

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
November 2, 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-16-274

Construct exterior alterations to an existing
Single Detached House - driveway extension in
front of the front attached Garage

6011 - 4 Avenue SW
Project No.: 228055832-003

II 10:30 A.M. SDAB-D-16-275

WITHDRAWN

Change the use from General Retail to a Bar and
Neighbourhood Pub (maximum of 400
occupants and 691square metres of Public
Space)

10204 - 104 Street NW
Project No.: 188282372-001

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-16-274

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 228055832-003

ADDRESS OF APPELLANT: 6011 - 4 Avenue SW

APPLICATION TO: Construct exterior alterations to an existing Single Detached House - driveway extension in front of the front attached Garage

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 3, 2016

DATE OF APPEAL: October 7, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6011 - 4 Avenue SW

LEGAL DESCRIPTION: Plan 0720871 Blk 6 Lot 88

ZONE: RSL Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: Charlesworth Neighbourhood Structure Plan
Southeast Area Structure Plan

Grounds for Appeal

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

We wish to appeal this refusal based upon the impact of the extra concrete on the streetscape and neighbouring houses. Although we have exceeded the width of concrete allowed and reduced the amount of landscaping the location of the lot and the impact of these infractions are minimal. This lot was the last one on the block to be completed and due to the corner lot location deep in the cul-de-sac, it does not effect the streetscape or neighbourhood in a negative way.

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, or
 - ...

The decision of the Development Officer is dated October 3, 2016. The Notice of Appeal was filed on October 7, 2016.

Determining an Appeal

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*:

Section 115.1 states that the **General Purpose** of the **RSL Residential Small Lot Zone** is:

... to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites.

Under Section 115.1(4), **Single Detached Housing** is a **Permitted Use** in the RSL Residential Small Lot Zone.

Section 6.1(26) states:

Driveway means an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area.

Maximum Driveway Width

Section 54.1(4)(b) provides as follows:

4. The Front Yard of any at Grade Dwelling unit in any Residential Zone, or in the case of a corner Site, the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The area hardsurfaced for a Driveway, not including the area used as a walkway, shall have:

...

b. a maximum width that shall be calculated as the product of 3.1 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage;

Development Officer's Determination

Driveway width - The maximum Driveway width exceeds 6.20m.
(Section 54.1.4(b)). [unedited]

Driveway Location

Section 54.1(5) states that "The Driveway shall lead directly from the roadway to the required Garage or Parking Area."

Development Officer's Determination

Driveway location - The Driveway does not lead directly from the roadway to the required Garage or Parking Area. (Section 54.1.5)
[unedited]

Location of Vehicular Parking

Section 54.2(2)(e)(i) states:

e. Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, that are required in accordance with the minimum standards of this Bylaw shall be located in accordance with the following:

...

i. parking spaces shall not be located within a Front Yard;

Development Officer's Determination

Location of Vehicular Parking - Parking spaces shall not be located within a Front Yard. (Section 54.2.2.e.i) [unedited]

Front Yard Landscaping

Section 55.2(1)(g) states:

Unless otherwise specified in this Bylaw, or developed as part of a Multi-unit Project Development, all new Single Detached Housing, Semi-detached Housing, Duplex Housing, Row Housing and Stacked Row Housing, shall be Landscaped in accordance with the following:

...



g. all Yards visible from a public roadway, other than a Lane, shall be seeded or sodded;

