

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
January 17, 2018**

**Councillor's Boardroom
2nd Floor, City Hall
Edmonton, AB**

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

I	9:00 A.M.	SDAB-D-17-226	Move on a storage building (6.1 m x 2.4 m) Accessory to a General Retail Stores Use building 10340 - 82 Avenue NW Project No.: 253125927-002
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NOTE: ***Unless otherwise stated, all references to “Section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.***

TO BE RAISED
ITEM I: 9:00 A.M.

FILE: SDAB-D-17-226

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 253125927-002

APPLICATION TO: Move on a storage building (6.1 m x 2.4 m) Accessory to a General Retail Stores Use building

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 10, 2017

DATE OF APPEAL: October 27, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10340 - 82 Avenue NW

LEGAL DESCRIPTION: Plan I Blk 68 Lot 9

ZONE: DC1 Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Strathcona Area Redevelopment Plan

Grounds for Appeal

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

I understand that the rejection of my application is due to the DC1, but it's important to note the rationale of the heritage planner in approving sub area two, located directly across the alley from our development, which indicated that "...recognizing that 83 Avenue NW is not the primary pedestrian oriented shopping street that is 82 Avenue NW, this Sub Area allows for the redevelopment of the Varscona Theatre with architectural and design regulations more fitting of this use...". Given that alleys are even less pedestrian oriented than 83rd avenue, and that the seacan is of identical cladding to the recently approved Varscona, the same rationale could very well be applied to our situation.

I appreciate the DC1, and the distinct character of the street facing structures in our community, but for many struggling businesses, these

containers are an important tool to allow local independents a cost-affordable extra square footage in a part of the city with some of the highest square foot costs. There are many examples of seacans within our ARP, and several examples beyond ours which are also located in DC1 which are without permit. In speaking with other members of BIA, there is appetite within our community, both within the business and arts community, to apply to amend the DC1 zoning to allow for seacan storage, and will be moving forward with this in the next several months.

I will followup with further documentation within the next week.
[unedited]

<i>General Matters</i>

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.

...

(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) 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.

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 decision is made under section 642...

The decision of the Development Officer is dated October 10, 2017. The Notice of Appeal was filed on October 27, 2017.

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) Repealed 2015 c8 s66.

General Provisions from the *Edmonton Zoning Bylaw*:

The proposed development falls under **DC1 Strathcona Area Redevelopment Plan (“ARP”) Historical Commercial**, amended by Bylaw 18164, passed by City Council on September 11, 2017.

Section 1 of this direct control provision states:

This Provision comprises the original, core commercial area of the town of Strathcona. This Provision is required in order to preserve the 19 buildings which are on the Register of Historic Resources in Edmonton

(6 of which are designated by the Province) as they have significant architectural and historic value, and to ensure that future renovation and redevelopment of surrounding buildings result in developments which are compatible in architectural and built form with the historic buildings of the area. This Provision also contains four Sub-Areas as described in Sections 6, 7, 8 and 9.

Under section 4 of this direct control district, **General Retail Stores up to a maximum gross Floor Area of 929 m²** is a listed use.

The proposed development is Accessory to the General Retail Store. Section 6.1(2) states: “**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”.

Retention of Characteristics of the Area

Section 3(c) of the direct control provision states: “This provision is intended to emphasize and retain the original, historic architectural and urban design characteristics of this area in future renovations and redevelopments”.

Development Officer’s Determination

In the opinion of the Development Officer, the proposed sea-can storage building does not emphasize or retain the original, historic architectural and urban design characteristics of the area. The proposed sea-can has an industrial characteristic that would be more suitable in an IM or IH zoned property.

Heritage Officer Consultation

Section 5(h) of the direct control provision states: “All Development Permits relating to exterior alterations, signs, renovation to existing buildings or new construction within this area will be reviewed by the Development Officer in consultation with the Heritage Officer.”

Development Officer’s Determination

The Heritage Management Unit is not satisfied that the proposed development is consistent with the Historical Commercial DC1 Provision requirements addressing the architectural treatment of new development, particularly as they relate to the requirement to emphasize traditional materials.

Traditional Building Materials

Section 5(l) of the direct control provision states: “The traditional, historic building materials in Strathcona were quite limited. They included: brick, wood, pressed metal and cast stone. New construction should emphasize the use of these traditional materials. Reflective glass windows are NOT permitted”.

Development Officer’s Determination

In the opinion of the Development Officer, the propose development does not emphasize traditional materials. The sea-can storage building is constructed with corrugated steel.

Exterior Finishing Materials

Section 57.3(1) states: “In all non-industrial developments, the design and use of exterior finishing materials shall be to the satisfaction of the Development Officer who shall ensure, as far as reasonably practicable, that materials shall be used that ensure that the standard of the proposed buildings and structures shall be similar to, or better than, the standard of surrounding development.”

Development Officer’s Determination

In the opinion of the Development Officer, the proposed materials used for the storage building are not to the standard of buildings and structures in the surrounding development.

