

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
August 23, 2018**

**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-18-126	Construct exterior alterations to a Single Detached House (Driveway extension, 1.81 metres by 6.82 metres)  16904 - 57 Street NW Project No.: 285518626-001
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**TO BE RAISED**

II	10:30 A.M.	SDAB-D-18-115	Change the Use from General Retail Stores to a Restaurant (50 Seats, 36.2 square metres of Public Space) and construct interior alterations (Fleisch)  10610 - 82 Street NW Project No.: 265793500-001
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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-18-126

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 285518626-001

APPLICATION TO: Construct exterior alterations to a Single Detached House (Driveway extension, 1.81 metres by 6.82 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 13, 2018

DATE OF APPEAL: July 25, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 16904 - 57 Street NW

LEGAL DESCRIPTION: Plan 0820126 Blk 3 Lot 29

ZONE: (RSL) Residential Small Lot Zone

OVERLAY(S): N/A

STATUTORY PLAN(S): McConachie Neighbourhood Structure Plan  
Pilot Sound Area Structure Plan

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***Grounds for Appeal***

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

- We have extended the width of our driveway to provide just enough space for our son to park when he is not either at school or work. While leaving limited room for the vehicles from our 2 car garage to still pass by.
- This extension was not for the purpose of parking 3 vehicles on our driveway, nor did the extension provide enough room to do so.

- We have not extended the width of our driveway into our front door side property as we understand this takes away from the community curb appeal. Residents 3 City blocks away from us have unfortunately done that by copy of provided picture, and there is definitely no curb appeal.
- We have expended thousands of dollars between our driveway extension and front landscaping to ensure our curb appeal was maintained.
- While the overall width extension was 1.8 m, our existing driveway was not poured to full width of our garage prior, make the extension beyond the width of our garage by only 1.2 m.
- Our surrounding neighbours are in support of our driveway extension as per provided signed petition.
- We understand that concrete can be placed as close as 6" from property line. We have chosen to stay back 12" to ensure no issues with drainage from our property, as well as our immediate adjoining neighbour.

<b><i>General Matters</i></b>
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**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,

- (a) in the case of an appeal made by a person referred to in section 685(1)
  - (i) with respect to an application for a development permit,
    - (A) within 21 days after the date on which the written decision is given under section 642, [...]

**Hearing and Decision**

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any 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*:**

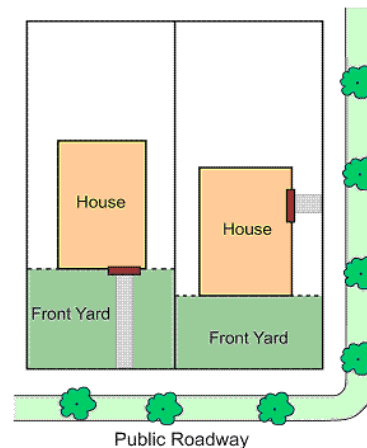
Under section 115.2(5), **Single Detached Housing** is a **Permitted Use** in the (RSL) Residential Small Lot Zone.

Under section 6.1, **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, **Driveway** means “an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”

Under section 6.1, **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, **Garage** means “an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.”

Under section 6.1, **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.”

Under section 6.1, **Walkway** means “a path for pedestrian circulation that cannot be used for vehicular parking.”

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 and Garden Suites.

***Off-street Parking and Loading Regulations***

Section 54.1(4) states:

The Front Yard of any ground level Dwelling in any Residential Zone, or in the case of a corner Site, either the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The Driveway shall:

- a. **lead directly from the roadway to the Garage or Parking Area;**

- b. for a Garage or Parking Area with one parking space, have a maximum width of 4.3 m, or the width of the Garage or Parking Area, whichever is the lesser;
- c. **For a Garage or Parking Area with two or more parking spaces, have a maximum width that shall be calculated as the product of 3.7 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or Parking Area, or the width of the Garage or Parking Area, whichever is the lesser; and**
- d. ...

