

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
March 25, 2015**

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

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

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I	9:00 A.M.	SDAB-D-15-069	Construct interior and exterior alterations to a Nightclub (Legal Briefs - 279 occupants) 10148 - 105 Street NW Project No.: 51557576-001
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**LUNCH TO FOLLOW**

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**NOTE:** *Unless otherwise stated, all references to "Section numbers" in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-15-069

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

APPELLANT:

APPLICATION NO.: 51557576-001

APPLICATION TO: Construct interior and exterior alterations  
to a Nightclub (Legal Briefs - 279  
occupants)

DECISION OF THE  
DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: November 24, 2005

DATE OF APPEAL: February 27, 2015

NOTIFICATION PERIOD: November 29, 2005 through December  
12, 2005

RESPONDENT: 1005059 Alberta Ltd. / Ogilvie LLP

ADDRESS OF RESPONDENT: 10303 – Jasper Avenue NW, Edmonton,  
AB, T5J 3N6

MUNICIPAL DESCRIPTION  
OF SUBJECT PROPERTY: 10148 - 105 Street NW

LEGAL DESCRIPTION: Plan B2 Blk 5 Lot 189

ZONE: UW Urban Warehouse Zone

OVERLAY: Downtown Special Area

STATUTORY PLAN: Capital City Downtown Plan

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DEVELOPMENT OFFICER'S DECISION

APPROVED - The proposed development subject to the following conditions:

The occupancy of the Nightclub is 279 based on the proposed Public Space. Reference Section 6.1(45).

Any increase in Public Space or occupancy shall require separate approval.

The existing building overhang and eaves encroach over the 105 Street road right-of-way. The owner/applicant shall enter into an Encroachment Agreement with the City. The owner/applicant must contact Kerry Bauer (496-6153) of the Planning and Development Department for information on the agreement. NOTE: The new metal corrugated siding may increase the eave encroachment.

NOTES:

- 1) Signs require separate Development Applications.
- 2) 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 our Customer Information Centre at 496-3100 for further information.
- 3) This approval does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

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APPELLANT'S SUBMISSION

The Appellant respectfully appeals the decision of the Development Officer approving the development permit at 10148 - 105 Street (Lot 189, Block 5, Plan B2) on the following grounds:

- a. No notice was provided to adjacent property owners with respect to the proposed development or use.
- b. A business promotion document from Shade Gentlemen's Club (VIP Pass) was received by the Appellant on February 12, 2015 and it was at this time the Appellant determined/discovered that some sort of development permit appears to have been granted relating to the subject property.
- c. The subject property has been vacant for over two (2) years, possibly three (3) years.
- d. The Appellant submits that the Subdivision and Development Appeal Board cancel the development permit and direct that the Applicant re-apply to the City of Edmonton for a new development permit in accordance with the Edmonton Zoning Bylaw.

APPELLANT'S SUBMISSION (CONTINUED)

- e. Further, it is respectfully submitted that the use, enjoyment and value of the Appellant's property and the amenities of the neighbourhood will be negatively affected by the proposed development.
- f. Such further and other reasons as may be presented at the hearing of this matter.

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SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This is an application to construct interior and exterior alterations to a Nightclub (Legal Briefs - 279 occupants).

The site is located on the west side of 105 Street, north of Jasper Avenue and is zoned UW Urban Warehouse Zone, Section 910.11 of the Edmonton Zoning Bylaw 12800. The site is within the Downtown Special Area, Section 910. The site is also within the Central Warehouse Area (Sub-Area 1) in the WC – Warehouse Campus Neighbourhood of the Capital City Downtown Plan, under Bylaw 15200 (as amended), approved by City Council on July 7, 2010.

Section 686(1)(b) of the *Municipal Government Act* states “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, 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.”

Section 685(2) of the *Municipal Government Act* states “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.”

The Board is advised that the decision of approval by the Development Officer is dated November 24, 2005. The Notice of Appeal was filed on February 27, 2015 by an adjacent property owner to the east located at 10155 – 105 Street.

**Nightclubs**, but not to exceed 200 occupants and 240 square metres of Public Space if the Site is adjacent to or across a Lane from a Residential zoned Site, is a Discretionary Use in the UW Urban Warehouse Zone, Section 910.11(3)(r).

