

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Tuesday, 9:00 A.M.
January 12, 2016**

**Hearing Room No. 2
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 2**

TO BE RAISED

I	9:00 A.M.	SDAB-D-15-292	Change the Use from Professional, Financial, and Office Support Services to Bar and Neighbourhood Pubs with Outdoor patio (388 Occupants and 308.1 sq. m. of Public Space), and to construct exterior and interior alterations Entryway 10171 - 109 Street NW (located at Main Floor, Central Tower, 10145 – 109 Street) Project No.: 177295660-001
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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: 9:30 A.M.

FILE: SDAB-D-15-292

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

APPELLANT:

APPLICATION NO.: 177295660-001

ADDRESS OF APPELLANT: Entryway 10171 – 109 Street NW (located at Main Floor, Central Tower, 10145 – 109 Street)

APPLICATION TO: Change the Use from Professional, Financial, and Office Support Services to a Bar and Neighbourhood Pub with Outdoor patio (388 Occupants and 308.1 sq. m. of Public Space), and to construct exterior and interior alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: November 4, 2015

DATE OF APPEAL: November 17, 2015

RESPONDENT:

ADDRESS OF RESPONDENT: 10125 - 109 Street NW

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10125 - 109 Street NW

LEGAL DESCRIPTION: Condo Common Area (Plan 9020932,1522596)

ZONE: UW Urban Warehouse Zone

OVERLAY: Special Area Downtown

STATUTORY PLANS IN EFFECT: Capital City Downtown Plan

Grounds for Appeal

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

I believe that in this building there are already enough bars and restaurants. There is already too much noise and drunk people on sidewalks yelling and screaming til 3 a.m. There are over 250 residential units in capital centre [unedited].

General Matters

Appeal Information:

The decision of the Development Authority was appealed by the Appellant, Marijan Semenjuk.

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.

685(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority 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,

The Board is advised that the decision of approval by the Development Officer is dated November 4, 2015. The Notice of Appeal was filed on November 17, 2015.

General Provisions from the *Edmonton Zoning Bylaw*:

Pursuant to Section 910.11, the **General Purpose** of the **Urban Warehouse Zone** is to:

Develop a unique mixed-use business commercial, educational and residential neighbourhood, accommodating a diversity of uses, including residential, commercial, institutional, light manufacturing and assembly in a safe, walkable, human-scaled built environment that builds on the existing land use pattern and respects the architectural characteristics and functions of the area.

Professional, Financial and Office Support Services is a **Permitted Use** in the **Urban Warehouse Zone**.

Section 7.4(42) defines **Professional, Financial and Office Support Services** as follows:

Development primarily used for the provision of professional, management, administrative, consulting, and financial services, but does not include Health Services or Government Services. Typical Uses include: the offices of lawyers, accountants, engineers, and architects; offices for real estate and insurance firms; clerical, secretarial, employment, telephone answering, and similar office support services; and banks, credit unions, loan offices and similar financial Uses.

Pursuant to Section 910.11(3)(d), **Bars and Neighbourhood Pubs** is a **Discretionary Use** in the **Urban Warehouse Zone** for more than 100 occupants and [120 m²](#) of Public Space.

Section 7.4(6) defines **Bars and Neighbourhood Pubs** as follows:

Development where the primary purpose of the facility is the sale of alcoholic beverages to the public, for consumption within the premises or off the Site. This Use Class typically has a limited menu and minors are prohibited from patronizing the establishment during at least some portion of the hours of operation. Typical Uses include neighbourhood pubs, bars, beverage rooms, and cocktail lounges.

Reduced Front Setback

Section 910.11(4)(d)(i) provides as follows:

Buildings shall have a front Setback 1.5 to 3.0m, except that buildings shall be setback to 1.5 to 4.0m along 109 Street and 3.0 to 4.5m along 108 Street

Development Officer's Determination:

1. Reduced Front Setback - The distance from the building to the property line along 109 Street (front lot line) is 0.91 m instead of 1.5 m (Section 910.11.4. d.i)[unedited].

Landscaping

Pursuant to Section 55.4(7), for development consisting of Non-residential Use Classes, the number of trees and shrubs provided shall be determined on the basis of the following:

- (a) one tree for each 35 m² and one shrub for each 15 m² of Setback at Grade; and
- (b) one tree for each 20 m² and one shrub for each 10 m² of required parking area islands. In no case shall there be less than one tree per required parking area island.

