

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
July 26, 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-18-112	Change the Use from a General Retail Store to a Minor Alcohol Sales, and construct interior alterations (BOSS LIQUOR). 2230 - Trumpeter Way NW Project No.: 278270547-001
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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-18-112

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 278270547-001

APPLICATION TO: Change the Use from a General Retail Store to a Minor Alcohol Sales, and construct interior alterations (BOSS LIQUOR)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 21, 2018

DATE OF APPEAL: July 4, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2230 - Trumpeter Way NW

LEGAL DESCRIPTION: Plan 1425609 Blk 8 Lot 87

ZONE: DC1 Direct Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Big Lake Area Structure Plan
Trumpeter Neighbourhood Structure Plan

Grounds for Appeal

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

1. We have already talked to the landlord. He promised to solve the issue of parking stalls.
2. There is no park still. Its only land designated for a park. We are creating five jobs there and we will pay a lot of tax to the City. So I think a park boundary can be adjusted. There is not anything built yet.

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.

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.

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, [...]

General Provisions from the DC1 (Bylaw 16471) Direct Development Control Provision (“the DCI”) and the Edmonton Zoning Bylaw (the “Bylaw”):

Under section 3.12 of the *DCI*, **Minor Alcohol Sales** is a **listed Use**.

Under Section 7.4(34) of the *Bylaw*, **Minor Alcohol Sales** means “development used for the retail sale of any and all types of alcoholic beverages to the public. This Use may include retail sales of related products such as soft drinks and snack foods. The maximum Floor Area for this Use shall be no more than 275 square metres per individual business premises.”

Under section 1 of the *DCI*, the **General Purpose** of the *DCI* is:

To accommodate the development of medium density Residential with ground floor low-intensity pedestrian-oriented Commercial Uses where Residential Uses shall be permitted to be developed on their own, and where any Commercial Uses must be developed in combination with Residential development.

Parking

Section 4(23) of the DC1 states that Parking shall comply with the regulations found in Section 54 of the Zoning Bylaw.

Section 54.2(21) of the Bylaw states Minor Alcohol Sales requires 1 parking space per 31.3 square metres of Floor Area.

Development Officer’s Determination

Section 54.2 and Schedule 1A – The site has 55 parking stalls instead of 68 parking stalls, deficient in 8 stalls, contrary to Section 54.2 and Schedule 1A. [unedited]

Major or Minor Alcohol Sales Use Class

Section 4(24) of the DC1 states that Minor Alcohol Sales shall comply with the regulations found in Section 85 of the Zoning Bylaw.

Under Section 85.4 of the *Bylaw*, any Site containing a **Major Alcohol Sales or Minor Alcohol Sales** shall not be located less than 100 metres from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Major Alcohol Sales or Minor Alcohol Sales. Sites that are greater than 2.0 hectares in size and zoned either CSC or DC2, are exempt from this restriction. For the purposes of this subsection only:

- a. the 100 metres 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;

...

- d. the term "public lands" is limited to Sites zoned AP, and active recreation areas in the North Saskatchewan River Valley and Ravine System, as shown in Appendix I of Section 811 of this Bylaw, that are zoned A; it does not include passive areas in the North Saskatchewan River Valley and Ravine System, as shown in Appendix I of Section 811 of this Bylaw and other areas zoned A.

Section 85.5 states Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 85(4).

Section 4.0 of the Trumpeter Neighbourhood Structure Plan states “the focal point and social centre of the Trumpeter is the urban village park. The layout of the surrounding collector roadway network and the location and orientation of this open space has specifically been designed to create an identifiable entranceway into the neighbourhood from the north and west collector roadway entrances. The urban village park is the neighbourhood’s central focus of community activity and interaction.”

Development Officer’s Determination


Section 85.6(d) - any Site containing Major or Minor Alcohol Sales Use Classes shall not be located closer than 100 metres 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: 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; and

The proposed Site is located closer than 100 metres from the Site zones AP. Furthermore, Trumpeter Neighborhood Structural Plan states this Site zoned AP as “the focal point and social centre of the Trumpeter is the urban village park. The layout of the surrounding collector roadway network and the location and orientation of this open space has specifically been designed to create an identifiable entrance way into the neighbourhood from the north and west collector roadway entrances. The urban village park is the neighbourhood’s central focus of community activity and interaction”