Under Section 7.4(37), **Nightclubs** means 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, in a facility where entertainment facilities take up more than 10 percent of the Floor Area. This Use typically has a limited menu from a partially equipped kitchen/preparation area and prohibits minors from lawfully utilizing the facility. Typical Uses include dance clubs, cabarets, nightclubs, lounges, neighbourhood pubs and bars, beverage rooms, and cocktail lounges.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS  
(CONTINUED)

Section 910.1 states the General Purpose of the Downtown Special Area is to designate the Downtown area as a Special Area and to adopt the following land use regulations to achieve the objectives of the Capital City Downtown Plan.

Section 910.11(1) states the purpose of the UW 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.

The following jobs are listed in the Sustainable Development POSSE system:

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
124839985-001	To install 1 On-Premises Minor Digital Fascia Sign (SHADE NIGHTCLUB ID SIGN).	July 9, 2012; Approved with conditions and the following variance:  Minor Digital On-premises Signs are Discretionary (Reference Section 59F.3(5))
399595-008 <b>SDAB-D-10-009</b>	Construct exterior alterations to a Major Eating and Drinking Establishment / Night Club.	March 19, 2010; "that the appeal be ALLOWED and the decision of the Development Authority REVOKED."
399595-006	To construct exterior alterations to a Major Eating and Drinking Establishment/Night Club.	November 19, 2009; Approved with conditions.
51557576-002 <b>SDAB-D-05-348</b>	To construct interior and exterior alterations to a Nightclub (Legal Briefs - 279 occupants).	December 15, 2005; "that the appeal be DENIED and the DEVELOPMENT GRANTED subject to the following conditions:  1. that occupancy be limited to 250 persons to coincide with the occupancy applied for with the Alberta Gaming and Liquor Commission. This is to be the number that is on the Business Licence or Licence of Occupancy and all relevant permits and licences.

<p>51557576-002  <b>SDAB-D-05-348</b>                  (continued)</p>		<p>2. that the operation of the nightclub shall be contained within the confines of the building with no external sound system.</p> <p>3. that the development permit does not include approval for signage. All signage will require separate Development Permits.</p> <p>4. that the Applicant install and operate the Crime Watch Program as outlined to the Board.</p> <p>5. Any increase in Public Space or Occupancy shall require separate approval.</p> <p>6. The existing building overhang and eaves encroach over the 105 Street road right-of-way. The owner/applicant shall enter into an Encroachment Agreement with the City. The owner/applicant must contact Kerry Bauer (496-6153) of the Planning and Development Department for information on the agreement.</p> <p>NOTE: The new metal corrugated siding may increase the eave encroachment.”</p>
<p>51557576-001</p>	<p>To construct interior and exterior alterations to a Nightclub (Legal Briefs - 279 occupants).</p>	<p>November 24, 2005; Approved with conditions.</p>
<p>37814978-001</p>	<p>Compliance Certificate</p>	<p>March 2, 2004; In response to your letter dated February 27, 2004, this is to advise you that the building (Commercial Building) indicated on the Real Property Report dated February 27, 2004, and signed by John Sung, Alberta Land Surveyor, complies with the yard regulations governing EZ (Enterprise) Zone.</p> <p>You are advised that the BUILDING OVERHANG and EAVES encroach onto 105 STREET. Pursuant to the City Streets Development Control</p>

37814978-001 (continued)		Bylaw, No. 12513, a Permit via an Encroachment Agreement is required for any unauthorized development within the road right-of-way. [...].
399595-002	To continue to operate a Major Eating and Drinking Establishment (450 seats) and a minor amusement establishment with accessory retail (confectionary) (Reference Development Permit 399595-001).	February 4, 2000; Approved with a condition.
<b>*Further Development Permit Applications continue prior to 2000.</b>		

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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.

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### SURROUNDING LAND USE DISTRICTS

 Site Location

File: SDAB-D-15-069



***BUSINESS LAID OVER***

SDAB-D-15-047	An appeal to operate a Major Home Based Business (administration office for a home renovation contactor) <b><i>March 26, 2015</i></b>
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***APPEAL HEARINGS TO BE SCHEDULED***

166420267-001	An appeal to construct a Single Detached House with a front attached Garage, front balcony, front veranda, fireplace, Secondary Suite development in the Basement, rear partially covered balcony and rear uncovered deck (3.05 metres by 7.62 metres) <b><i>April 9, 2015</i></b>
84287777-004	An appeal to convert an existing Semi-Detached House into a 4 Dwelling Apartment (existing without permits) <b><i>April 1, 2015</i></b>