**Development Officer's Determination**

**Driveway extension does not lead to a Garage or Parking Area. (Reference Section 54.1(4)(a)) [unedited]**


**The width of the Driveway and Driveway extension is 1.8 m greater than the width of the Garage. (Reference Section 54.1(4)(c)) [unedited]**

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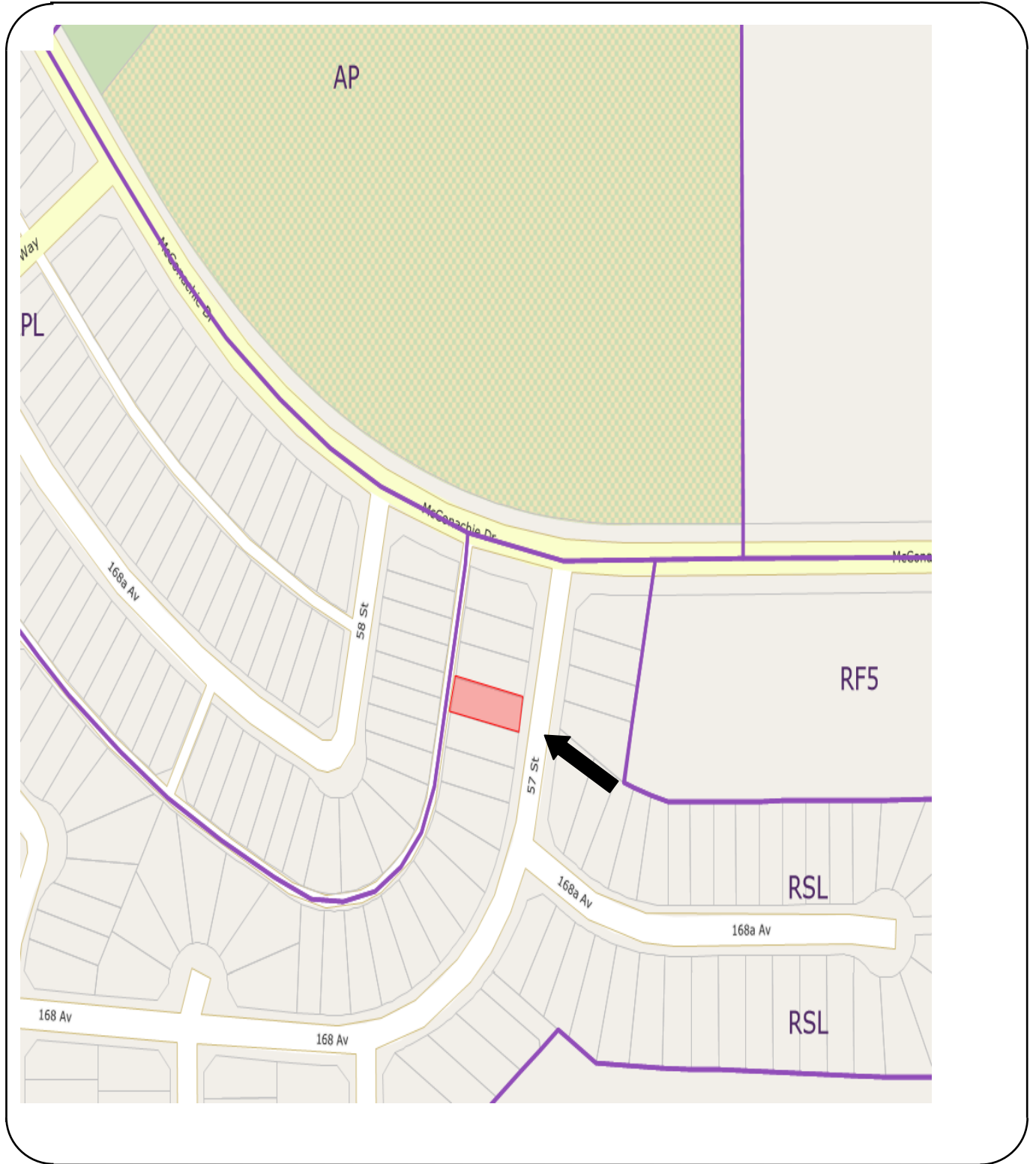
**Notice to Applicant/Appellant**

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.

