

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
May 4, 2017**

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

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

I 9:00 A.M. SDAB-D-17-082

Add Minor Alcohol Sales as an Accessory Use to an existing Creation and Production Establishment.
(STRATHCONA SPIRITS)

10122 - 81 Avenue NW
Project No.: 242085428-001

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-17-082

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 242085428-001

APPLICATION TO: Add Minor Alcohol Sales as an Accessory Use to an existing Creation and Production Establishment. (STRATHCONA SPIRITS)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 6, 2017

DATE OF APPEAL: April 11, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10122 - 81 Avenue NW

LEGAL DESCRIPTION: Plan I Blk 60 Lot 19

ZONE: DC1 (15813) Direct Development Control Provision (incorporating by reference the development regulations of the CB2 General Business Zone)

OVERLAY: Pedestrian Commercial Shopping Street Overlay (incorporated by reference)

STATUTORY PLAN: Strathcona Area Redevelopment Plan

Grounds for Appeal

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

My appeal is based on the belief that the refusal does not follow the intent of City Council and that the reason for refusal was, while applicable, not intended for this type of operation.

I would like to share the opinion that:

- 1) The 500m rule was not intended for type of alcohol sales, this operation bears no resemblance in either clientele, operation, appearance or hours to other alcohol sales establishments.
- 2) Further to 1), the usage should arguably not have required to be classified as 'alcohol sales' but to continue simply as 'Creation and Production' exclusively within which classification permits retail sales of products produced onsite.
- 3) The usage of the space as an interactive store is very much in alignment with the councils intent to preserve the unique architectural character of the area. In fact, the corks of our bottles are graced with the facade of our building. It will also drive pedestrian and bike traffic through the area. We will be included on the weekly circuit of Edmonton Food Tours if go into operation.
- 4) We will present to the SDAB overwhelming support of adjacent and abutting neighbours, as well as community groups. [content unedited; formatting altered for clarity]

<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.

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

...

The decision of the Development Officer is dated April 6, 2017. The Notice of Appeal was filed on April 11, 2017.

Direct Control Districts

The *Municipal Government Act* states:

Designation of direct control districts

641(1) The council of a municipality that has adopted a municipal development plan, if it wishes to exercise particular control over the use and development of land or buildings within an area of the municipality, may in its land use bylaw designate that area as a direct control district.

(2) If a direct control district is designated in a land use bylaw, the council may, subject to any applicable statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary.

(3) In respect of a direct control district, the council may decide on a development permit application or may delegate the decision to a development authority with directions that it considers appropriate.

(4) Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

(a) is made by a council, there is no appeal to the subdivision and development appeal board, or

(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.

General Provisions from the DC1(15813) Direct Control Provision:

Section 2 of DC1(15811) states, in part: "This Provision applies to those lots... located on 81 Avenue between 101 and 102 Streets". The proposed development is located at 10122 – 81 Avenue NW.

Section 1 of DC1(15811) states that the **Purpose** of this direct control district is:

... to preserve the unique architectural character of a portion of 81 Avenue, provide for new commercial and compatible mixed use development opportunities and if possible preserve the view of the historic Canadian Pacific Railway (CPR) station to the west. This provision creates a unique pedestrian commercial shopping district while

ensuring future development is compatible with the character of buildings with historic false Façades.

With respect to the listed **uses** in this direct control district, section 3 of DC1(15811) states that “Permitted and Discretionary Uses in this Provision shall be as prescribed in the (CB2) General Business Zone with the addition of Live Work Units as a Permitted Use.”

The proposed development is for the addition of a **Minor Alcohol Sales** use, which is a **Discretionary Use** under section 340.3(18) of the CB2 Zone.

The proposed Minor Alcohol Sales use will be Accessory to an existing **Creation and Production Establishment**, which is a **Permitted Use** under section 340.2(7) of the CB2 Zone.

Section 7.4(32) states: “**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 m² per individual business premises.”

Section 7.4(13) states: “**Creation and Production Establishments** means development used for the custom creation or small-scale fabrication of goods produced in limited quantity, or for the creation, training and rehearsal of performance arts. Accessory Uses may include the retail sale of goods produced on Site. Typical uses include literary, visual, craft, design, and interdisciplinary and performance arts studios.”

