Calgary Trail NW Project No.: 222903792-001 |
|---|-----------|---------------|--|

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-16-193

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 222903792-001

APPLICATION TO: Change the Use from General Retail Store to Indoor Participant Recreation Services and construct interior alterations (SNAP FITNESS)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 13, 2016

DATE OF APPEAL: July 14, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2812 Calgary Trail NW
2814 Calgary Trail NW
2804C Calgary Trail NW

LEGAL DESCRIPTION: Plan 1025554 Unit 2,
Plan 1025554 Unit 3,
Condo Common Area (Plan 1025554)

ZONE: CB2 General Business Zone
DC2 (332) Site Specific Development Control Provision

OVERLAY: Major Commercial Corridors Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

I originally went down to the city two times before applying for this application. At no time did any staff tell me that there would be an issue with the change of use, just that I had to do a parking tally to determine the number of spots available during certain times of the day. Nothing was mentioned ever about a motel/hotel being build in order to move the gym. I presently run and operate Snap Fitness Edmonton (2920 Calgary

trail NW) which is now on a month to month lease less than a few hundred feet away from this new location (2812 Calgary Trail NW) I wanted to move the location because the business is struggling and the new lease will save a substantial amount of money each month on the lease and the new location would attract more clients. Presently I am on a second floor of a building and am constantly getting complaints from the downstairs tenants about weights dropping. It is also hard to see from the main road. If this location gets denied I will be shutting down this location and disappointing my members.

Reason 1 for refusal: Seems like an oversight on zoning for this site. I believe it was written in 1993 when the city was much smaller. There will never be a hotel/motel on this site. It is presently occupied by condos with a range of different businesses. The whole plaza would have to be torn down in order to build a motel/hotel, there is a hotel a few hundred feet away. Reason #2: This is a 24 hr fitness center that is open 365 days a year. I own 3 other locations which have much less parking and have never had an issue. Not everyone comes at the same time and the membership base is spread over a 24hr period which is not represented in the parking survey. Also most businesses that are in the plaza are open regular hours while the peak time at the gym would be from 5pm to 8pm.

This fitness center will help all the tenants in the plaza and they were all very excited to see us moving in.

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 July 13, 2016. The Notice of Appeal was filed on July 14, 2016.

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*:

DC2.332 was passed by Bylaw 10550 on November 15, 1993.

Section 2.332.1 states that the **General Purpose** of **DC2.332** is:

To establish a Direct Control District for retail and highway commercial uses with good visibility and accessibility along Calgary Trail Southbound.

Under Section 2.332.3(k), **Indoor Participant Recreation Services** are a **Listed Use** in DC2.332.

Section 10.7.4 of *Land Use Bylaw 5996* (“LUB 5996”), Version 9, December 1991 states:

Indoor Participant Recreation Services means development providing facilities within an enclosed building for sports and active recreation where patrons are predominantly participants and any spectators are incidental and attend on a non-recurring basis. Typical uses include athletic clubs; health and fitness clubs; curling, roller skating and hockey rinks; swimming pools; rifle and pistol ranges, bowling alleys and racquet clubs.

Section 813.1 states that the **General Purpose** of the **Major Commercial Corridors Overlay** is “to ensure that development along Major Commercial Corridors is visually attractive and that due consideration is given to pedestrian and traffic safety.”

Proposed Development Must be in Conjunction with Hotel or Motel Use

DC2.332.5(f) states that “Indoor Participant Recreation Services and Convenience Vehicle Rentals shall be developed only in conjunction with Hotel or Motel uses.”

Development Officer’s Determination

There is no record of development approval for a Hotel or Motel Use on Site. A Hotel or Motel Use has not been proposed in conjunction with the proposed Indoor Participant Recreation Service.

Proposed Development Must be in Conjunction with Hotel or Motel Use

DC2.332.4(k) states that “Developments in this district shall be evaluated with respect to compliance with the General Development Regulations of Sections 50 to 79 inclusive, of the Land Use Bylaw”.

Section 66.1(1) of LUB 5999 provides as follows:

In any District, when any new development is proposed including a change of use of existing development, or when any existing development is, in the opinion of the Development Officer, substantially enlarged or increased in capacity, then provision shall be made for off-street vehicular parking or garage spaces and bicycle parking spaces, in accordance with the requirements and standards contained in this Section 66.

Section 66.2(1) states that “The number of off-street parking spaces and bicycle parking spaces required for any development shall be in accordance with Schedules 66A and 66B below.”

Schedule 66A(14) provides that for Indoor Participant Recreation Services, the following vehicular parking spaces are required: “1 per 3.5 seating spaces, or 3.1 per 10 m² (1 per 35 sq. ft.) of gross floor area used by the patrons, whichever is greater.”