Development Officer's Determination:

2. Landscaping - The site has zero (0) trees, instead of two (2). (Section 55.4.7)

Pursuant to Section 55.8(3), all planting shall conform to the following:

- a. the proportion of deciduous to coniferous trees and shrubs shall be approximately 50:50; and
- b. the following mix of tree sizes shall be used:
 - i. 50% of required deciduous trees shall be a minimum 50 mm Calliper and 50% shall be a minimum 75 mm Calliper; and
 - ii. 75% of required coniferous trees shall be a minimum of 2.5 m in height and 25% shall be a minimum 3.5 m in height.

Development Officer's Determination:

3. Landscaping - There are 0 % deciduous shrubs and 100 % coniferous shrubs, instead of an even number of each (Section 55.8.3) [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: 177295660-001
Application Date: AUG 10, 2015
Printed: December 4, 2015 at 10:56 AM
Page: 1 of 3

Major Development Permit

This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.

Applicant MCKINLEY BURKART ARCHITECTURE 	Property Address(es) and Legal Description(s) 10125 - 109 STREET NW Condo Common Area (Plan 9020932,1522596) Specific Address(es) Entryway: 10171 - 109 STREET NW Building: 10125 - 109 STREET NW
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Scope of Permit
To change the Use from Professional, Financial, and Office Support Services to Bar and Neighbourhood Pubs with Outdoor patio (388 Occupants and 308.1 sq. m. of Public Space), and to construct exterior and interior alterations.

Permit Details Class of Permit: Class B Gross Floor Area (sq.m.): 174 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 Permit Decision
Approved

The permit holder is advised to read the reverse for important information concerning this decision.



Project Number: **177295660-001**
Application Date: AUG 10, 2015
Printed: December 4, 2015 at 10:56 AM
Page: 2 of 3

Major Development Permit

Subject to the Following Conditions

Subject to the following conditions:

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Notification fee of \$100.

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

Landscaping shall be in accordance to the approved landscape, Section 55 and to the satisfaction of the Development Officer.

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall provide a guaranteed security to ensure that landscaping is provided and maintained for two growing seasons. The Landscape Security may be held for two full years after the landscaping has been completed. This security may take the following forms:

- a) cash to a value equal to 100% of the established landscaping costs;
- or
- b) an irrevocable letter of credit having a value equivalent to 100% of the established landscaping costs.

Any letter of credit shall allow for partial draws. If the landscaping is not completed in accordance with the approved Landscape Plan(s) within one growing season after completion of the development or if the landscaping is not well maintained and in a healthy condition two growing seasons after completion of the landscaping, the City may draw on the security for its use absolutely. Reference Section 55.6

Major entry way shall be designed and oriented to face 109 Street NW.

Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.

Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51 of the Edmonton Zoning Bylaw 12800).

Notes:

A Building Permit is Required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.

This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.

An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

The permit holder is advised to read the reverse for important information concerning this decision.



Project Number: **177295660-001**
 Application Date: AUG 10, 2015
 Printed: December 4, 2015 at 10:56 AM
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Major Development Permit

Variations

Note: A variance was granted for this Development Permit pursuant to Sections 11.3 and 11.4. Subject to the right of appeal the permit is NOT VALID until the required Notification Period expires (date noted below) in accordance with Sections 21.1 and 17.1.

1. Reduced Front Setback - The distance from the building to the property line along 109 Street (front lot line) is 0.91 m instead of 1.5 m (Section 910.11.4. d.i).
2. Landscaping - The site has zero (0) trees, instead of two (2). (Section 55.4.7)
3. Landscaping - There are 0 % deciduous shrubs and 100 % coniferous shrubs, instead of an even number of each (Section 55.8.3)