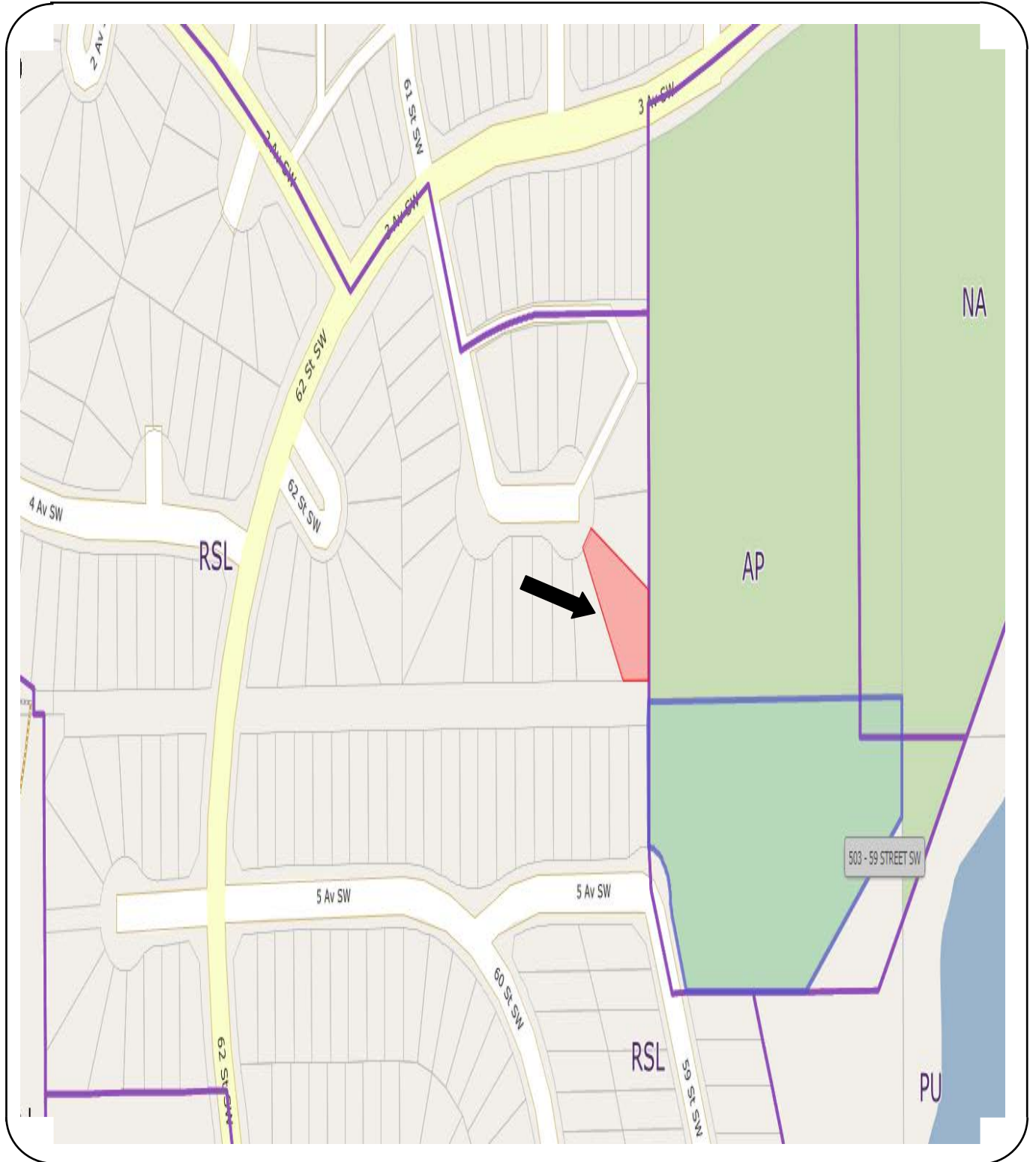
Development Officer's Determination

Landscaping - The Front Yard has not been landscaped (seeded or sodded) in accordance with Section 55 (Section 55.2.1(g)) [unedited]