General Performance Standards for a Safe Physical Environment

Section 58 states:

The Development Officer shall encourage the inclusion of design elements that readily allow for casual surveillance, particularly for commercial, industrial, multi-unit residential Uses and parkade structures. These elements may include, but are not limited to, large window areas, high quality interior and exterior lighting, physical layout that reduces the vulnerability of pedestrians (avoiding long public corridor spaces, stairwells, or other movement predictors), the placement and use of Landscaping that limits areas of concealment, and the location of parking areas close to building access points. The Development Officer shall require a Crime Prevention Through Environmental Design

assessment prepared by a qualified security consultant for multi-unit residential/commercial/institutional/industrial developments that, in the opinion of the Development Officer, requires such an assessment. The Development Officer shall advise applicants of the approved crime prevention design guidelines contained in the Design Guide for a Safer City, such as the layout and design of buildings and associated parking

and loading areas, yards and landscaped areas, to promote a safe, well-lit physical environment. In addition, the Development Officer shall apply the requirements of subsection 54 (7) to Parking Garages.

Development Officer's Determination

There is evidence to prove that the sea-can storage building is being used by people to access the rooftop of the principal building and adjacent buildings to vandalize adjacent properties with graffiti.

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: **253125927-002**
Application Date: JUL 24, 2017
Printed: October 10, 2017 at 1:28 PM
Page: 1 of 3

Application for Major Development Permit

This document is a Development Permit Decision for the development application described below.

Applicant 	Property Address(es) and Legal Description(s) 10340 - 82 AVENUE NW Plan I Blk 68 Lot 9
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Scope of Application
To move on a storage building (6.1 m x 2.4 m) Accessory to a General Retail Stores Use building.

Permit Details Class of Permit: Gross Floor Area (sq.m.): 14.9 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

THIS IS NOT A PERMIT



Project Number: **253125927-002**
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Application for Major Development Permit

Reason for Refusal

1) The provision is intended to emphasize and retain the original, historic architectural and urban design characteristics of this area in future renovations and redevelopments. (Strathcona ARP - Historical Commercial DC1, Section 3.c)

In the opinion of the Development Officer, the proposed sea-can storage building does not emphasize or retain the original, historic architectural and urban design characteristics of the area. The proposed sea-can has an industrial characteristic that would be more suitable in an IM or IH zoned property.

2) All Development Permits relating to exterior alterations, signs, renovation to existing buildings or new construction within this area will be reviewed by the Development Officer in consultation with the Heritage Officer. (Strathcona ARP - Historical Commercial DC1, Section 5.h)

The Heritage Management Unit is not satisfied that the proposed development is consistent with the Historical Commercial DC1 Provision requirements addressing the architectural treatment of new development, particularly as they relate to the requirement to emphasize traditional materials.

3) The traditional, historic building materials in Strathcona were quite limited. They included: brick, wood, pressed metal and cast stone. New construction should emphasize the use of these traditional materials. (Strathcona ARP - Historical Commercial DC1, Section 5.l)

In the opinion of the Development Officer, the propose development does not emphasize traditional materials. The sea-can storage building is constructed with corrugated steel.

4) In all non-industrial developments, the design and use of exterior finishing materials shall be to the satisfaction of the Development Officer who shall ensure, as far as reasonably practicable, that materials shall be used that ensure that the standard of the proposed buildings and structures shall be similar to, or better than, the standard of surrounding development. (Section 57)

In the opinion of the Development Officer, the proposed materials used for the storage building are not to the standard of buildings and structures in the surrounding development.

5) The Development Officer shall encourage the inclusion of design elements that readily allow for casual surveillance, particularly for commercial, industrial, multi-unit residential Uses and parkade structures. These elements may include, but are not limited to, large window areas, high quality interior and exterior lighting, physical layout that reduces the vulnerability of pedestrians (avoiding long public corridor spaces, stairwells, or other movement predictors), the placement and use of Landscaping that limits areas of concealment, and the location of parking areas close to building access points. The Development Officer shall require a Crime Prevention Through Environmental Design assessment prepared by a qualified security consultant for multi-unit residential/commercial/institutional/industrial developments that, in the opinion of the Development Officer, requires such an assessment. The Development Officer shall advise applicants of the approved crime prevention design guidelines contained in the Design Guide for a Safer City, such as the layout and design of buildings and associated parking and loading areas, yards and landscaped areas, to promote a safe, well-lit physical environment. In addition, the Development Officer shall apply the requirements of subsection 54 (7) to Parking Garages.

There is evidence to prove that the sea-can storage building is being used by people to access the rooftop of the principal building and adjacent buildings to vandalize adjacent properties with graffiti.

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.

THIS IS NOT A PERMIT



Project Number: **253125927-002**
Application Date: JUL 24, 2017
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Application for Major Development Permit

Issue Date: Oct 10, 2017 Development Authority: BELZILE, PAUL Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$929.00	\$929.00	04339059	Aug 01, 2017
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$929.00	<u>\$929.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-226

