

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Tuesday, 9:00 A.M.
June 28, 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-16-148

To construct an addition (increase of Dwellings from 179 to 188 units on a new loft floor and adding an interconnected mezzanine floor that connects to the General Retail Use units within the main floor podium; and adding a penthouse mezzanine floor within the Dwelling unit on the 40th floor); and to construct exterior and interior alterations to a mixed-use development Apartment Housing and main floor General Retail Uses. (This is a revision to Development Permit numbers 134240188-001 and 134240188-003). (Encore Condominiums)

10180 - 103 Street NW
Project No.: 134240188-005

II 10:30 A.M. SDAB-D-16-149

To change the use from a General Retail Store to a Pawn Store (Cash Canada Pawn Shop)

10650 - 82 Avenue NW
Project No.: 221958128-001

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-16-148

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 134240188-005

ADDRESS OF APPELLANT: 1400, 10303 – Jasper Avenue NW

APPLICATION TO: Construct an addition (increase of Dwellings from 179 to 188 units on a new loft floor and adding an interconnected mezzanine floor that connects to the General Retail Use units within the main floor podium; and adding a penthouse mezzanine floor within the Dwelling unit on the 40th floor); and to construct exterior and interior alterations to a mixed-use development Apartment Housing and main floor General Retail Uses. (This is a revision to Development Permit numbers 134240188-001 and 134240188-003). (Encore Condominiums)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 2, 2016

DATE OF APPEAL: June 3, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10180 - 103 Street NW

LEGAL DESCRIPTION: Plan NB1 Blk 3 Lots 209-210

ZONE: HA-Heritage Area Zone

OVERLAY: Special Area Downtown

STATUTORY PLAN: Capital City Downtown Plan

Grounds for Appeal

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

We are solicitors for Westrich Encore Inc., the Applicant. On behalf of our clients, we hereby appeal the refusal on the following grounds:

1. The subject refusal was issued on the basis that the Development Officer lacks the authority to grant a variance in respect of Floor Area ratio. ("FAR") per section 11.4(2) of the Edmonton Zoning Bylaw. Absent that limitation, we are confident that the necessary variance would likely have been granted in the first instance.
2. The proposed development has been approved at its current height and exterior dimensions. The additional FAR (all of which, per force, occurs within the approved building envelope) cannot and will not have any additional impacts on the amenities of the neighbourhood nor on the use, enjoyment or value of neighbouring properties.
3. Such further and other reasons as may be presented at the hearing of this appeal.

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 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 *Municipal Government Act*, RSA 2000, c M-26 states the following:

687(3) In determining an appeal, the subdivision and development appeal board

...

(a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

(c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

(ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 910.7(1) states the purpose of the HA Heritage Area Zone is to establish a special heritage character Zone, in which the existing concentration of historical resources shall be preserved, rehabilitated and reused, and to ensure new developments are pedestrian friendly and compatible in scale, function, built form and design continuity with the historical, architectural and urban village character of the area.

Section 910.7(2)(b) states **Apartment Housing** is a **Permitted Use** in the HA Heritage Area Zone.

Under Section 7.2(1), Apartment Housing means development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use Class.

Section 910.7(3)(i) states **General Retail Stores** is a **Discretionary Use** in the HA Heritage Area Zone.

Under Section 7.4(22), General Retail Stores means development used for the retail or consignment sale of new goods or merchandise within an enclosed building, not including the sale of gasoline, heavy agricultural and industrial equipment, alcoholic beverages, or goods sold wholesale. Accessory Uses may include the assembly or repair of products sold on Site, or minor public services such as postal services or pharmacies. This Use Class does not include Aircraft Sales/Rentals, Automotive and Minor Recreation Vehicle Sales/Rentals, Flea Market, Gas Bars, Greenhouses, Plant Nurseries and Garden Centres , Pawn Stores, Major Alcohol Sales, Minor Alcohol Sales, Major Service Stations, Minor Service Stations, Secondhand Stores, and Warehouse Sales.