Rights of Appeal

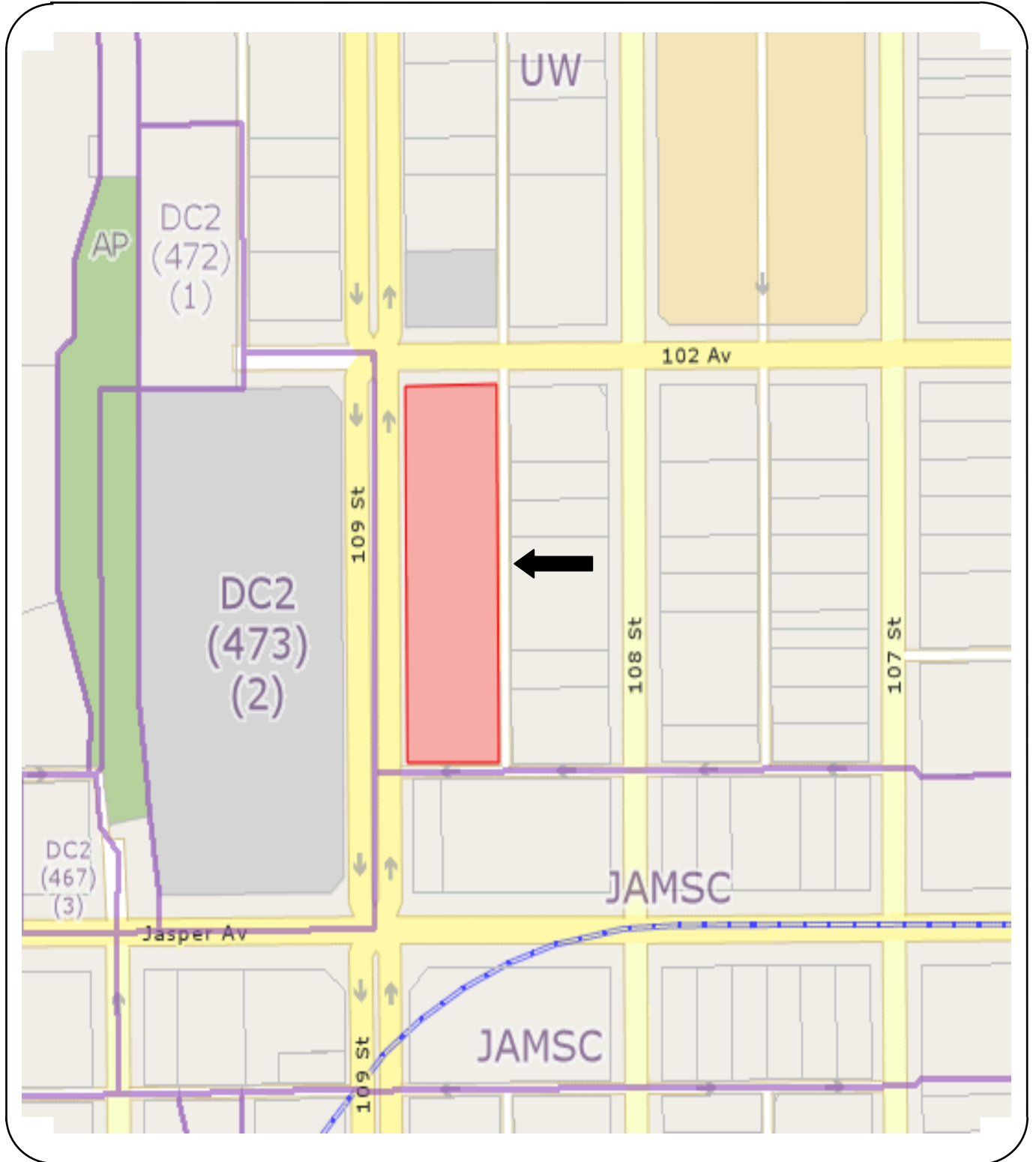
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Nov 04, 2015 **Development Authority:** YEUNG, CARMAN **Signature:** _____
Notice Period Begins: Nov 10, 2015 **Ends:** Nov 23, 2015

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$333.00	\$333.00	02666182	Aug 13, 2015
DP Notification Fee	\$100.00	\$100.00	02874079	Nov 05, 2015
Total GST Amount:	\$0.00			
Totals for Permit:	\$433.00	\$433.00		

The permit holder is advised to read the reverse for important information concerning this decision.



SURROUNDING LAND USE DISTRICTS

Site Location 

File: SDAB-D-15-292



BUSINESS LAID OVER

SDAB-D-16-001	An appeal by Joseph D'Andrea to develop a Secondary Suite in the Basement of a Single Detached House, existing without permits. <i>February 4, 2016</i>
SDAB-D-15-252	An appeal by <u>Southwest Muslim Community Centre</u> to change the se from an Indoor Participant Recreation Service to a Religious Assembly with a capacity of 456 seats, and to construct interior alterations (SouthWest Muslim Community Centre). <i>February 10 or 11, 2016</i>
SDAB-D-15-238	An appeal by <u>Ogilvie LLP</u> to comply with an Order to acquire valid development permits by September 25, 2015 or cease the Use and demolish and remove all materials by September 25, 2015; and to comply with all conditions of development permit No. 149045660-001. <i>February 17 or 18, 2016</i>
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>

APPEAL HEARINGS TO BE SCHEDULED

159269966-003	An appeal by <u>Anh Padmore</u> to construct an exterior alteration to an existing Singe Detached House, (Driveway Extension 2.8m x 8.4m existing without permits). <i>January 21, 2016</i>
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