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	<h2 style="margin: 0;">Application for Minor Development Permit</h2>	Project Number: <b>285518626-001</b> Application Date: JUN 20, 2018 Printed: July 26, 2018 at 1:03 PM Page: 1 of 1																				
This document is a Development Permit Decision for the development application described below.																						
4	<b>Property Address(es) and Legal Description(s)</b> 16904 - 57 STREET NW Plan 0820126 Blk 3 Lot 29																					
<b>Scope of Application</b> To construct exterior alterations to a Single Detached House (Driveway extension, 1.81 m x 6.82 m).																						
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                     # 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; vertical-align: top;">                     Class of Permit:                      Lot Grading Needed?:                      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: Lot Grading Needed?: 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: _____																						
<b>Development Application Decision</b> Refused <b>Issue Date:</b> Jul 13, 2018 <b>Development Authority:</b> FOLKMAN, JEREMY  <b>Reason for Refusal</b> Driveway extension does not lead to a Garage or Parking Area. (Reference Section 54.1(4)(a))  The width of the Driveway and Driveway extension is 1.8 m greater than the width of the Garage. (Reference Section 54.1(4)(c))  <b>Rights of Appeal</b> The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.																						
<b>Fees</b> <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$170.00</td> <td style="text-align: right;">\$170.00</td> <td style="text-align: right;">05116855</td> <td style="text-align: right;">Jun 20, 2018</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; border-top: 1px solid black;">\$170.00</td> <td style="text-align: right; border-top: 1px solid black;">\$170.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$170.00	\$170.00	05116855	Jun 20, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$170.00	\$170.00		
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<b>THIS IS NOT A PERMIT</b>																						





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-16-126



**TO BE RAISED**  
**ITEM II: 10:30 A.M.**

FILE: SDAB-D-18-115

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 265793500-001

APPLICATION TO: Change the Use from General Retail Stores to a Restaurant (50 Seats, 36.2 square metres of Public Space) and construct interior alterations (Fleisch)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 27, 2018

DATE OF APPEAL: July 6, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10610 - 82 Street NW

LEGAL DESCRIPTION: Plan 1522508 Blk 51 Lot 29

ZONE: DC2.863 Site Specific Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: N/A

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***Grounds for Appeal***

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

The refusal reason stated that there is not adequate parking in the area to support this development application. However, we submitted an engineered parking study that showed that there is adequate parking. Transportation looked at the study and sent a letter saying they were satisfied that parking requirements for the development permit had been met. A week later they sent a revised decision that they actually could not support the permit approval because of parking complaints in the area. There is a group of concerned neighbours on 82 street that have voiced their concerns to Coun. Henderson about our current business in

the same building (Cartago) and the volume it has brought to the area. They are opposed to another sit down restaurant in the St. Claire building for this reason. We are planning a coffee shop, deli and specialty food store in the space. As you can see from the drawing submitted, the actual sit down space is quite small.

***General Matters***

**Appeal Information:**

The Subdivision and Development Appeal Board made and passed the following motion on August 2, 2018:

**“That SDAB-D-18-115 be TABLED to August 23, 2018 at the written request of the Appellant and with the consent of the Development Officer.”**

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,

- (a) in the case of an appeal made by a person referred to in section 685(1)
  - (i) with respect to an application for a development permit,
    - (A) within 21 days after the date on which the written decision is given under section 642, [...]

**685(4)** Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

- (a) ...

- (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*:**

Under section DC2.863.3.p, **Restaurants, for less than 100 occupants and 120 m2 of Public Space** is a **Listed Use** in the DC2.863 Site Specific Development Control Provision.

Under section 7.4(47), **Restaurants** mean:

development where the primary purpose of the facility is the sale of prepared foods and beverages to the public, for consumption within the premises or off the Site. Minors are never prohibited from any portion of the establishment at any time during the hours of operation. This Use typically has a varied menu, with a fully equipped kitchen and preparation area, and includes fast food and family restaurants.

Section DC2.863.1 states that the **General Purpose** of the **DC2.863 Site Specific Development Control Provision** is "To allow for the development of a 4-storey mixed use residential apartment building with commercial uses on the ground floor."

