

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
August 2, 2018**

**Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

I 9:00 A.M. SDAB-D-18-115

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)

10610 - 82 Street NW
Project No.: 265793500-001

II 10:30 A.M. SDAB-D-18-116

WITHDRAWN

To operate a Major Home Based Business (Office and Trailer for a Building Insulation Contractor - Clark's Insulation)

11230 - 95A Street NW
Project No.: 283127970-001

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-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

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 *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.”

Parking

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.

	Project Number: 265793500-001 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.			
Applicant	Property Address(es) and Legal Description(s) 10610 - 82 STREET NW Plan 1522508 Blk 51 Lot 29 Specific Address(es) Suite: 8210 - 106 AVENUE NW Entryway: 8210 - 106 AVENUE NW Building: 10610 - 82 STREET NW		
Scope of Application To change the use from General Retail Stores to a Restaurant (50 Seats, 36.2m ² Public Space) and construct interior alterations. (Fleisch)			
Permit Details <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: _____			
Development Application Decision Refused Reason for Refusal 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.			
Rights of Appeal 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.			
Issue Date: Jun 27, 2018 Development Authority: WELCH, IMAI			
THIS IS NOT A PERMIT			



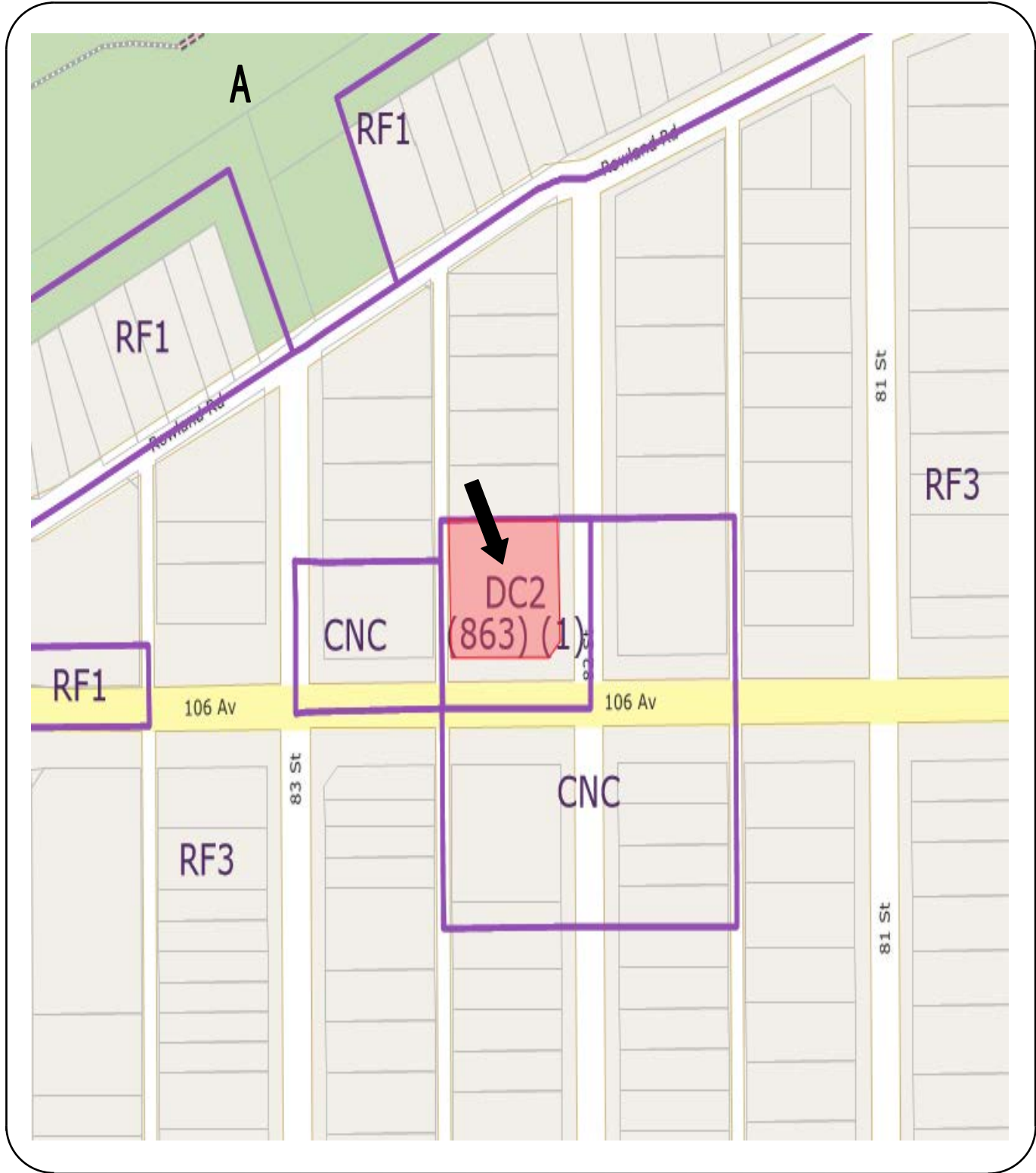
Application for Major Development Permit

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

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
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



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-116

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

APPELLANT: 680940 Alberta Ltd

APPLICATION NO.: 283127970-001

APPLICATION TO: Operate a Major Home Based Business
(Office and Trailer for a Building
Insulation Contractor - Clark's Insulation)

DECISION OF THE
DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: June 15, 2018

DATE OF APPEAL: July 10, 2018

NOTIFICATION PERIOD: June 21, 2018 through July 12, 2018

RESPONDENT: T. Clark

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 11230 - 95A Street NW

LEGAL DESCRIPTION: Plan RN43 Blk 14 Lot 24

ZONE: (RF3) Small Scale Infill Development
Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

WITHDRAWN