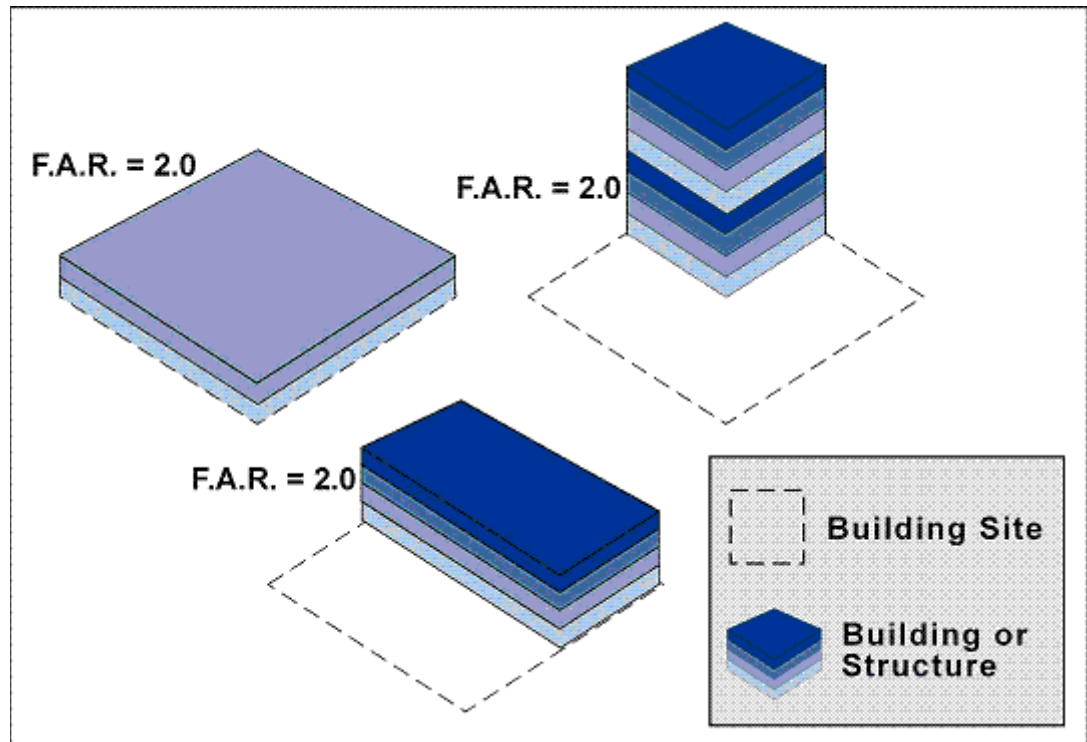
<i>Floor Area Ratio</i>

Section 910.7(4)(a)(ii) states the maximum Floor Area Ratio south of 102 Avenue shall be 10.0.

Section 910.7(6)(c) states notwithstanding the requirements of subsection 910.7(4)(a), for new buildings, Residential Use Classes and Hotels shall be allowed an additional Floor Area Ratio of 4.0 where the Development Officer is satisfied that new developments fit within the urban context of the area and that adverse environmental impacts such as sun shadow and wind are minimized.

Under Section 6.1(34), **Floor Area** means the total Floor Area of the building or structure, contained within the outside surface of the exterior and Basement walls, provided that in the case of a wall containing windows, the glazing line of windows may be used.

Under Section 6.1(35), **Floor Area Ratio** means the numerical value of the Floor Area of the building or structure relative to the Site upon which it is located, **excluding**: (a) Basement areas used exclusively for storage or service to the building; (b) parking areas below Grade; (c) walkways required by the Development Officer; and (d) Floor Areas devoted exclusively to mechanical or electrical equipment servicing the development, divided by the area of the Site.



Development Officer’s Determination

Allowed: 14.0

Proposed: 15.1

Exceedance: 1.1

Floor Area = 21,109.42 square metres

Site Area = 1393.67 square metres

Floor Area Ratio = 21,109.42 square metres / 1393.67 square metres = 15.1

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: **134240188-005**
 Application Date: APR 19, 2016
 Printed: June 6, 2016 at 3:05 PM
 Page: 1 of 2

Application for Major Development Permit

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

<p>Applicant</p> <p>WESTRICH ENCORE INC.</p> <div style="border: 1px solid black; width: 200px; height: 30px; margin-top: 10px;"></div>	<p>Property Address(es) and Legal Description(s)</p> <p>10180 - 103 STREET NW Plan NB1 Blk 3 Lots 209-210</p> <hr/> <p>Specific Address(es)</p> <p>Entryway: 10176 - 103 STREET NW Entryway: 10180 - 103 STREET NW Entryway: 10309 - 102 AVENUE NW Building: 10180 - 103 STREET NW</p>
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Scope of Application