Development Officer’s Determination



The Development Officer referenced DC2.332.4(k), and Sections 66.1(1) and 66.2(1) of LUB 5996, and made the following determination:

Required off-street parking for the Site including the proposed Indoor Participant Recreation Service: 405 spaces
Proposed off-street parking on Site: 265 spaces
The Site is deficient by: 140 spaces

Off-street parking required for Indoor Participant Recreation Service: 162 spaces
Off-street parking provided for the existing General Retail Store Use: 12 spaces
Deficient by: 150 spaces

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: 222903792-001 Application Date: JUN 01, 2016 Printed: August 5, 2016 at 11:26 AM 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. | |
| Applicant  | Property Address(es) and Legal Description(s) 2804C - CALGARY TRAIL NW Condo Common Area (Plan 1025554) 2812 - CALGARY TRAIL NW Plan 1025554 Unit 2 2814 - CALGARY TRAIL NW Plan 1025554 Unit 3 |
| | Specific Address(es) Suite: 2812 - CALGARY TRAIL NW Suite: 2814 - CALGARY TRAIL NW Entryway: 2812 - CALGARY TRAIL NW Entryway: 2814 - CALGARY TRAIL NW Building: 2804 - CALGARY TRAIL NW |
| Scope of Application To change the Use from General Retail Store to Indoor Participant Recreation Services and construct interior alterations. (SNAP FITNESS) | |
| Permit Details | |
| Class of Permit: Gross Floor Area (sq.m.): 521.28 New Sewer Service Required: N Site Area (sq. m.): | Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Major Commercial Corridor |
| I/We certify that the above noted details are correct. Applicant signature: _____ | |
| Development Application Decision Refused | |
| THIS IS NOT A PERMIT | |



Project Number: **222903792-001**
 Application Date: JUN 01, 2016
 Printed: August 5, 2016 at 11:26 AM
 Page: 2 of 2

Application for Major Development Permit

Reason for Refusal

1) Indoor Participant Recreation Services and Convenience Vehicle Rentals shall be developed only in conjunction with Hotel or Motel uses. (Reference Section DC2.332.5.f)

There is no record of development approval for a Hotel or Motel Use on Site. A Hotel or Motel Use has not been proposed in conjunction with the the proposed Indoor Participant Recreation Service.

2) Developments in this district shall be evaluated with respect to compliance with the General Development Regulations of Sections 50 to 79 inclusive, of the Land Use Bylaw [No. 5996]. (Reference Section DC2.332.4.k)

In any District, when any new development is proposed including a change of use of existing development, or when any existing development is, in the opinion of the Development Officer, substantially enlarged or increased in capacity, then provision shall be made for off-street vehicular parking or garage spaces and bicycle parking spaces, in accordance with the requirements and standards contained in this Section 66. (Reference Section 66.1.1 in Land Use Bylaw 5996 - consolidated 1991)

The number of off-street parking spaces and bicycle parking spaces required for any development, including the proposed Indoor Participant Recreation Services, shall be in accordance with Schedules 66A and 66B. (Reference Section 66.2.1 in Land Use Bylaw 5996 - consolidated 1991)

Required off-street parking for the Site including the proposed Indoor Participant Recreation Service: 405 spaces
 Proposed off-street parking on Site: 265 spaces
 The Site is deficient by: 140 spaces

Off-street parking required for Indoor Participant Recreation Service: 162 spaces
 Off-street parking provided for the existing General Retail Store Use: 12 spaces
 Deficient by: 150 spaces

