

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Friday, 9:00 A.M.
February 19, 2016**

**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-16-022	Operate a Minor Alcohol Sales Use and to construct interior alterations. 10503 Kingsway NW Project No.: 173417068-003
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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-16-022

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:	First Capital (10503 Kingsway) Corporation
APPLICATION NO.:	173417068-003
ADDRESS OF APPELLANT:	10503 Kingsway NW
APPLICATION TO:	Operate a Minor Alcohol Sales Use and to construct interior alterations.
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	December 10, 2015
DATE OF APPEAL:	December 17, 2015
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	10503 Kingsway NW
LEGAL DESCRIPTION:	Plan 1420932 Blk V Lot 1
ZONE:	CB2 General Business Zone
OVERLAY:	None
STATUTORY PLANS IN EFFECT:	Central McDougall/Queen Mary Park Area Redevelopment Plan

<i>Grounds for Appeal</i>

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

The application was denied, in part, because of the alleged 500 m separation distance between the subject site and another liquor store. However, there should be an existing Development Permit for Minor Alcohol Sales for the subject site, which was improperly cancelled.

Regardless of the above, the appeal should be allowed and the variances granted, as the proposed development will not unduly interfere with the amenities of the neighbourhood or reduce the use, value or enjoyment of neighbouring lands. [unedited]

General Matters

Appeal Information:

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 Authority is dated December 10, 2016. The Notice of Appeal was filed on December 17, 2015.

On January 14, 2016, the Subdivision and Development Appeal Board passed the following motion:

That SDAB-D-16-022 be TABLED to February 19, 2016.

General Provisions from the *Edmonton Zoning Bylaw*:

Pursuant to Section 340.1, the **General Purpose** of the **CB2 General Business Zone** is “to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.”

Pursuant to Section 340.3(18), **Minor Alcohol Sales Use** is a **Discretionary Use** in the **CB2 General Business Zone**.

Pursuant to Section 7.4(32) **Minor Alcohol Sales** means:

...development used for the retail sale of any and all types of alcoholic beverages to the public. This Use Class may include retail sales of related products such as soft drinks and snack foods. The maximum Floor Area for this Use Class shall be no more than 275 square metres per individual business premises.

Distance Between Other Major or Minor Alcohol Sales Use Businesses

Section 85(3)(a) reads as follows:

3. any Major or minor Alcohol Sales Use shall not be located closer than 500.0 m from any other Major or Minor Alcohol Sales Use. For the purposes of this subsection only:
 - a. the 500.0 m separation distance shall be measured from the closest point of the Major or Minor Alcohol Sales Use to the closest point of any other existing or approved Major or Minor Alcohol Sales Use.

Development Officer's Determination:

The Development Officer referenced Section 85(3)(a) and made the following determination:

Required separation distance : 500.0m
Proposed Minor Alcohol Sales is 123.4m away from Unit -108, 10611 Kingsway NW (178546662-001, SDAB-D-15-271) and 498.5m away from 10138 - 111 Avenue locations (605429-001)
Deficient by: 376.6m and 1.50m.
[unedited]

Distance Between Other Major or Minor Alcohol Sales Use Businesses

Section 85(6) reads as follows:

any Site containing Major or Minor Alcohol Sales Use Classes shall not be located closer than 100.0 m to any Site being actively used for community or recreation activities, public parks, or public or private education at the time of the application for the Development Permit for the Alcohol Sales Use Class. Sites that are greater than 2 ha in size and that are zoned either as CSC or as DC2, are exempted from this restriction. For the purposes of this subsection only:

- a. the 100.0 m separation distance shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;
- b. the term "community or recreation activities" is limited to Community Recreation Services Uses, as defined in subsection 7.8(1) of this Bylaw, which includes community league buildings and facilities, and children's playgrounds and play areas. This term does not include arenas or other public assembly Uses, Child Care Services, Public Libraries and Cultural Exhibits or Religious Assembly;
- c. ...
- d. the term "public parks" is limited to park Sites zoned as AP Zone, and active recreation areas in the river valley that are zoned as A Zone; it does not include passive river valley areas and other areas zoned as A Zone;

Development Officer's Determination:

The Development Officer referenced section 85(6), specifically subsections (a), (b), and (d), and made the following determination:

Proposed Minor Alcohol Sales is 94.5m away from the "community or recreation activities" (Central McDougall Park) which is in AP zone.
 Required separation distance : 100.0m
 Proposed separation distance : 94.5m
 Deficient by: 5.50m
 [unedited]

Parking

Section 54.2 Schedule 1 – Vehicular Parking Requirement provides the following:

Schedule 1(A) Areas outside of the Downtown Special Area	
Use of Building or Site	Minimum Number of Parking Spaces or Garage Spaces Required
Commercial Use Classes	
21. Minor Alcohol Sales	1 parking space per 23.3 m2 of Floor Area

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.