To construct an addition (increase of Dwellings from 179 to 188 units on a new loft floor and adding an interconnected mezzanine floor that connects to the General Retail Use units within the main floor podium; and adding a penthouse mezzanine floor within the Dwelling unit on the 40th floor); and to construct exterior and interior alterations to a mixed-use development Apartment Housing and main floor General Retail Uses. (This is a revision to Development Permit numbers 134240188-001 and 134240188-003). (Encore Condominiums)

Permit Details

Class of Permit:
 Gross Floor Area (sq.m.): 632.65
 New Sewer Service Required: Y
 Site Area (sq. m.):

Contact Person:
 Lot Grading Needed?: Y
 NumberOfMainFloorDwellings:
 Stat. Plan Overlay/Annex Area: Downtown

I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision

Refused

Reason for Refusal

The proposed development is refused for the following reason:

The maximum Floor Area Ratio (FAR) south of 102 Avenue exceeds 10.0. For new buildings including Residential Use Classes, an additional FAR of 4.0 shall be allowed. The proposed development exceeds the maximum total FAR of 14.0. (Reference: Sections 910.7(4)(a)(ii) and 910.7(6)(c) of the Edmonton Zoning Bylaw 12800)

Required: 14.0
 Proposed: 15.1
 Exceedance: 1.1

THIS IS NOT A PERMIT



Project Number: **134240188-005**
Application Date: APR 19, 2016
Printed: June 6, 2016 at 3:05 PM
Page: 2 of 2

