

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
March 23, 2017**

**Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

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

TO BE RAISED

I 9:00 A.M. SDAB-D-17-034

Change the use of part of the main floor
(General Retail) of a building and entire 2nd
floor (Commercial Uses) to a Child Care
Service and construct interior and exterior
alterations. (Little Angels Daycare)

10720 - 107 Avenue NW
Project No.: 233886278-001

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-17-034

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 233886278-001

APPLICATION TO: Change the use of part of the main floor (General Retail) of a building and entire 2nd floor (Commercial Uses) to a Child Care Service and construct interior and exterior alterations. (Little Angels Daycare)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 20, 2017

DATE OF APPEAL: January 24, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10720 - 107 Avenue NW

LEGAL DESCRIPTION: Plan B4 Blk 7 Lots 179-181

ZONE: CB1-Low Intensity Business Zone

OVERLAY: N/A

STATUTORY PLAN: Central McDougall / Queen Mary Park Area Redevelopment Plan

Grounds for Appeal

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

We tried to explain to the officer that we have different options for where to have the trash bins and loading zone and he actually gave us the time to hear them all but then he still refused the application. We submitted a hardship letter to explain why we can't have a setback and we even proposed decreasing the capacity of the daycare to decrease the size of the playground to respect the 3m setback, but both were still refused.

There is a major need for an educational childcare service in Queen Mary Park Community since it is one of the focus areas for the Inner City Children's Program, which provides educational and developmental programs for the children in the lowest achieving schools in Edmonton.

General Matters

The Subdivision and Development Appeal Board (SDAB) at a hearing on February 15, 2017, made and passed the following motion:

That SDAB-D-17-034 be tabled to allow:

1. In accordance with her oral submissions, the Appellant shall provide a revised Site Plan showing:
 - a. the relocation of the trash collection to the rear yard behind the northeast corner of the building (where the loading area is indicated on the refused plans); and
 - b. the relocation of the loading area to the front of the building to the northeast portion of the parking lot.
2. The Appellant shall provide a cover letter explaining the revisions to the Site Plan and requested variances.
3. The revised Site Plan and cover letter shall be submitted to the SDAB office and forwarded to the Development Officer on or before February 23, 2017.
4. The Development Officer may provide a written response to the Appellant's letter and Site Plan to the SDAB office on or before March 1, 2017.
5. The SDAB will reconvene in private to make a decision based solely on the prior oral submissions and the written submissions of the Appellant and the Development Officer outlined above.

The Subdivision and Development Appeal Board (SDAB) on March 1, 2017, made and passed the following REVISED motion:

That SDAB-D-17-034 be tabled to allow:

1. In accordance with her oral submissions, the Appellant (Doaa Alnajjar) shall provide a revised Site Plan showing:
 - a. the relocation of the trash collection to the rear yard behind the northeast corner of the building (where the loading area is indicated on the refused plans); and

- b. the relocation of the loading area to the front of the building to the northeast portion of the parking lot.
2. The Appellant shall provide a cover letter explaining the revisions to the Site Plan and requested variances.
3. The revised Site Plan and cover letter shall be submitted to the SDAB office and forwarded to the Development Officer on or before March 17, 2017.
4. The Development Officer may provide a written response to the Appellant's letter and Site Plan to the SDAB office.

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, or

...

Hearing and Decision

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*:

Under section 330.3(5), **Child Care Services** is a **Discretionary Use** in CB1 Low Intensity Business Zone.

Under section 7.8(2), **Child Care Services** means:

a development intended to provide care, educational activities and supervision for groups of seven or more children under 13 years of age during the day or evening, but does not generally include overnight accommodation. This Use typically includes daycare centres; out-of-school care centres; preschools; and dayhomes/group family care providing child care to seven or more children within the care provider's residence.