<b><i>Parking</i></b>
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Section DC2.863.4.j states:

Parking requirements shall be in accordance with section 54 of the Zoning Bylaw, except that:

- i. Access to parking shall be provided from the Lane;
- ii. A minimum of 1.0 parking stalls per Dwelling shall be provided;
- iii. Visitor parking shall be accommodated off-site; and
- iv. A Parking Management Plan to allow shared-use parking between residential and commercial uses shall be submitted to the satisfaction of the Development Officer, in consultation with Transportation Services, as a part of the Development Permit application.

Section 54.2, Schedule 1(A)(23) provides the following with the minimum Number of Parking Spaces Required:

Restaurants, Specialty Food Services	1 parking space per 9.6 m2 of Public Space.
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Section 54.1(2)(h) states:

In the case of the multiple Use of a Site, the Development Officer shall calculate the vehicular parking, Bicycle Parking and total off-street loading requirement for each individual Use and the total shall be deemed to be the required vehicular parking, Bicycle Parking or off-street loading for the Site, unless the applicant can demonstrate that there is complementary use of the parking or loading facilities which would warrant a reduction in the requirements. Where such reduction is made, this shall be considered a variance and the Development Officer shall state the reduction and the reasons for it on the Development Permit.

Under section 6, **Public Space** means:

space that is part of an establishment, which is open to the public and not restricted to only employees. Public Space includes any private non-sale hospitality area where products manufactured within the premises are provided to private groups for tasting and sampling. This definition does not include kitchens, administration offices, food or drink preparation areas.

**Development Officer’s Determination**

**Vehicular parking shall be provided in accordance with DC2.863.4 of the Zoning Bylaw:**

**Required parking: 70 spaces**

**Proposed parking: 28 spaces**

**Deficient: 42 spaces**


**Further, based on the Subdivision Planning memorandum dated 13 June 2018, there are significant concerns regarding the potential impact of additional parking demands on nearby residential properties.**

**It is the Development Officer’s opinion that the proposed use, based on the above considerations, will cause an undue and negative impact to surrounding properties and development. [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.

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	Project Number: <b>265793500-001</b> Application Date: OCT 30, 2017 Printed: June 27, 2018 at 1:20 PM 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.			
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 10610 - 82 STREET NW Plan 1522508 Blk 51 Lot 29  <b>Specific Address(es)</b> Suite: 8210 - 106 AVENUE NW Entryway: 8210 - 106 AVENUE NW Building: 10610 - 82 STREET NW		
<b>Scope of Application</b> To change the use from General Retail Stores to a Restaurant (50 Seats, 36.2m2 Public Space) and construct interior alterations. (Fleisch)			
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">                     Class of Permit:                      Gross Floor Area (sq.m): 151.14                      New Sewer Service Required: N                      Site Area (sq. m): 1283.06                 </td> <td style="width: 50%; border: none;">                     Contact Person:                      Lot Grading Needed?: N                      NumberOfMainFloorDwellings:                      Stat. Plan Overlay/Annex Area: (none)                 </td> </tr> </table>		Class of Permit: Gross Floor Area (sq.m): 151.14 New Sewer Service Required: N Site Area (sq. m): 1283.06	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Gross Floor Area (sq.m): 151.14 New Sewer Service Required: N Site Area (sq. m): 1283.06	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)		
I/We certify that the above noted details are correct. Applicant signature: _____			
<b>Development Application Decision</b> Refused <b>Reason for Refusal</b> Vehicular parking shall be provided in accordance with DC2.863.4 of the Zoning Bylaw:  Required parking: 70 spaces Proposed parking: 28 spaces  Deficient: 42 spaces  Further, based on the Subdivision Planning memorandum dated 13 June 2018, there are significant concerns regarding the potential impact of additional parking demands on nearby residential properties.  It is the Development Officer's opinion that the proposed use, based on the above considerations, will cause an undue and negative impact to surrounding properties and development.			
<b>Rights of Appeal</b> The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.			
<b>Issue Date:</b> Jun 27, 2018 <b>Development Authority:</b> WELCH, IMAI			
<b>THIS IS NOT A PERMIT</b>			