Application for Major Development Permit

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: Jun 02, 2016

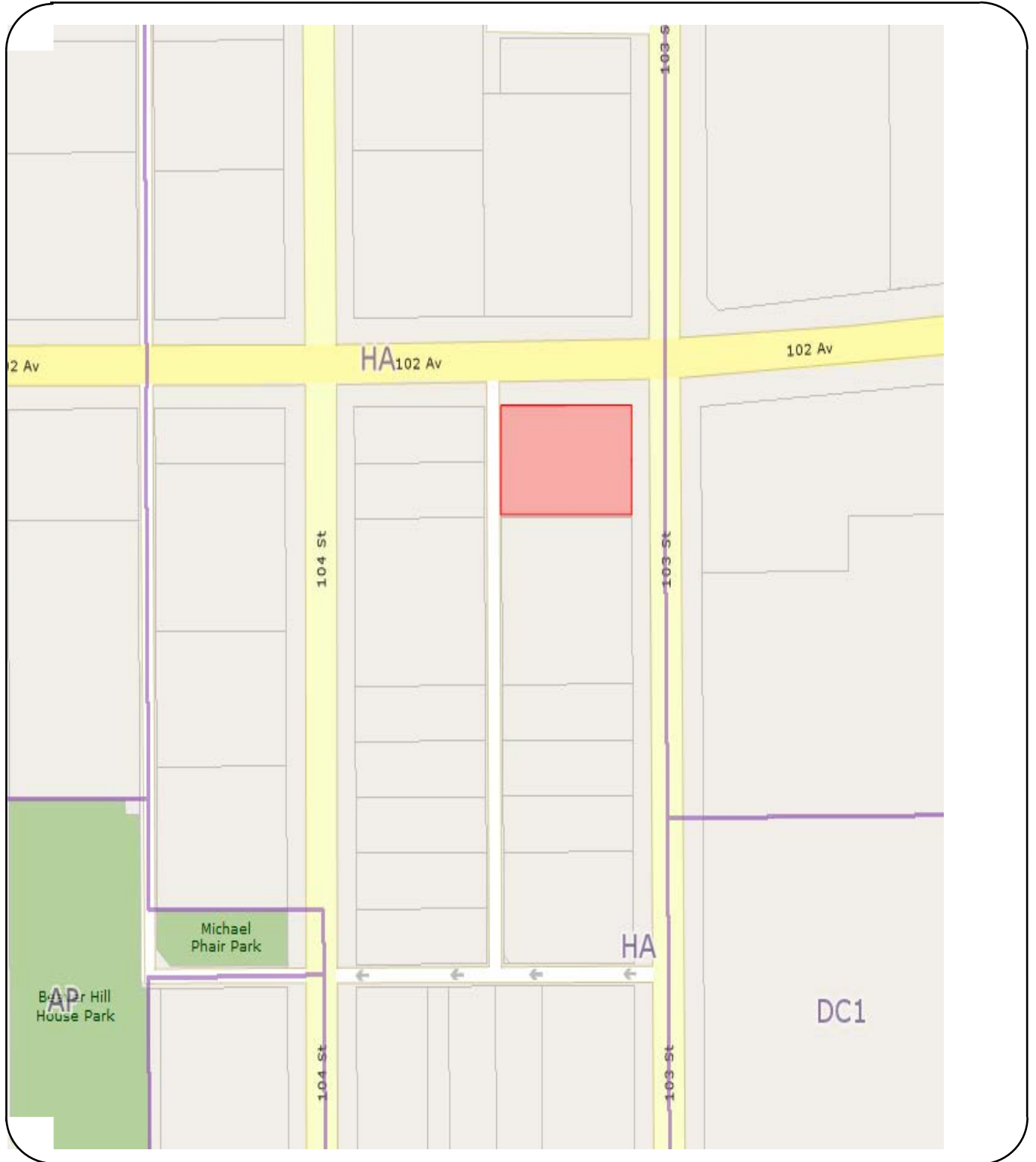
Development Authority: LOUIE, CINDY

Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee for GFA	\$180.00	\$180.00	03212916	Apr 19, 2016
Major Dev. Application Fee	\$893.00	\$893.00	03212916	Apr 19, 2016
Lot Grading Fee	\$220.00			
Dev. Application Fee # of dwelling units	\$12,880.00			
Sanitary Sewer Trunk Fund 2012+	\$210,184.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$224,357.00	\$1,073.00		
(\$223,284.00 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-148



ITEM II: 10:30 A.M.

FILE: SDAB-D-16-149

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

APPELLANT NO. 1:

APPELLANT NO. 2:

APPLICATION NO.: 221958128-001

ADDRESS OF APPELLANT NO. 1: #116, 10728 – 82 Avenue NW

ADDRESS OF APPELLANT NO. 2: #202, 10345 – 82 Avenue NW

APPLICATION TO: Change the use from a General Retail Store to a Pawn Store (Cash Canada Pawn Shop).

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: May 27, 2016

DATE OF APPEAL: June 3, 2016/June 14, 2016

NOTIFICATION PERIOD: June 2, 2016 through June 15, 2016

RESPONDENT:

ADDRESS OF RESPONDENT: 8170 – 50 Street NW

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10650 - 82 Avenue NW

LEGAL DESCRIPTION: Plan I Blk 65 Lots 13-15

ZONE: CB2-General Business Zone

OVERLAY: Pedestrian Commercial Shopping Street Overlay

Whyte Avenue Commercial Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan

<i>Grounds for Appeal</i>

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

APPELLANT NO. 1 – Anthony Joyce

The residents in my building (The Garneau) do NOT want a pawn shop in the area for 2 reasons. First, such a business does not correspond to the nature of shops on the Avenue, which is more upscale and family-friendly. Second, we are already encountering issues with street people and a business like this would not help but hurt efforts to manage the problem.

APPELLANT NO. 2 – Old Strathcona Business Association

On behalf of the Old Strathcona Business Association Board of Directors, representing over 600 businesses in the area, we would like to express our serious concerns over the proposed development and approval of Cash Canada Pawn Shop as a discretionary use within our business community. Our main concern is crime as it relates to the presence of these types of operations in a vibrant and active shopping and entertainment district like Old Strathcona.

There is some support that the presence of pawn shops can attract or at least create the perception of crime in neighbourhoods (McCord, Ratcliffe, Garcia, & Taylor, 2007; Brantingham & Brantingham, 1995 as cited in Bernasco & Block, 2011). For example, some research suggests that drug markets may cluster around pawn brokers and check-cashing stores because of the quick and easy access to cash that facilitates drug transactions (which tends to a cash-only market). The findings of this study found that the presence of more crime-generating or crime-attracting land uses (pawn shops were classified as crime-attracting) in a neighbourhood positively correlated with residents perceiving their neighbourhoods as more crime-ridden or disorderly (McCord, Ratcliffe, Garcia, & Taylor, 2007). Bernasco & Block (2011) found that neighbourhoods with crime attractors and generators, including such non-residential businesses (e.g. barber shops, bars, liquor stores, Laundromats) corresponds with higher crime rates in the immediate area, as well as placing their peripheral environments at risk of crime as well (i.e. if Strathcona has a lot of crime attractors within its boundaries, adjacent neighbourhoods, even those without their own crime attractors, are likely to experience increased crime too Rather than just having Strathcona become the lightning rod for ALL the crime in that area). One potential explanation for this relationship could be that “fringe banking services” are typically concentrated in low-income neighbourhoods (Kubrin, Squires, Graves, & Ousey, 2011) that tend to already face increased or disproportionate crime rates relative to more stable or affluent areas. Thus, while it may be that pawn shops don’t necessarily increase crime directly, their presence may signify neighbourhood disorder and poverty, which in turn increase crime by reducing the presence of pro-social factors (like collective efficacy among residents – the willingness/ability to act as a group to combat problems).