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: 228055832-003 Application Date: AUG 25, 2016 Printed: October 3, 2016 at 4:41 PM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Minor Development Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
Applicant 	Property Address(es) and Legal Description(s) 6011 - 4 AVENUE SW Plan 0720871 Blk 6 Lot 88																				
Scope of Application To construct exterior alterations to an existing Single Detached House - driveway extension in front of the front attached Garage.																					
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> # of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Exterior Alterations (Res.) Secondary Suite Included?: N </td> <td style="width: 50%; border: none;"> Class of Permit: (none) Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Exterior Alterations (Res.) Secondary Suite Included?: N	Class of Permit: (none) Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none)																		
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I/We certify that the above noted details are correct. Applicant signature: _____																					
Development Application Decision Refused Reason for Refusal Driveway width - The maximum Driveway width exceeds 6.20m. (Section 54.1.4(b)). Driveway location - The Driveway does not lead directly from the roadway to the required Garage or Parking Area. (Section 54.1.5), Location of Vehicular Parking - Parking spaces shall not be located within a Front Yard. (Section 54.2.2.e.i) Landscaping - The Front Yard has not been landscaped (seeded or sodded) in accordance with Section 55 (Section 55.2.1(g)) 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: Oct 03, 2016 Development Authority: PIHOOJA, KATHERINE Signature: _____																					
Fees <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$159.00</td> <td style="text-align: right;">\$159.00</td> <td style="text-align: right;">03549694</td> <td style="text-align: right;">Aug 25, 2016</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$0.00</td> <td style="text-align: right; border-top: 1px solid black;"></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right;">\$159.00</td> <td style="text-align: right;">\$159.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$159.00	\$159.00	03549694	Aug 25, 2016	Total GST Amount:	\$0.00				Totals for Permit:	\$159.00	\$159.00		
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THIS IS NOT A PERMIT																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-274



ITEM II: 10:30 A.M.

FILE: SDAB-D-16-275

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 188282372-001

ADDRESS OF APPELLANT: 10204 - 104 Street NW

APPLICATION TO: Change the use from General Retail to a Bar and Neighbourhood Pub (maximum of 400 occupants and 691square metres of Public Space)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 24, 2016

DATE OF APPEAL: August 24, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10204 - 104 Street NW

LEGAL DESCRIPTION: Plan 1423340 Blk 4 Lot 2

ZONE: HA Heritage Area Zone

OVERLAY: Special Area Downtown Overlay

STATUTORY PLAN: Capital City Downtown Plan

WITHDRAWN

Grounds for Appeal

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

I act on behalf of Urban Sparq Hospitality, the Applicant for the above development permit. Urban Sparq Hospitality wishes to appeal the refusal of its application. The grounds of appeal are as follows:

1. The proposed development complies with all development regulations.
2. The proposed development is compatible with surrounding development and is appropriate for this location.
3. The proposed development will not materially interfere with or affect the use, enjoyment or value of neighbouring properties.

- 4. Such further and other grounds as may be raised at the hearing of the 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, or
 - ...

The decision of the Development Officer is dated August 10, 2016. The Notice of Appeal was filed on August 24, 2016.

Determining an Appeal

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*:

Section 910.1 states that the **General Purpose** of the **Downtown Special Area Zoning Regulations** 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 910.7(1) states that the **General 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.”

Under Section 910.7(3)(b), **Bars and Neighbourhood Pubs, for more than 100 occupants and 120 m² of Public Space**, is a **Discretionary Use** in the HA Heritage Area Zone.

Section 7.4(6) states:

Bars and Neighbourhood Pubs 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. This Use Class typically has a limited menu and minors are prohibited from patronizing the establishment during at least some portion of the hours of operation. Typical Uses include neighbourhood pubs, bars, beverage rooms, and cocktail lounges.

Development Officer's Reason For Refusal

Section 11.3(1) states:

The Development Officer may approve, with or without conditions as a Class B Development, an application for development that does not comply with this Bylaw where:

1. the proposed development would not, in their opinion:
 - a. unduly interfere with the amenities of the neighbourhood; or
 - b. materially interfere with or affect the use, enjoyment or value of neighbouring properties.