## Application for Major Development Permit

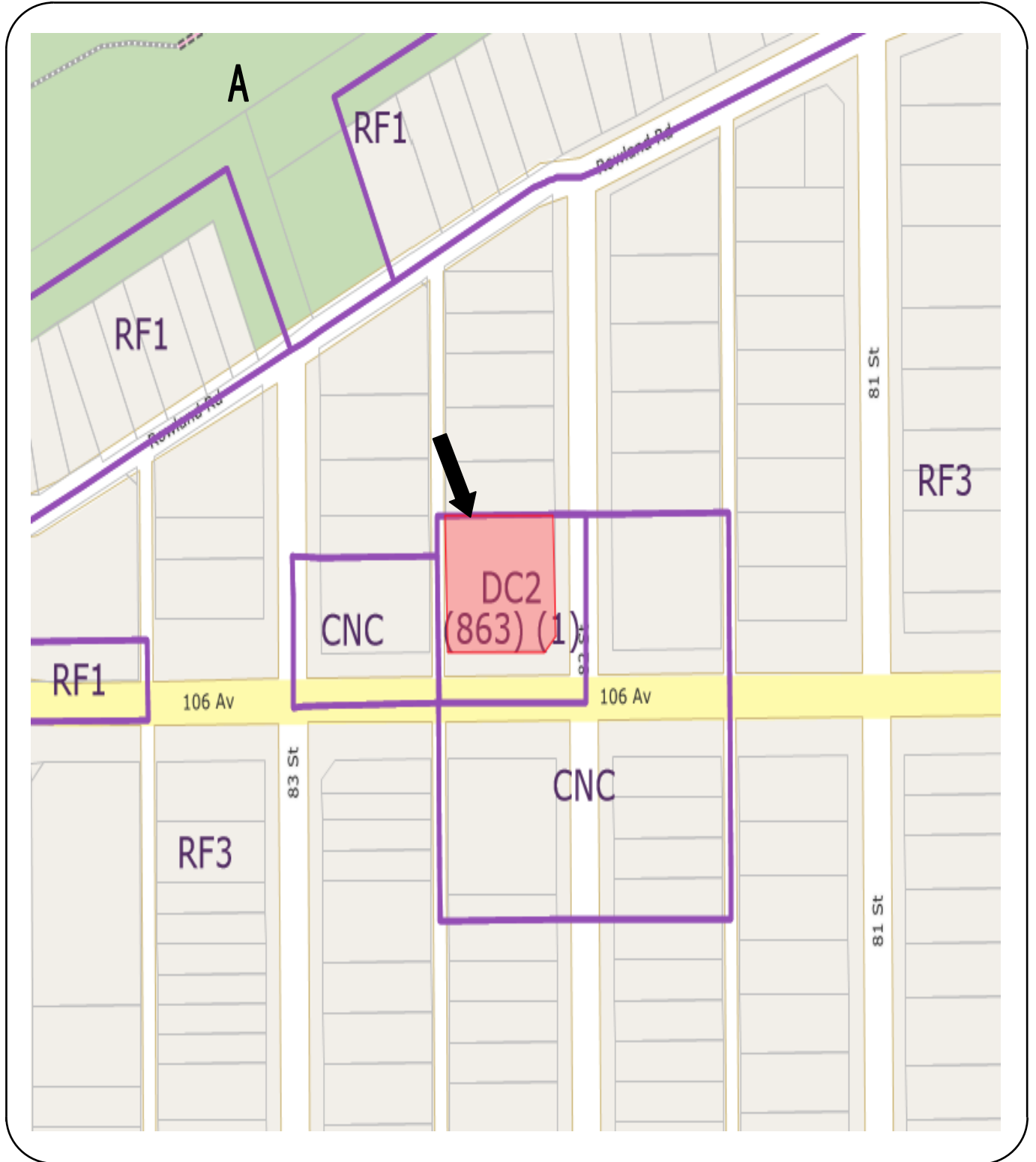
Project Number: **265793500-001**  
Application Date: OCT 30, 2017  
Printed: June 27, 2018 at 1:20 PM  
Page: 2 of 2

### Fees

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Major Dev. Application Fee	\$271.00	\$271.00	04592624	Oct 30, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$271.00</u>	<u>\$271.00</u>		

**THIS IS NOT A PERMIT**





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-115