Not Permitted within a Setback

Section 330.4(5) states no parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback. Vehicular parking, loading, storage and trash collection areas shall be located to the rear or sides of the principal building and shall be screened from view from any adjacent Sites, public roadways or a LRT line in accordance with the provisions of Section 55.5 of this Bylaw.

If the rear or sides of a Site are used for parking, an outdoor service or display area or both, and abut a Residential Zone or a Lane serving a Residential Zone, such areas shall be screened in accordance with the provisions of subsection 55.4 of this Bylaw.

Development Officer's Determination:

- a. The proposed trash collection area is located at the front of the property along 107 Avenue, contrary to Section 330.4(5).
- b. The outdoor playspace is considered an outdoor service area, and is proposed within the 3.0m setback from the West property line abutting a public roadway (108 Street), and within the 3.0m setback from the rear lot line abutting the Medium Rise Apartment Zone (RA8), contrary to Section 330.4(5).
- c. The loading area is within the 3.0m setback from the rear lot line, contrary to Section 330.4(5).

Child Care Services Regulations – Site Conditions

Section 80(2)(d) states where Site conditions exist which may negatively impact the Child Care Services Use, including but not limited to trash collection areas, large parking lots, loading docks, rail lines, or arterial public roadways, the applicant shall design the building, entrances, playspaces, landscaping, and Fencing, or similar, to mitigate these conditions to the satisfaction of the Development Officer.

Development Officer's Determination:

The loading area indicated on the proposed plans directly abuts the outdoor playspace and, in the opinion of the Development Officer, would have a negative impact on this outdoor playspace, contrary to Section 80(2)(d).

General Purpose

Section 330.1 states that the **General Purpose** of the **CB1 Low Intensity Business Zone** is:

...is to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

Development Officer's Determination:

Considering the extensive encroachment of the outdoor playspace and loading area onto required setbacks, and the resulting increased massing of the development, it is the Development Officers opinion that this Childcare Service is not in scale with the existing development, commercial street, and surrounding residential neighbourhood.

Loading Space

Section 54.4(2)(b) states Off-street loading shall be oriented away from residential developments.

Section 54.4(3) states:

Size and Access


- a. Each off-street loading space shall be of adequate size and accessibility to accommodate the vehicles expected to load and unload. Each required loading space shall be a minimum of 3.0 metres in width, a minimum of 9.0 m in length and maintain a minimum overhead clearance of 4.0 metres, unless larger dimensions are required, having regard to the type of vehicle loading and unloading without projecting into a public roadway.
- b. Access to any loading area shall be provided, wherever possible, internally to the development or from a Lane abutting the development.
- c. Access to any loading area shall be arranged such that no backing or turning movement of vehicles going to or from the Site causes interference with traffic on the abutting streets or Lanes.

Development Officer's Determination:

While the loading area does not have a specific loading space indicated, the Development Officer notes that the required length of the loading stall is 9.0m (Reference Section 54.4(3)(a)). In the Development Officer's opinion, there is no orientation of the loading space that could provide enough space for the vehicles to drive in, unload, and exit onto the lane while making all turning movements on private property, contrary to Section 54.4(3)(c). This loading area directly abuts a residential Zone with Apartment Housing, contrary to Section 54.4(2)(b).

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: 233886278-001 Application Date: OCT 28, 2016 Printed: January 24, 2017 at 1:47 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 <div style="border: 1px solid black; width: 200px; height: 40px; margin: 10px auto;"></div>	Property Address(es) and Legal Description(s) 10720 - 107 AVENUE NW Plan B4 Blk 7 Lots 179-181 Specific Address(es) Suite: 2FL, 10720 - 107 AVENUE NW Suite: MNFL, 10720 - 107 AVENUE NW Entryway: 10720 - 107 AVENUE NW Building: 10720 - 107 AVENUE NW		
Scope of Application To change the use of part of the main floor (General Retail) of a building and entire 2nd floor (Commercial Uses) to a Child Care Service and construct interior and exterior alterations. (Little Angels Daycare)			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Class of Permit: Gross Floor Area (sq.m.): 889.5 New Sewer Service Required: N Site Area (sq. m.): 2083.75 </td> <td style="width: 50%; border: none; vertical-align: top;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Gross Floor Area (sq.m.): 889.5 New Sewer Service Required: N Site Area (sq. m.): 2083.75	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Gross Floor Area (sq.m.): 889.5 New Sewer Service Required: N Site Area (sq. m.): 2083.75	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused			
THIS IS NOT A PERMIT			