With respect to **development and design regulations** governing this direct control district, section 4(a) of DC1(15811) states: “Except as modified below, development regulations in this Provision shall be as prescribed in the (CB2) General Business Zone and as modified by the Pedestrian Commercial Shopping Street Overlay, notwithstanding subsection 800.2(2)(a) of the Zoning Bylaw¹.”

Separation Distance

Section 85(1) states that “Any Major Alcohol Sales or Minor Alcohol Sales shall not be located less than 500 m from any other Major Alcohol Sales or Minor Alcohol Sales.”

Development Officer’s Determination

The Development Officer noted that Minor Alcohol Sales is a Discretionary Use in the CB2 General Business Zone, referenced section 85(1), and made the following determination:

There are 5 development permits approved for alcohol sales within 500 m of the subject site:



¹ Section 800.2(2)(a) of the *Edmonton Zoning Bylaw* states: “The Overlay shall not be used in conjunction with a Direct Control Provision”.

- Minor Alcohol Sales 158 m away at 10058 – 82 Avenue NW.
- Minor Alcohol Sales 178 m away at 10028 – 82 Avenue NW.
- Minor Alcohol Sales 273 m away at 8035 – 104 Street NW
- Major Alcohol Sales 320 m away at 7808 – Gateway Boulevard NW.
- Minor Alcohol Sales 440 m away at 8161 – 99 Street NW.

Notwithstanding Section 11 of this Bylaw, a Development Officer shall only grant a variance to subsection 85(1) or subsection 85(2) as outlined in subsections 85(7), 85(8) and 85(9). (Reference Section 85(6))
- subsections (7), (8) and (9) do not apply to the proposed development.

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: 242085428-001 Application Date: FEB 27, 2017 Printed: April 26, 2017 at 3:29 PM Page: 1 of 2		
<h2 style="margin: 0;">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) 10122 - 81 AVENUE NW Plan I Blk 60 Lot 19 Specific Address(es) Suite: 10122 - 81 AVENUE NW Entryway: 10122 - 81 AVENUE NW Building: 10122 - 81 AVENUE NW		
Scope of Application To add Minor Alcohol Sales as an Accessory Use to an existing Creation and Production Establishment. (STRATHCONA SPIRITS)			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Class B Gross Floor Area (sq.m.): 68.2 New Sewer Service Required: N Site Area (sq. m.): 402 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): 68.2 New Sewer Service Required: N Site Area (sq. m.): 402	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class B Gross Floor Area (sq.m.): 68.2 New Sewer Service Required: N Site Area (sq. m.): 402	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 Reason for Refusal 1. Minor Alcohol Sales is listed as a Discretionary Use in the CB2 Zone. (Reference Bylaw 15811 Section 3, and Bylaw 12800 Section 340.3(18)) 2. Any Major Alcohol Sales or Minor Alcohol Sales shall not be located less than 500 m from any other Major Alcohol Sales or Minor Alcohol Sales. (Reference Section 85(1)) There are 5 development permits approved for alcohol sales within 500 m of the subject site: - Minor Alcohol Sales 158 m away at 10058 – 82 Avenue NW. - Minor Alcohol Sales 178 m away at 10028 – 82 Avenue NW. - Minor Alcohol Sales 273 m away at 8035 – 104 Street NW - Major Alcohol Sales 320 m away at 7808 – Gateway Boulevard NW. - Minor Alcohol Sales 440 m away at 8161 – 99 Street NW. Notwithstanding Section 11 of this Bylaw, a Development Officer shall only grant a variance to subsection 85(1) or subsection 85(2) as outlined in subsections 85(7), 85(8) and 85(9). (Reference Section 85(6)) - subsections (7), (8) and (9) do not apply to the proposed development. 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: Apr 06, 2017 Development Authority: BELZILE, PAUL Signature: _____			
THIS IS NOT A PERMIT			



