

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

Wednesday, May 6, 2020

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-20-039

To operate a Major Home Based Business (Administrative office and outdoor storage for HVAC Contractor – KARMA MECHANICAL). Outdoor storage of a commercial vehicle over 4600 kg.

7411 – 135A Avenue NW
Project No.: 117104949-003

II 9:00 A.M. SDAB-D-20-050

To change the Use from a General Retail Store to a Private Club (Aurora Social Club)

16404/16412 – 100 Avenue NW
Project No.: 350345199-004

III 9:00 A.M. SDAB-D-20-051

To change the Use from a General Retail Store to a Liquor Store

8933 – 118 Avenue NW
Project No.: 353625126-002

IV 9:00 A.M. SDAB-D-20-052

To change the Use from Specialty Food Services to a Nightclub (97.5 square metres of Public Space, VIBE)

11723 – Jasper Avenue NW
Project No.: 354918681-002

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-20-039

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT: Karma Mechanical Inc.

APPLICATION NO.: 117104949-003

APPLICATION TO: To operate a Major Home Based Business (Administrative office and outdoor storage for HVAC Contractor – KARMA MECHANICAL). Outdoor storage of a commercial vehicle over 4600 kg.

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 6, 2020

DATE OF APPEAL: February 27, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7411 – 135A Avenue NW

LEGAL DESCRIPTION: Plan 1428NY Blk 18 Lot 14

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN:

Grounds for Appeal

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

This decision will possibly close our business. We do not use the maximum weight.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board (“SDAB”) made and passed the following motion on March 25, 2020:

“That the appeal hearing be rescheduled to a date to be determined.”

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,

- (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, [...]

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

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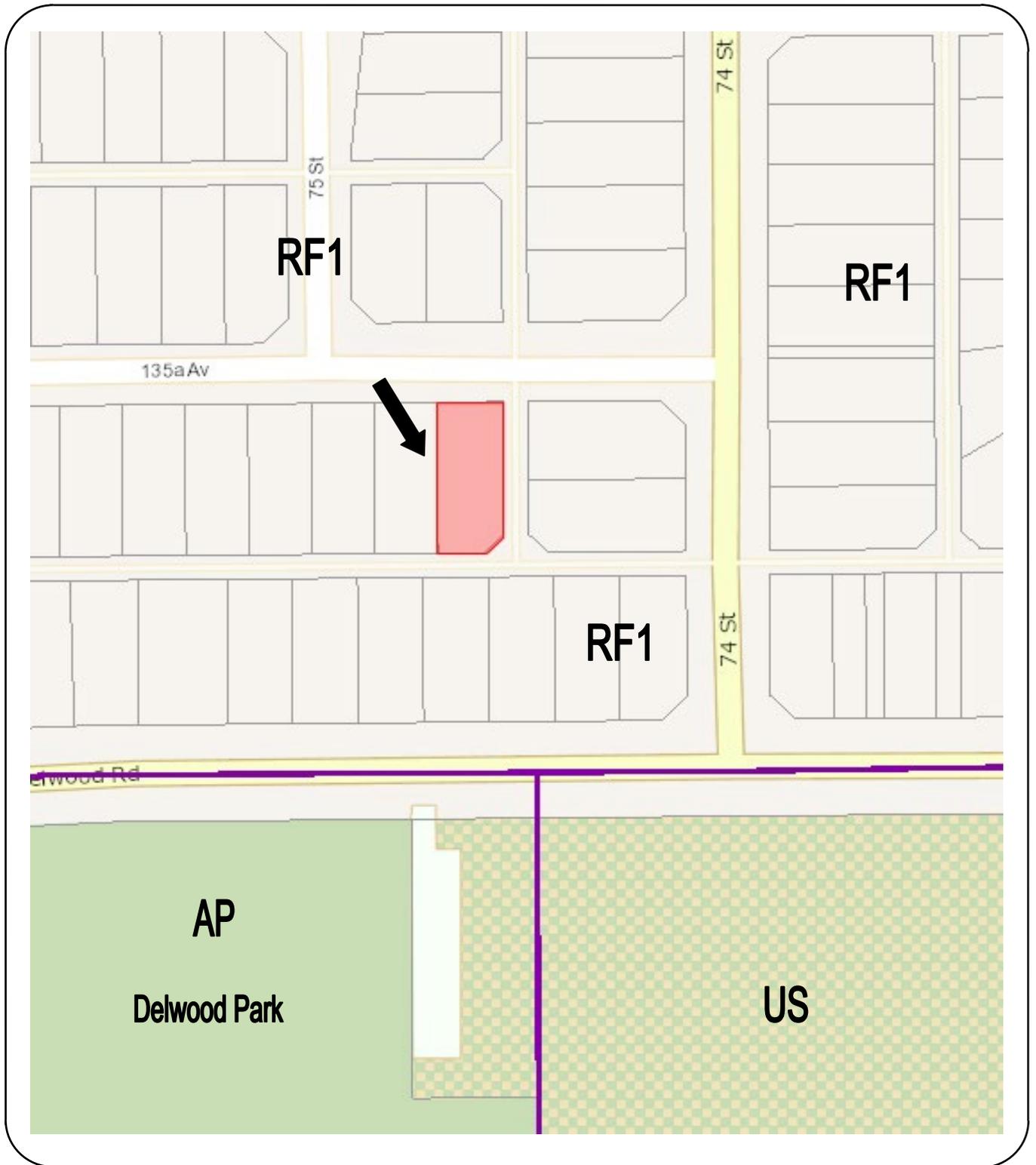
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development 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*:

Hearing Date: Wednesday, May 6, 2020

6

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.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-039



ITEM II: 9:00 A.M.

FILE: SDAB-D-20-050

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT: G. Bhangoo

APPLICATION NO.: 350345199-002

APPLICATION TO: Change the Use from a General Retail Store to a Private Club (Aurora Social Club)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: February 21, 2020

DATE OF APPEAL: March 18, 2020

RESPONDENT: Aurora Social Club of Edmonton

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 16404 / 16412 – 100 Avenue NW

LEGAL DESCRIPTION: Plan 0225531 Unit 36 and Unit 41

ZONE: DC2 Site Specific Development Control Provision

OVERLAY:

STATUTORY PLAN:

General Matters

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

We oppose the proposed application for a variance on the following grounds:

1. Our right to appeal stems from the *Edmonton Zoning Bylaw* 12800 S.21(2).
2. Parking in the condominium complex has been and remains a serious issue.
3. The subject complex is a condominium and the common property is controlled by the condominium corporation. The property manager has

- provided documentary evidence (copy attached for your easy reference) indicating a map of the subject complex. There are 48 condominium units and 191 parking stalls.
4. The property manager also provided documentary evidence dated January 19, 2017 (copy attached for your easy reference) indicating that all units facing 100 Avenue have exclusive use of the 3 parking spaces in front of their respective units. This is a total of 27 parking spaces.
 5. The property manager also provided documentary evidence (copy attached for your easy reference) indicating that the condominium corporation's bylaw 23.01 states: "A minimum of two (2) parking spaces are designated for each Unit". In other words, each unit has the exclusive right to use these designated parking spaces. Therefore, the 39 units that do not front onto 100 Avenue have exclusive use of 78 parking spaces.
 6. In total there are 105 parking spaces that have been designated for the exclusive use of the unit holders. This leaves only 93 parking spaces available for the use of patrons of the applicant's private club.
 7. The applicant requires 227 parking spaces for their proposed use of their unit. However, at best, there are only 96 spaces available for the patrons of the private club to park their vehicles in, which includes the 3 parking spaces in front of their unit.
 8. The applicant's proposed use of their unit creates a shortage of parking by 131 parking stalls. Clearly there is an inadequate/insufficient number of parking stalls to accommodate the proposed use by the applicant and therefore the variance should not be granted.
 9. The shortage of parking is not a minor issue. Indeed, the applicant has access to less than 43% of the parking they require for their private club.
 10. Any variance granted by the City would put a strain on an already strained parking arrangement, making it worse than it is now and poses a threat to the use of the parking by the other unit owners and their customers/clientele.
 11. As a law firm, we require adequate parking in order to accommodate the needs of our clients. We meet with clients regularly in both the evening and on weekends. Any variance granted will further impact an already difficult parking situation.
 12. The proposed variance also poses an impractical and unworkable threat to the parking situation in the overall community of Glenwood by creating too much demand for inadequate parking space.
 13. The unit owners are legally allowed to have any trespassing parked car towed away if not authorized by the unit owner to park in their designated parking stalls.
 14. We request that the board deny the application for the variance.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board ("SDAB") made and passed the following motion on March 25, 2020:

"That the appeal hearing be rescheduled to a date to be determined."

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,

- (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, or [...]

Hearing and Decision

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

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- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

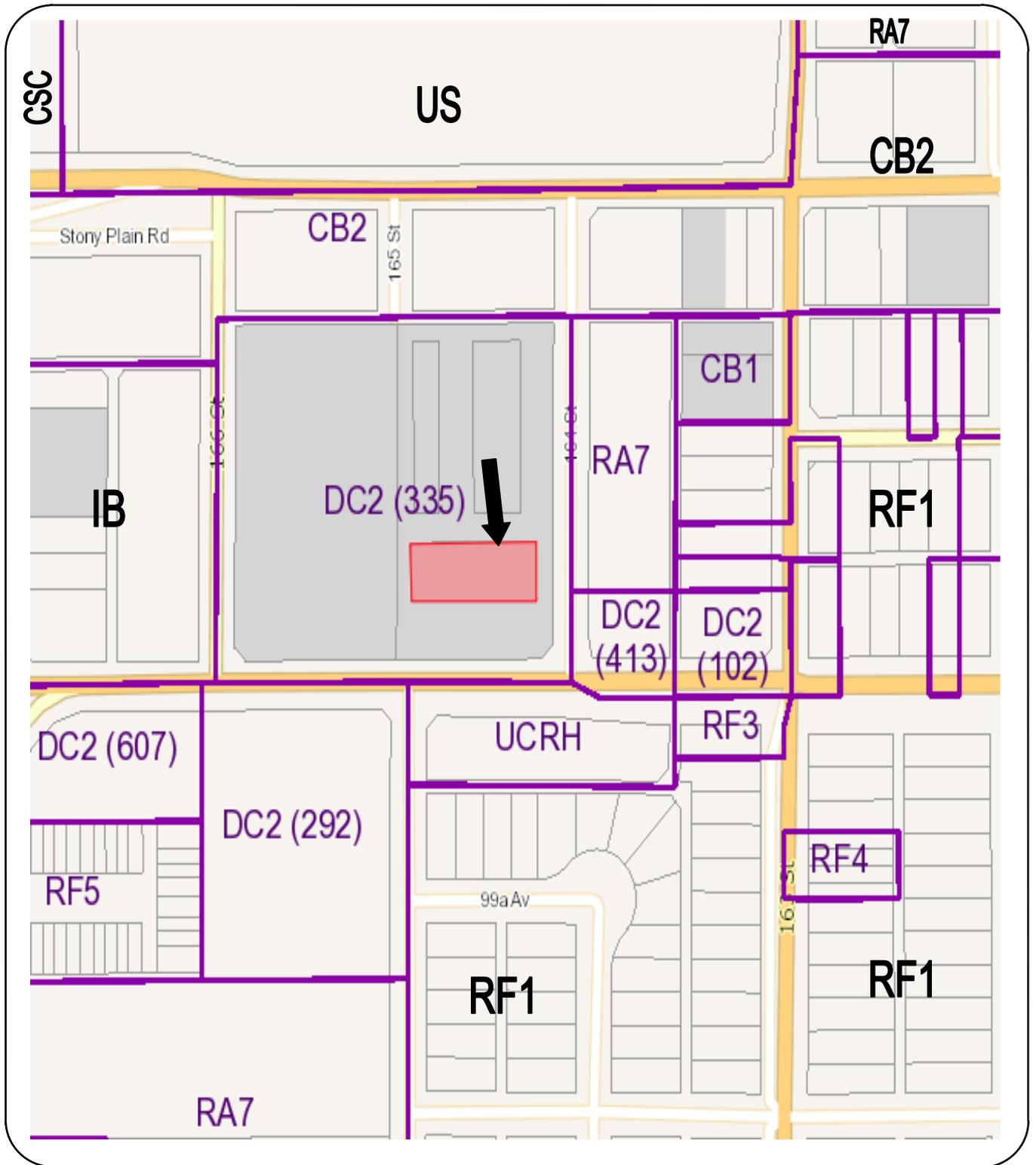
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- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of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