Project Number: 233886278-001
Application Date: OCT 28, 2016
Printed: January 24, 2017 at 1:47 PM
Page: 2 of 3

Application for Major Development Permit

Reason for Refusal

1. No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback. Vehicular parking, loading, storage and trash collection areas shall be located to the rear or sides of the principal building and shall be screened from view from any adjacent Sites, public roadways or a LRT line in accordance with the provisions of Section 55.5 of this Bylaw. If the rear or sides of a Site are used for parking, an outdoor service or display area or both, and abut a Residential Zone or a Lane serving a Residential Zone, such areas shall be screened in accordance with the provisions of subsection 55.4 of this Bylaw. (Reference Section 330.4(5))

Proposed:

a. The proposed trash collection area is located at the front of the property along 107 Avenue, contrary to Section 330.4(5).

b. The outdoor playspace is considered an outdoor service area, and is proposed within the 3.0m setback from the West property line abutting a public roadway (108 Street), and within the 3.0m setback from the rear lot line abutting the Medium Rise Apartment Zone (RA8), contrary to Section 330.4(5).

c. The loading area is within the 3.0m setback from the rear lot line, contrary to Section 330.4(5).

2. Where Site conditions exist which may negatively impact the Child Care Services Use, including but not limited to trash collection areas, large parking lots, loading docks, rail lines, or arterial public roadways, the applicant shall design the building, entrances, playspaces, landscaping, and Fencing, or similar, to mitigate these conditions to the satisfaction of the Development Officer. (Reference Section 80(2)(d))

The loading area indicated on the proposed plans directly abuts the outdoor playspace and, in the opinion of the Development Officer, would have a negative impact on this outdoor playspace, contrary to Section 80(2)(d).

3. The general purpose of the CB1 Zone stipulates that this Zone is to provide for 'low intensity commercial, office and service uses... sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood' (Reference Section 330.1).

Considering the extensive encroachment of the outdoor playspace and loading area onto required setbacks, and the resulting increased massing of the development, it is the Development Officers opinion that this Childcare Service is not in scale with the existing development, commercial street, and surrounding residential neighbourhood.

4. Each off-street loading space shall be of adequate size and accessibility to accommodate the vehicles expected to load and unload. These loading spaces shall be arranged such that no backing or turning movement of vehicles going to or from the Site causes interference with traffic on the abutting streets or Lanes, and they shall be oriented away from residential developments. (Reference Sections 54.4(2)(b), 54.4(3)(a), & 54.4(3)(b))

While the loading area does not have a specific loading space indicated, the Development Officer notes that the required length of the loading stall is 9.0m (Reference Section 54.4(3)(a)). In the Development Officer's opinion, there is no orientation of the loading space that could provide enough space for the vehicles to drive in, unload, and exit onto the lane while making all turning movements on private property, contrary to Section 54.4(3)(c). This loading area directly abuts a residential Zone with Apartment Housing, contrary to Section 54.4(2)(b).