The research discussed above faces MANY limitations – i.e., the studies are performed in particular cities and neighbourhoods and times with often limited sample sizes. So, the findings may be reflective of peculiarities within each city. However, taken together, the general finding that pawn shops and similar businesses are correlated with increases in the occurrence of, or at least the perception of, crime is notable.

In conclusion, we hope that you will reverse the decision of the Development Officer and do not allow this discretionary use within our community.

References:

Bernasco, W., & Block, R. (2011). Robberies in Chicago: A block-level analysis of the influence of crime generators, crime attractors, and offender anchor points. *Journal of Research in Crime and Delinquency*, 48(1), pp. 33-57.

Kubrin, C. E., Squires, G. D., Graves, S.M., & Ousey, G.C. (2011). Does fringe banking exacerbate neighbourhood crime rates: Investigating the social ecology of payday lending. *Criminal & Public Policy*, 10(2), pp. 437-466.

McCord, E. S., Ratcliffe, J. H., Garcia, R.M., Taylor, R. B. (2007). Nonresidential crime attractors and generators elevate perceived neighbourhood crime and incivilities. *Journal of Research in Crime and Delinquency*, 44(3), pp. 295-320.

<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.

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,
- (b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

687(3) In determining an appeal, the subdivision and development appeal board

...

(a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

(c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

(ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 340.1 states 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.

Discretionary Use

Section 340.3(25) states a Pawn Store is a Discretionary Use in the CB2 General Business Zone.

Under Section 7.4(40), Pawn Stores means development used to provide secured loans in exchange for goods offered as collateral, including the sale of such goods. This Use Class may also include the minor repair of goods sold on-Site. Typical Uses include the resale of clothing, jewelry, stereos, household goods and musical instruments in pawn. This Use Class does not include the sale of used vehicles, recreation craft or construction and industrial equipment, and does not include Flea Markets or Secondhand Stores.

Development Officer's Determination

Discretionary Use - The Pawn Store is approved as a Discretionary Use (Section 340.3).

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: 221958128-001
Application Date: MAY 17, 2016
Printed: June 6, 2016 at 11:39 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 CASHCO PW INC <div style="border: 1px solid black; height: 30px; width: 250px; margin-top: 10px;"></div>	Property Address(es) and Legal Description(s) 10650 - 82 AVENUE NW Plan I Blk 65 Lots 13-15 Specific Address(es) Suite: 10662 - 82 AVENUE NW Entryway: 10662 - 82 AVENUE NW Building: 10650 - 82 AVENUE NW
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Scope of Permit
To change the use from a General Retail Store to a Pawn Store (Cash Canada Pawn Shop).

Permit Details Class of Permit: Class B Gross Floor Area (sq.m.): 304.44 New Sewer Service Required: N/A Site Area (sq. m.): 1212.95	Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: 0 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: **221958128-001**
 Application Date: MAY 17, 2016
 Printed: June 6, 2016 at 11:39 AM
 Page: 2 of 3

Major Development Permit

Subject to the Following Conditions

- 1) This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1).
- 2) 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.
- 3) 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:

- 1) 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.
- 2) The Development Permit shall not be valid unless and until the conditions of approval, save those of a continuing nature, have been fulfilled; and no notice of appeal from such approval has been served on the Subdivision and Development Appeal Board within the time period specified in subsection 21.1 (Ref. Section 17.1).
- 3) Signs require separate Development Applications.
- 4) The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.
- 5) 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.
- 6) This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.

Variances

Discretionary Use - The Pawn Store is approved as a Discretionary Use (Section 340.3).