Development Officer's Determination

1. In the opinion of the Development Officer the proposed development would materially interfere with or affect the use, enjoyment or value of neighbouring properties including the apartment units within the tower.[unedited]

Development Officer's Note

Section 910.4(8) provides as follows:

8. Transparency
 - a. The ground floor level portion of the façade abutting a Public Roadway, other than a lane, shall be comprised of transparent, non-reflective, non-tinted, non-obscured glazing.
 - b. Blank walls or non-transparent surfaces shall not exceed 20% of the linear building frontage at Grade, where fronting onto a Public Roadway, other than a lane. Blank walls or non-transparent surfaces on buildings with non-Residential Uses shall not exceed 6.0m in width, except if the surface is designed to accommodate Public Art, then the maximum width shall be no wider than 10.0m.

Development Officer's Note



Note:

The Use, Bars and Neighbourhood Pubs, for more than 100 occupants and 120 m2 of Public Space, is a Discretionary Use under the (HA) Heritage Area Zone, Downtown Special Area Zoning Regulations.

The Development Officer notes a concern with non-transparent surfaces (ref. Section 910.4.8(b) of the Zoning Bylaw). It appears that the floor plan shows a change to the exterior wall because bathroom facilities are proposed along the east facade (104 Street). [unedited]

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: 188282372-001 Application Date: MAR 08, 2016 Printed: August 11, 2016 at 11:12 AM 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) 10204 - 104 STREET NW Plan 1423340 Blk 4 Lot 2 Specific Address(es) Entryway: 10204 - 104 STREET NW Building: 10204 - 104 STREET NW										
Scope of Application To change the use from General Retail to a Bar and Neighbourhood Pub (maximum of 400 occupants and 691m2 of Public Space)											
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.): 881 New Sewer Service Required: N/A Site Area (sq. m.): 1855.21 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): 881 New Sewer Service Required: N/A Site Area (sq. m.): 1855.21	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 Application Decision Refused Reason for Refusal 1. In the opinion of the Development Officer the proposed development would materially interfere with or affect the use, enjoyment or value of neighbouring properties including the apartment units within the tower. Note: The Use, Bars and Neighbourhood Pubs, for more than 100 occupants and 120 m2 of Public Space, is a Discretionary Use under the (HA) Heritage Area Zone, Downtown Special Area Zoning Regulations. The Development Officer notes a concern with non-transparent surfaces (ref. Section 910.4.8(b) of the Zoning Bylaw). It appears that the floor plan shows a change to the exterior wall because bathroom facilities are proposed along the east facade (104 Street). 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: Aug 10, 2016 Development Authority: SEMENIUK, CARLA Signature: _____											
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THIS IS NOT A PERMIT											