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: Jan 20, 2017

Development Authority: ADAMS, PAUL

Signature: _____

THIS IS NOT A PERMIT



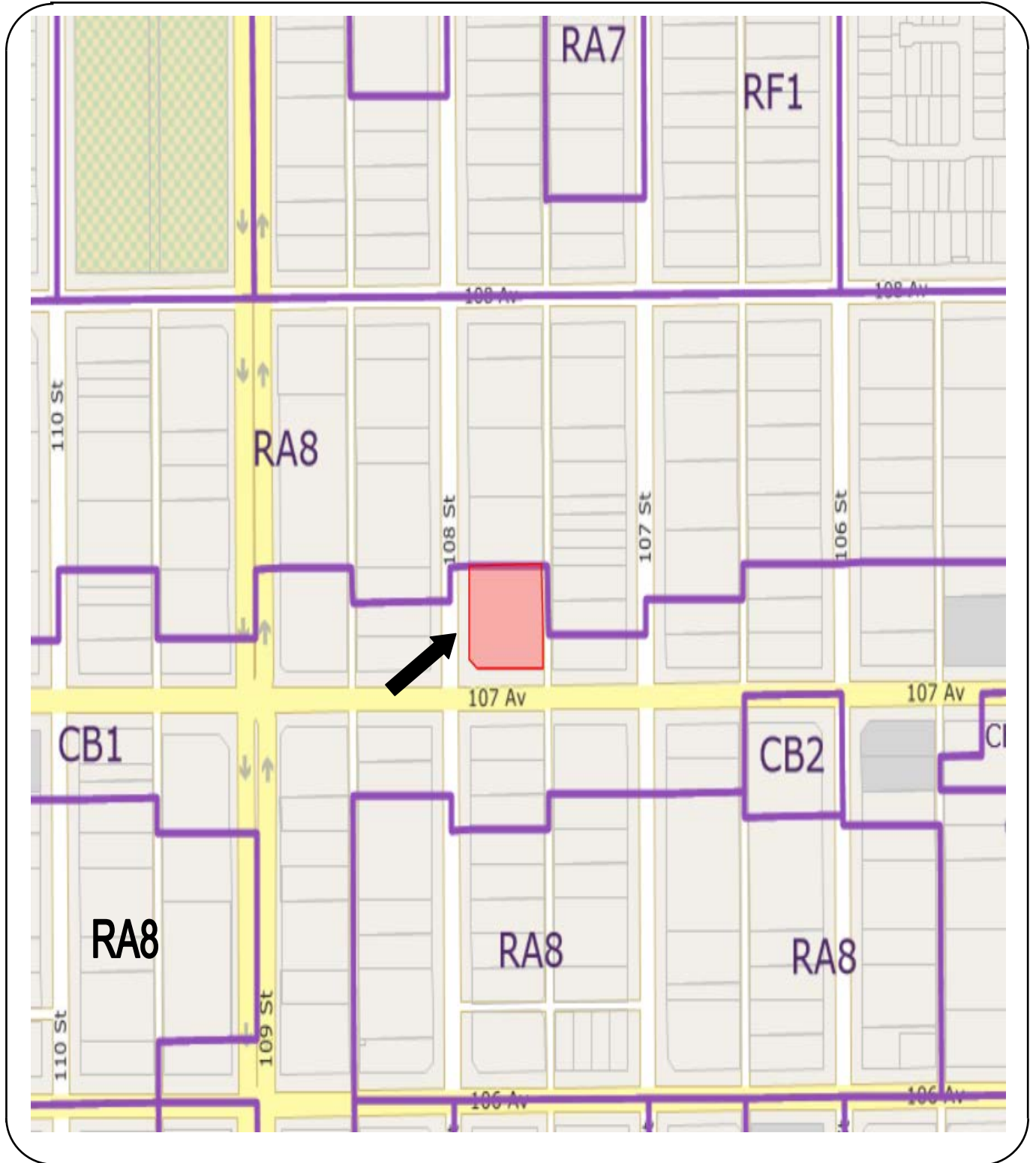
Project Number: 233886278-001
Application Date: OCT 28, 2016
Printed: January 24, 2017 at 1:47 PM
Page: 3 of 3

Application for Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$260.00	\$260.00	03710367	Oct 28, 2016
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$260.00	\$260.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-034



N