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: May 27, 2016 **Development Authority:** WELCH, IMAI

Signature: _____

Notice Period Begins: Jun 02, 2016

Ends: Jun 15, 2016

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$323.00	\$323.00	03286753	May 17, 2016

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



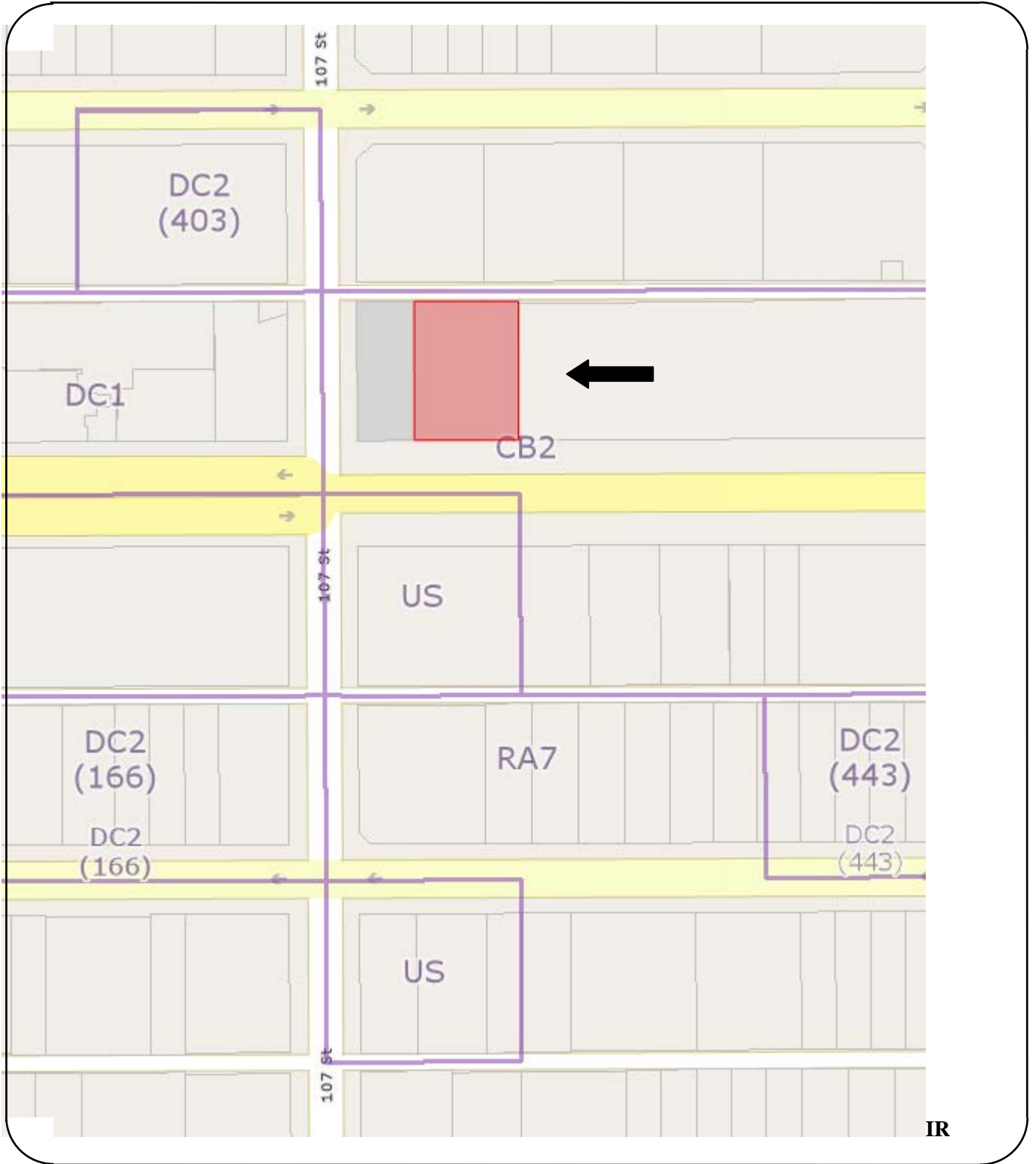
Project Number: **221958128-001**
Application Date: MAY 17, 2016
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Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$102.00	\$102.00	03289662	May 18, 2016
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$425.00	\$425.00		

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-149



BUSINESS LAID OVER

SDAB-D-16-120	An appeal to construct a Single Detached House with attached Garage, veranda, fireplace, rear balcony (irregular shape, 4.25 metres by 2.22 metres) and Basement development (NOT to be used as an additional Dwelling) <i>August 3, 2016</i>
SDAB-D-16-136	An appeal to extend the duration of a Freestanding Minor Digital Off-premises Sign (3.05m x 10.37m Single Sided Facing South) <i>August 17 or 18, 2016</i>
SDAB-D-16-144	An appeal to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>November 30 or December 1, 2016</i>

APPEAL HEARINGS TO BE SCHEDULED

99312099-004	An appeal regarding a Stop Order issued for the property located at 6520 – 8 Street NW. <i>July 13, 2016</i>
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