Development Officer's Determination:

The Development Officer referenced Section 54.2 Schedule 1, and Section 54.1(2)(h), and made the following determination:

Overall off street parking spaces required for site: 157 spaces
Existing off street parking spaces on site: 139 spaces
Deficient by: 18 spaces [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: 173417068-003 Application Date: DEC 07, 2015 Printed: January 7, 2016 at 4:15 PM Page: 1 of 3		
<h2 style="margin: 0;">Application for Major Development Permit</h2>			
<p>This document is a Development Permit Decision for the development application described below.</p>			
Applicant FIRST CAPITAL REALTY 	Property Address(es) and Legal Description(s) 10503 - KINGSWAY NW Plan 1420932 Blk V Lot 1 Specific Address(es) Entryway: 10555 - KINGSWAY NW Building: 10547 - KINGSWAY NW		
Scope of Application To operate a Minor Alcohol Sales Use and to construct interior alterations.			
Permit Details <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width: 50%; vertical-align: top;"> Class of Permit: Class B Gross Floor Area (sq.m.): 118.5 New Sewer Service Required: N Site Area (sq. m.): </td> <td style="width: 50%; vertical-align: top;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): 118.5 New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class B Gross Floor Area (sq.m.): 118.5 New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)		
<p>I/We certify that the above noted details are correct.</p> <p>Applicant signature: _____</p>			
Development Application Decision Refused			
<p>THIS IS NOT A PERMIT</p>			



Project Number: **173417068-003**
 Application Date: DEC 07, 2015
 Printed: January 7, 2016 at 4:15 PM
 Page: 2 of 3

Application for Major Development Permit

Reason for Refusal

1) Any Major or Minor Alcohol Sales Use shall not be located closer than 500.0 m from any other Major or Minor Alcohol Sales Use. For the purposes of this subsection only: the 500.0 m separation distance shall be measured from the closest point of the Major or Minor Alcohol Sales Use to the closest point of any other existing or approved Major or Minor Alcohol Sales Use (Reference Section 85(3)(a)).

Required separation distance : 500.0m
 Proposed Minor Alcohol Sales is 123.4m away from Unit -108, 10611-Kingsway NW (178546662-001, SDAB-D-15-271) and 498.5m away from 10138 - 111 Avenue locations (605429-001)
 Deficient by: 376.6m and 1.50m.

2) Any Site containing Major or Minor Alcohol Sales Use Classes shall not be located closer than 100.0 m to any Site being actively used for community or recreation activities, public parks, or public or private education at the time of the application for the Development Permit for the Alcohol Sales Use Class (reference Section 85(6)).

The term "community or recreation activities" is limited to Community Recreation Services Uses, as defined in subsection 7.8(1) of this Bylaw, which includes community league buildings and facilities, and children's playgrounds and play areas. This term does not include arenas or other public assembly Uses, Child Care Services, Public Libraries and Cultural Exhibits or Religious Assembly. (Reference Section 85(6)(b)).

The term "public parks" is limited to park Sites zoned as AP Zone (Reference Section 85(6)(d)).

Proposed Minor Alcohol Sales is 94.5m away from the "community or recreation activities" (Central McDougall Park) which is in AP zone.
 Required separation distance : 100.0m
 Proposed separation distance : 94.5m
 Deficient by: 5.50m

3) 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. (Reference Sections 54.2, Schedule 1 & 54.1(2)(h)).

Overall off street parking spaces required for site: 157 spaces
 Existing off street parking spaces on site: 139 spaces
 Deficient by: 18 spaces

Advisement:

The Minor Alcohol Sales business requires a net increase of 0 spaces from previous General Retail store.

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: Dec 10, 2015 Development Authority: SHAH, NIKHIL Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$316.00	\$316.00	02939386	Dec 07, 2015

THIS IS NOT A PERMIT



Project Number: **173417068-003**
Application Date: DEC 07, 2015
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Application for Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$100.00	\$100.00	02939386	Dec 07, 2015
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	<u>\$416.00</u>	<u>\$416.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-022



BUSINESS LAID OVER

SDAB-D-15-285	An appeal by <u>Sakaw Daycare</u> to convert an existing Single Detached House into a Child Care Services Use Building (60 Children, 2- 12-18 months, 6 – 19 months-3 yrs, 32 – 3-4.5 yrs, 20 – above 4.5 yrs) and to construct interior and exterior alterations <i>March 2 or 3, 2016</i>
SDAB-D-15-247	An appeal by <u>Kennedy Agrios LLP VS. Eton-West Construction (Alta) Inc.</u> 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-16-049	An appeal by <u>Petwin 104 Corporation</u> to develop a Parking Area Accessory to an existing Apartment House. <i>March 9 or 10, 2016</i>
SDAB-D-16-501	An appeal by <u>Darren Crocker / Brownlee LLP</u> to demolish an existing building. <i>March 30 or 31, 2016</i>