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.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-050



ITEM III: 9:00 A.M.

FILE: SDAB-D-20-051

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT: Alberta Avenue Business Association

APPLICATION NO.: 353625126-002

APPLICATION TO: Change the Use from a General Retail Store to a Liquor Store

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: March 9, 2020

DATE OF APPEAL: April 3, 2020

RESPONDENT: 2175562 Alberta Ltd.

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8933 – 118 Avenue NW

LEGAL DESCRIPTION: Plan RN43B Blk 63 Lot 14

ZONE: CB2 General Business Zone

OVERLAY:

STATUTORY PLAN:

General Matters

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

Our Board does not see it as it is not conducive to the ave. Cover letter to follow.

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

- (d) fails or refuses to issue a development permit to a person,
- (e) issues a development permit subject to conditions, or
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 - (ii) with respect to an application for a development permit,
 - (B) within 21 days after the date on which the written decision is given under section 642, or [...]

Hearing and Decision

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...

- (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;
- (e) 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
 - (C) unduly interfere with the amenities of the neighbourhood, or
 - (D) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

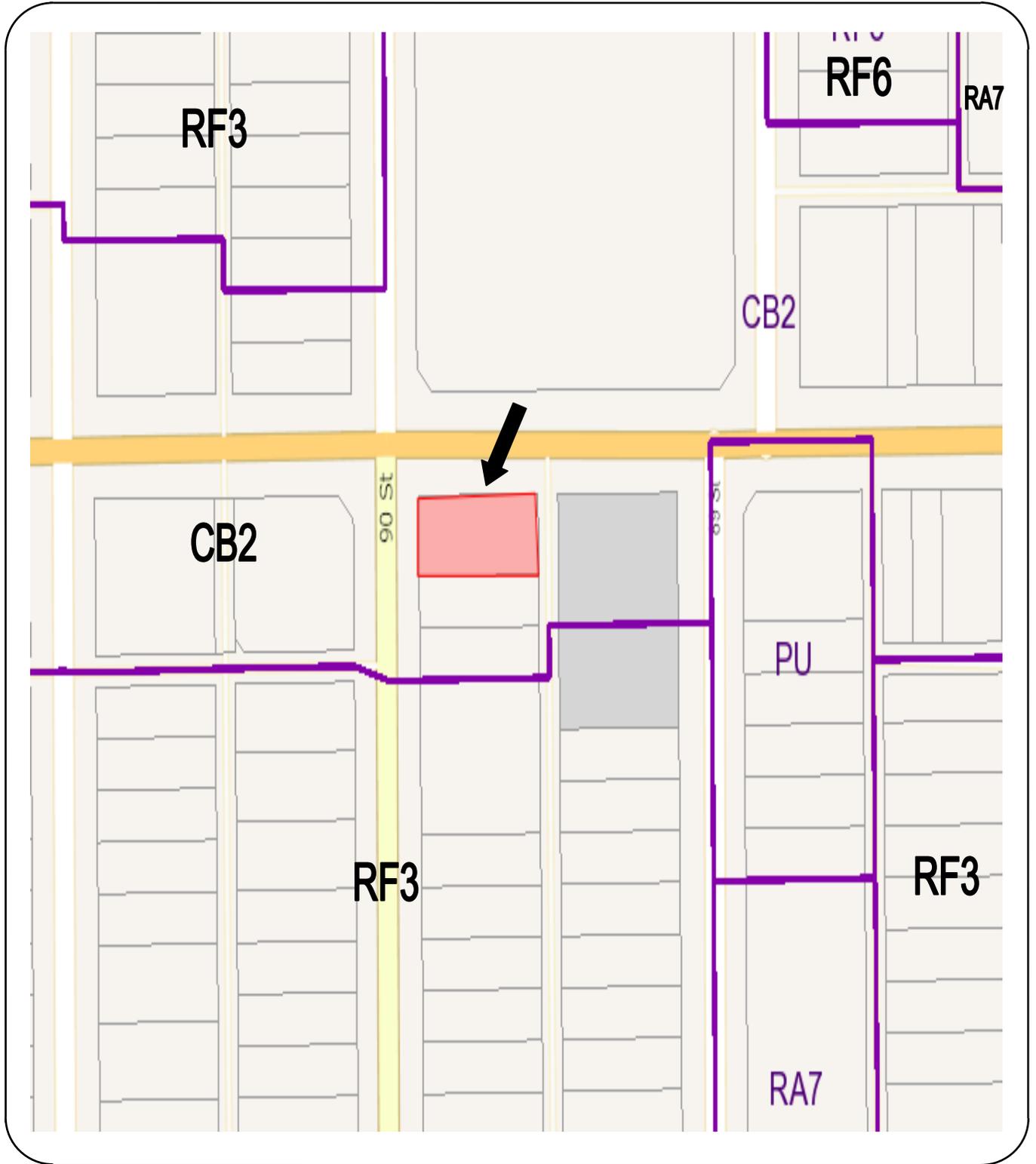
and

- (iii) 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*:

Notice to Applicant/Appellant

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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-051



ITEM III: 9:00 A.M.

FILE: SDAB-D-20-052

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT NO. 1: Uptown Estates Condominium Corp.
APPELLANT NO. 2: Dave Co Inc.
APPELLANT NO. 3: Grosvenor House Condominium
APPLICATION NO.: 354918681-002
APPLICATION TO: Change the Use from Specialty Food Services to a Nightclub (97.5 square metres Public Space, VIBE)
DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions
DECISION DATE: March 11, 2020
DATE OF APPEALS: April 1, April 3 and April 6, 2020
RESPONDENT: 2236081 Alberta Ltd.
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11723 – Jasper Avenue NW
LEGAL DESCRIPTION: Plan 7004ETB Blk 17 Lot C
ZONE: CB2 General Business Zone
OVERLAY:
STATUTORY PLAN:

General Matters

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

Appellant No. 1 – Uptown Estate Condominium Corp:

Insufficient on site parking, & noise to our residents. We are directly behind the proposed development & this nightclubs patrons would be parking in our buildings parking lot.

There is an already an existing restaurant adjacent to this proposed development that we are having issues with, & they are also required to provide on site parking & they operate late into the evening. This new application is using all the available parking available for this building.

Appellant No. 2 – Dave Co Inc.:

1. There is not any parking for the Tenants Customers. The parking lot at the back of the building has signs posted that read:
NO PARKING, PRIVAE PROPERTY, VEHICLES WILL TAGGED & TOWED AT OWNERS EXPENSE BYLAW#.\
2. The City requires 23 parking this requirement for this business is 23 parking spaces and has amended this 7. This is a huge reduction in the requirement. What tare the reasons for this? If the Development is granted, a condition of the permit must include signage identifying each space for the development.'
3. If a Development Permit is granted, then there will be 2 restaurants and a night club plus many other businesses. According to the Bylaw, it is my understanding that the parking requirement for the 3 food outlets would be 69 spaces, assuming no relaxing of the Bylaw.
4. My building has 8 parking spaces. The Dry Cleaning business has operated at that location since 1957 and we have sufficient parking for our customers. With the business at the subject site, the customers attempt to park on our parking lot and restrict the use for cleaning customers. On several occasions, the personnel will ask the restaurant customers not to park on our lot. The reply is verbal abuse, threats, and foul language. This is affecting our business. Approval will only compound the situation. Because of fear for the safety of our personnel, the Police have been called, The response has not been positive.
5. In the morning our parking lot looks like a garbage site. After we close many of the customers from the exiting restaurants trespass on my property and drink, smoke, shoot drugs and leave the garbage behind. Have spoken to the operator of the Club and was told that is my problem. This does not do well for the Jasper Avenue image. We have installed Security cameras to try to control the situation. Does not help.
6. My understanding is that the hours will be from 11:00 p.m. to 3:00 a.m. I am concerned that here will be more activity there than food restaurant. The owners will probably apply for an extension of hours. I fear for damage of my property. I would suggest that they pot a BOND to cover the costs of damage to my property.
7. We have followed the practices of Bubbles Car Wash in trying to secure the premises. We have installed a chain fence to keep our lot clear of parking after our business hours. This became a joke as the chain was cut several times and the abuses carried on after hours.

Please take the above concerns into account at decision time. We have staff of 8 people at that location who depend on a job there.

Appellant No. 3 – Board of Directors, Grosvenor House:

On behalf of the residents of Grosvenor House Condominium at 10045 118 Street NW, Edmonton, Alberta, the Board of Directors would like to appeal the

Approved Development Permit for a Nightclub at 11727 Jasper Ave NW - City File # 354918681-002 based on the following:

Firstly, the approved development lacks appropriate parking capacity. According to Section 54.2 Schedule 1(c) of Edmonton Zoning Bylaw 12800, the approved development requires twenty-three (23) on-site parking spaces. However, this site (the entire building at 11723, 11725, 11727 and 11729 Jasper Avenue NW) has only seven (7) parking spaces, more than a 70% deficiency. The concern with the lack of parking is that patrons would park in the back alley which could impede access for Emergency vehicles and also in Grosvenor House visitor parking which is adjacent to the building. The illegal and potentially dangerous parking has already happened with the existing Hookah Kitchen and Bar Nightclub. For further clarity the existing Nightclub uses the same parking stalls which have been allocated for the approved development.

Secondly, we are concerned about the amount of noise and neighbourhood disruption that would be caused by another Nightclub at 11727 Jasper Avenue NW in such close proximity to Grosvenor House. We must already contend with noise coming from the existing Hookah Kitchen and Bar Nightclub, including the loud music, patrons loitering, fighting and blowing car horns at the back of the building late at night (3 am). This has already caused residents in our building disruption in sleep as our bedrooms face the back alley. Another Nightclub would further intensify the noise issue.

Thirdly, there has been a number of bylaw complaints made against 11723, 11725, 11727 & 11729 Jasper Avenue NW concerning overflowing garbage from the dumpster in their rear parking lot with no resolution. The fourth and latest complaint was made on July 4th 2019, reference numbers 324504822-001 and 324505632-001.

It is our strong belief that a business of this nature is not suitable in our neighbourhood, as it disrupts the enjoyment of the approx. 500 residents, many seniors living in the surrounding condominiums including: Grosvenor House, 10045 - 118 Street NW, 52 condos; Serenity, 10055 - 118 Street NW 56 condos; Uptown Estates, 10046 - 117 Street NW, 53 condos; Martyn Apartments, 10036 - 117 Street NW, 5 units; Victoria Plaza, 11710 - 100 Avenue NW, 66 units; and Victoria Promenade, 11716 - 100 Avenue NW, at least 40 units. See attached photos for clarity.

This area is our neighbourhood and we take pride and pleasure in living here. We thank you in advance for allowing us to appeal the development.

Grosvenor House Board of Directors

Ralph Salisny - President
Bob Gauthier - Vice President
Chad Musselwhite - Treasurer
Rolando Inzunza - Secretary
Bruce McCollum - Director
Don Murphy - Director

General Matters

Appeal Information:

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

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and

- (iv) 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*:

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