The distance from the closed point of the subject Site boundary to the closest point of AP Zoned Site boundary is 24 metres and the Site is 0.37 ha in size and zoned DC1, contrary to Section 85.6(d). [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: 278270547-001 Application Date: MAR 29, 2018 Printed: June 21, 2018 at 4:19 PM Page: 1 of 2		
<h2>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) 2230 - TRUMPETER WAY NW Plan 1425609 Blk 8 Lot 87 Specific Address(es) Suite: 101, 2230 - TRUMPETER WAY NW Suite: 102, 2230 - TRUMPETER WAY NW Suite: 103, 2230 - TRUMPETER WAY NW Building: 101, 2230 - TRUMPETER WAY NW		
Scope of Application To change the Use from a General Retail Store to a Minor Alcohol Sales, and construct interior alterations (BOSS LIQUOR).			
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> Class of Permit: Class B Gross Floor Area (sq.m.): 250.83 New Sewer Service Required: N/A Site Area (sq. m.): </td> <td style="width: 50%; vertical-align: top;"> Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): 250.83 New Sewer Service Required: N/A Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class B Gross Floor Area (sq.m.): 250.83 New Sewer Service Required: N/A Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N/A 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 <ol style="list-style-type: none"> Section 54.2 and Schedule 1 - The Site has 55 parking stalls instead of 68 parking stalls, deficient by 8 stalls, contrary to Section 54.2 and Schedule 1. Section 85.6(d) - 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: 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; and <p>The proposed Site is located closer than 100m from the Site zoned AP. Furthermore, Trumpeter Neighbourhood Structural Plan states this Site zoned AP as "The focal point and social centre of the Trumpeter is the urban village park. The layout of the surrounding collector roadway network and the location and orientation of this open space has specifically been designed to create an identifiable entrance way into the neighbourhood from the north and west collector roadway entrances. The urban village park is the neighbourhood's central focus of community activity and interaction.". The distance from the closed point of the subject Site boundary to the closest point of AP Zoned Site boundary is 24m, and the Site is 0.37 ha in size and zoned DC1, contrary to Section 85.6(d).</p> 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 21, 2018 Development Authority: LEE, RACHEL			
THIS IS NOT A PERMIT			



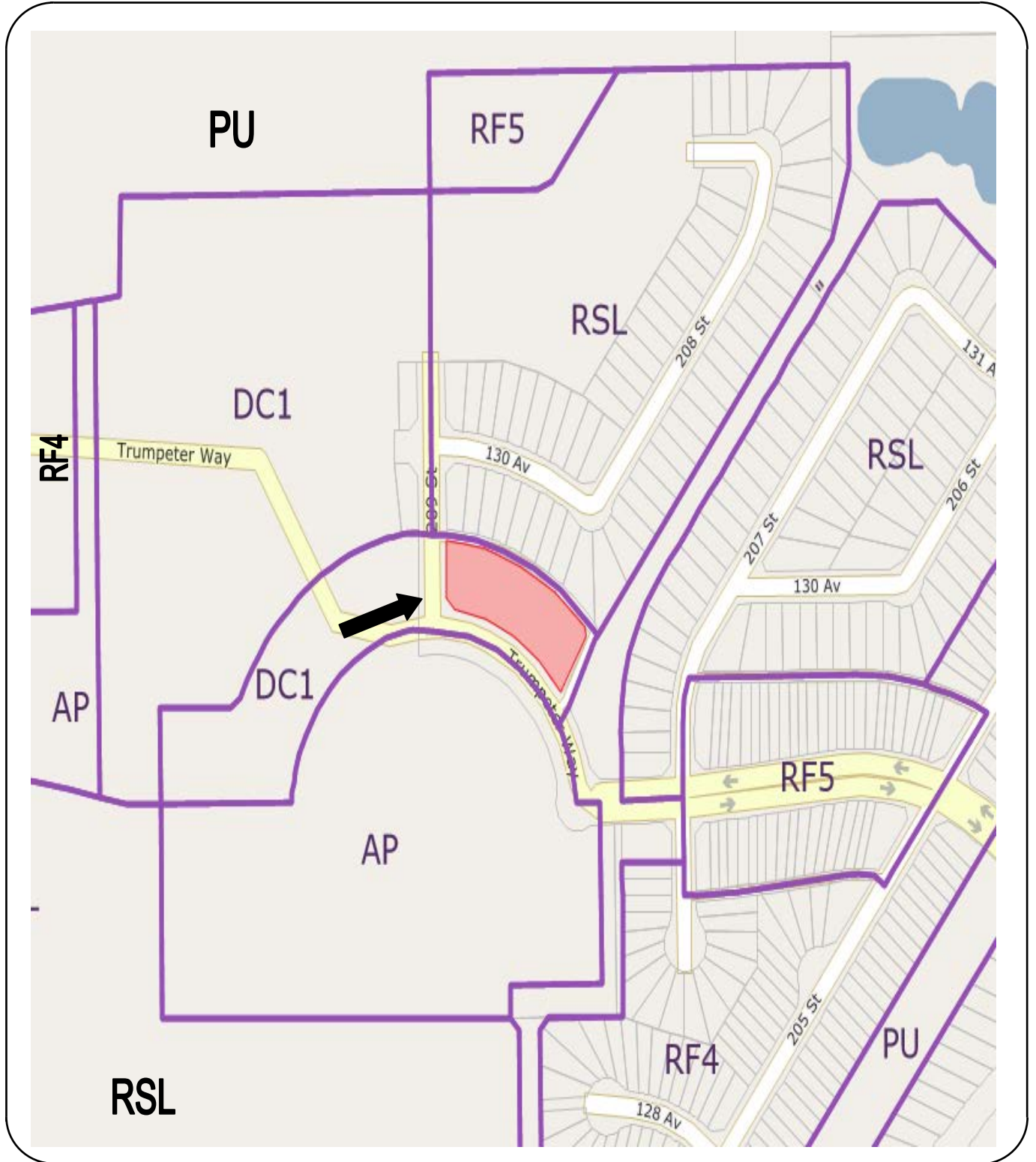
Application for Major Development Permit

Project Number: **278270547-001**
Application Date: MAR 29, 2018
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Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$277.00	\$277.00	04906567	Mar 29, 2018
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$277.00	\$277.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-112