Rights of Appeal

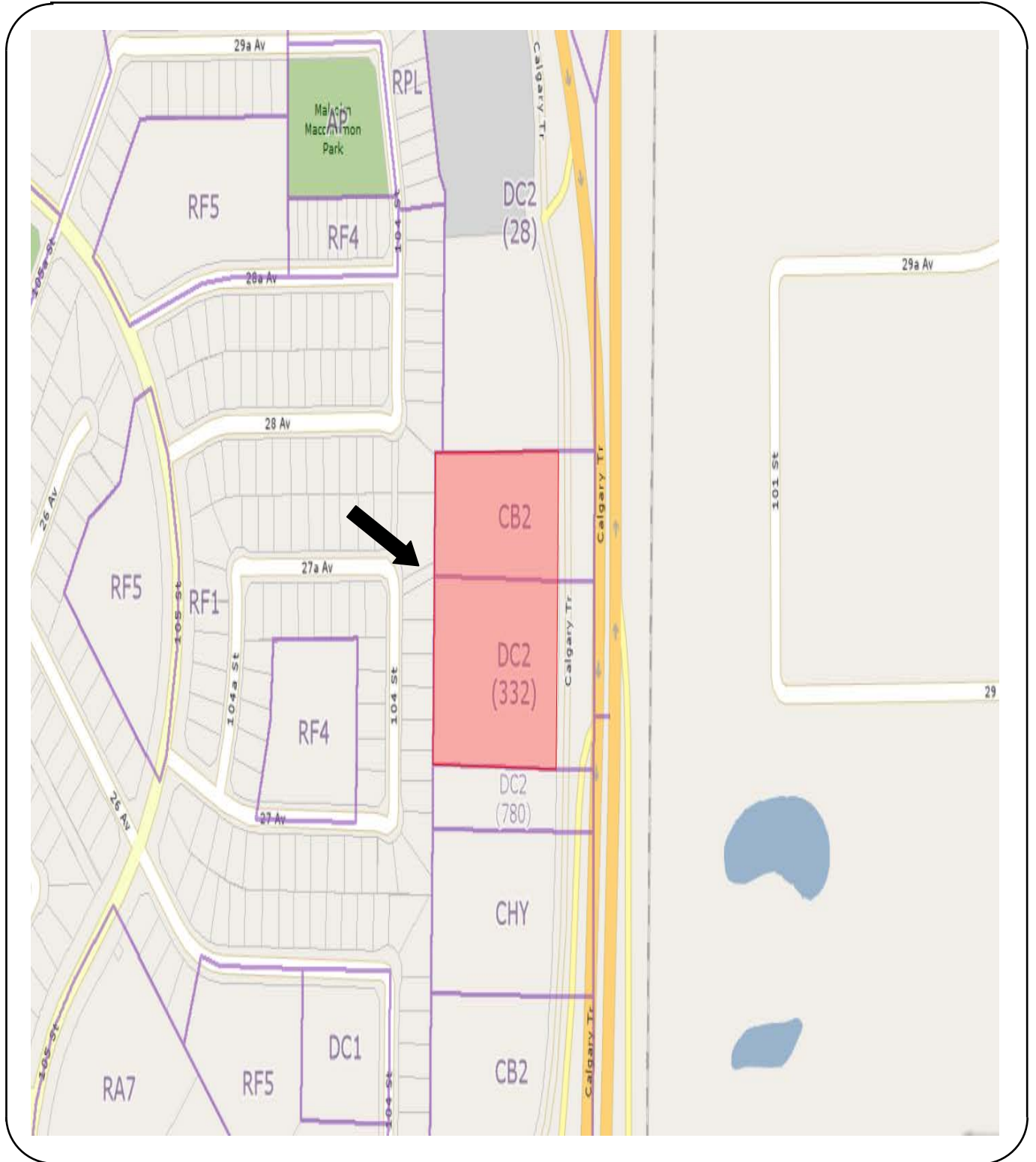
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Jul 13, 2016 **Development Authority:** BELZILE, PAUL **Signature:** _____

Fees

| | Fee Amount | Amount Paid | Receipt # | Date Paid |
|----------------------------|------------|-------------|-----------|--------------|
| Major Dev. Application Fee | \$260.00 | \$260.00 | 03324632 | Jun 01, 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-16-193



BUSINESS LAID OVER

| | |
|---------------|--|
| SDAB-D-16-136 | An appeal by <u>Bill Co. Incorporated</u> to extend the duration of a Freestanding Minor Digital Off-premises Sign (3.05m x 10.37m Single Sided Facing South) <i>August 17 or 18, 2016</i> |
| SDAB-D-16-176 | An appeal by <u>Outfront Media</u> to install (1) Freestanding Off-premises Sign (Outfront Media), existing without permits <i>August 25, 2016</i> |
| SDAB-D-16-190 | An appeal by <u>Outfront Media</u> to install a Freestanding Off-premises Sign (6.1 metres by 3 metres facing N/S) <i>September 1, 2016</i> |
| SDAB-D-16-187 | An appeal by <u>New Era Luxury Homes / Ogilvie LLP</u> to construct a 3 Dwelling Apartment House and to demolish the existing Single Detached House. <i>August 31, 2016 or September 1, 2016</i> |
| SDAB-D-16-144 | An appeal by <u>Kiewit Energy Canada Corp</u> 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>November 30 or December 1, 2016</i> |

APPEAL HEARINGS TO BE SCHEDULED

| | |
|---------------|--|
| 189288219-004 | An appeal by <u>Moroz Law Office</u> to leave as built an Accessory Building <i>August 17, 2016</i> |
| 186484308-002 | An appeal by <u>Elaine (Jo) & Myron Kucher; Starr Curry; Mark Stephen; Ryan McCann & Arianna Piccinin; and Ross Brown VS Nasib Ranu</u> to convert an existing Single Detached House to Child Care Services and to construct interior and exterior alterations (120 children occupancy). <i>September 7 or 8, 2016</i> |
| 223264233-002 | An appeal by <u>Yellowbird Therapeutic Massage Centre VS TCM Therapeutic Care Massage</u> to change the Use from a Professional, Financial and Office Support Service to a Personal Service Shop. <i>September 7 or 8, 2016</i> |
| 169544513-002 | An appeal by <u>Michael Skare</u> to construct an Accessory Building (Shed 1.98m x 4.57 m). <i>September 28 or 29, 2016</i> |