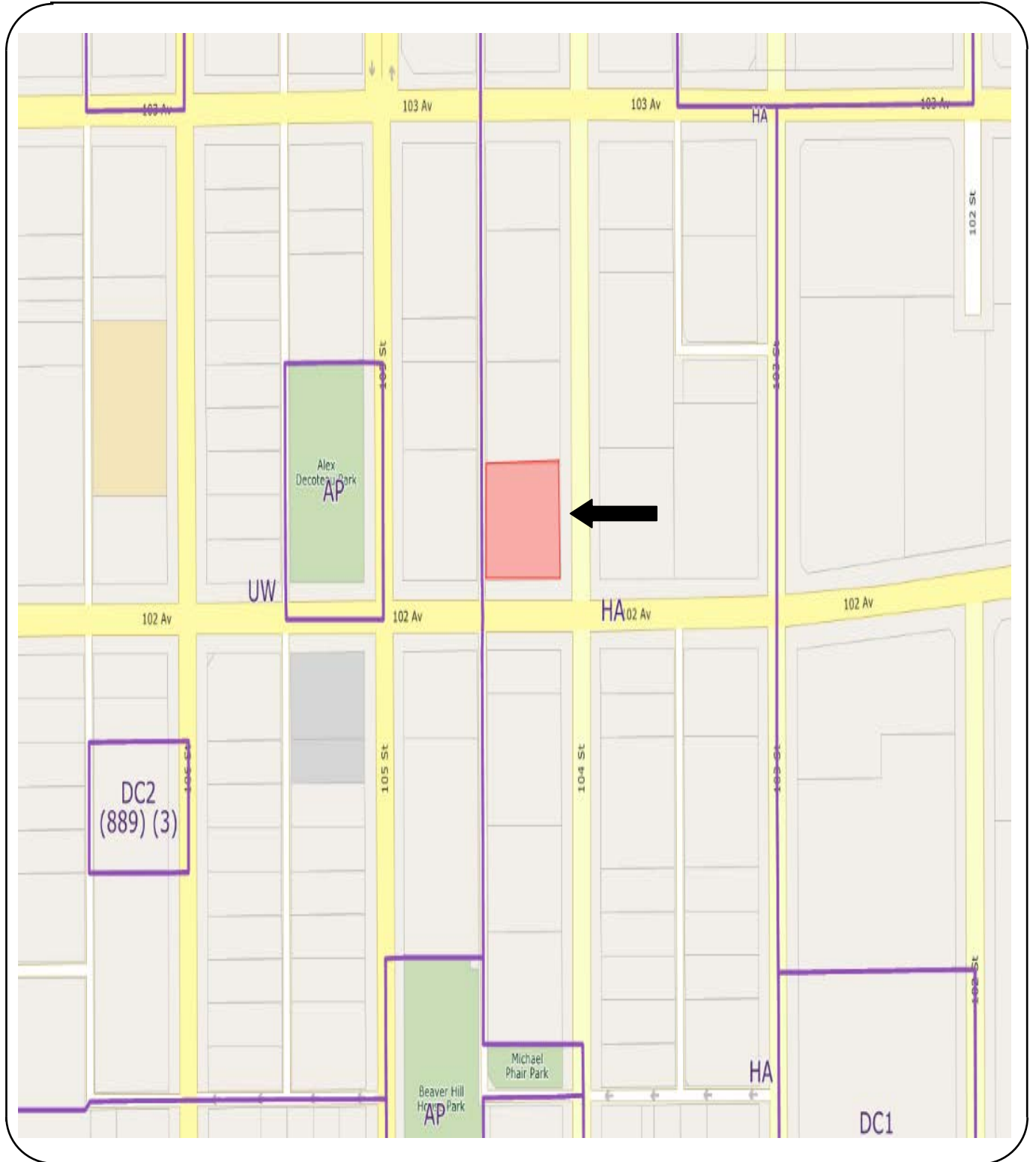
Project Number: **188282372-001**
Application Date: MAR 08, 2016
Printed: August 11, 2016 at 11:12 AM
Page: 2 of 2

Application for Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$102.00	\$102.00	03160997	Mar 30, 2016
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$425.00	\$425.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-275



BUSINESS LAID OVER

SDAB-D-16-237	An appeal to install (1) Freestanding Minor Digital Off-premises Sign (6.1 m x 3 m facing E/W) November 3, 2016
SDAB-D-16-252	An appeal to operate a Major Home Based Business (Filling Sandbags – Sandbags.ca) November 23 or 24, 2016
SDAB-D-16-144	An appeal 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) November 30 or December 1, 2016
SDAB-S-14-001	An appeal to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 January 25, 2017

APPEAL HEARINGS TO BE SCHEDULED

000413016-003	An appeal to Comply with a Stop Order to Cease the Non-Accessory Parking, REMOVE all meters, signage and material related to parking and REFRAIN from allowing Non-Accessory Parking. November 17, 2016
000413016-004	An appeal to Comply with a Stop Order to Cease the Non-Accessory Parking, REMOVE all meters, signage and material related to parking and REFRAIN from allowing Non-Accessory Parking. November 17, 2016
188283359-001	An appeal to change the use from a Flea Market Use to a Night Club and Major Amusement Establishment (1757 square metres of Public space) November 23 or 24, 2016
182548244-007	An appeal to construct an Accessory Building (Shed, 3.20 metres by 3.12 metres), existing without permits December 7 or 8, 2016
128010578-001	An appeal to erect a Privacy Screen 8ft in height along the Southwest portion of the property, along a Required Side Yard December 7 or 8, 2016