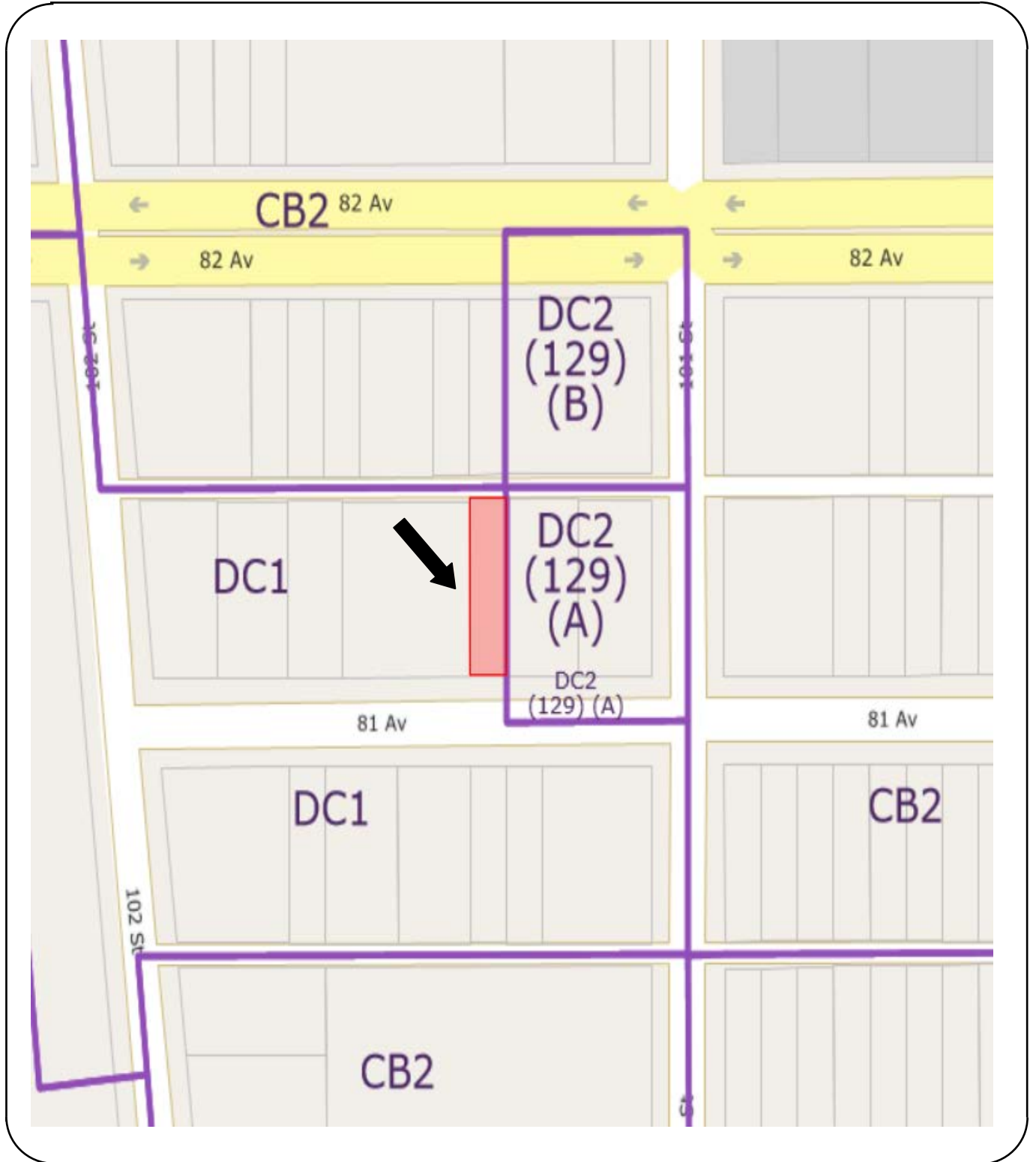
Application for Major Development Permit

Project Number: **242085428-001**
Application Date: FEB 27, 2017
Printed: April 26, 2017 at 3:29 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$500.00	\$500.00	03950250	Feb 28, 2017
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$500.00	\$500.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-082

