

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
November 16, 2017**

**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-17-222 | Operate a Major Home Based Business<br>(Participant recreation services - DUONG<br>MYTIEN).<br><br>11739 - 44 Avenue NW<br>Project No.: 262563355-001 |
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| II | 10:30 A.M. | SDAB-D-17-223 | Change the Use from General Retail Stores to<br>Minor Alcohol Sales and to construct interior<br>alterations. (CRAFT BEERS ON JASPER)<br><br>10336 - Jasper Avenue NW<br>Project No.: 260786370-001 |
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| III | 1:30 P.M. | SDAB-D-17-224 | Construct a Convenience Retail Store (24/7<br>Seven Eleven Store) and to demolish an existing<br>Convenience Retail Store building<br><br>6545 - 99 Street NW,<br>Project No.: 244029905-001 |
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**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-17-222

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

APPELLANT:

APPLICATION NO.: 262563355-001

APPLICATION TO: Operate a Major Home Based Business (Participant recreation services - DUONG MYTIEN).

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: October 11, 2017

DATE OF APPEAL: October 26, 2017

NOTIFICATION PERIOD: Oct 17, 2017 through Oct 31, 2017 (Reference page 2 of permit)

RESPONDENT: Mytien Duong

ADDRESS OF RESPONDENT: 11739 - 44 Avenue NW

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11739 - 44 Avenue NW

LEGAL DESCRIPTION: Plan 1210NY Blk 24 Lot 19

ZONE: RF1 Single Detached Residential Zone

OVERLAY: MNO Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

***Grounds for Appeal***

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

This is a quiet Cul-De-Sac with only local traffic, no commercial traffic and no parking for a business. People buy property in these areas in order to avoid traffic and have a quite home life. This is not the area to start a Major Home Business. With a recreation center, multiple school's with gymnasiums and a leisure center all within 1 km of this location there is

no reason this person can not rent these facilities that are already in place that the City of Edmonton provides in order to run a martial arts school.

*General Matters*

**Appeal Information:**

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

**Grounds for Appeal**

**685(2)** 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.

**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,

...

(b) 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.

On October 26, 2017, section 1(65) of *An Act to Strengthen Municipal Government*, SA 2017 c13, was proclaimed in force. Section 1(65) provides, in part:

**Section 686(1) [of the *Municipal Government Act*] is repealed and the following is substituted:**

**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

...

(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

The *Edmonton Zoning Bylaw 12800* provides as follows:

**20. Notification of Issuance of Development Permits**

**20.2 Class B Development**

1. Within seven days of the issuance of a Development Permit for a Class B Discretionary Development, the Development Officer shall dispatch a written notice by ordinary mail to all relevant parties listed below that are wholly or partially within 60.0 m of the boundaries of the Site which is the subject of the Development Permit:
  - a. each assessed owner of the Site or a part of the Site of the development;
  - b. each assessed owner of land;
  - c. the President of each Community League; and
  - d. the President of each Business Revitalization Zone.
2. The notice shall describe the development and state the decision of the Development Officer, and the right of appeal therefrom.
3. Within 10 days of the issuance of a Development Permit for Class B Discretionary Development, the Development Officer shall cause to be published in a daily newspaper circulating within the City, a notice describing the development and stating their decision, and the right to appeal therefrom.
4. Where, in the opinion of the Development Officer, a proposed development is likely to affect other owners of land beyond 60.0 m, the Development Officer shall notify owners of land at such additional distance and direction from the Site as, in the opinion of the Development Officer, may experience any impact attributable to the development.

**The decision of the Development Officer is dated October 11, 2017. Notice of the development was published in the Edmonton Journal on October 17, 2017. The Notice of Appeal was filed on October 27, 2017.**

**Determining an Appeal**

The *Municipal Government Act* states the following:

**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 110.1 states that the **General Purpose** of the **RF1 Single Detached Residential Zone** is:

... to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

Under Section 110.3(5), **Major Home Based Business** is a **Discretionary Use** in the RF1 Single Detached Residential Zone.

Section 7.3(7) states:

**Major Home Based Business** means development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution.

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

...to regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

|                                 |
|---------------------------------|
| <i><b>Discretionary Use</b></i> |
|---------------------------------|

The Development Officer noted that the proposed development is a Discretionary Use and granted the permit.

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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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Project Number: **262563355-001**  
Application Date: SEP 19, 2017  
Printed: October 11, 2017 at 9:25 AM  
Page: 1 of 2

## Home Occupation

This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.

|   |   |
|---|---|
| <b>Applicant</b><br><br> | <b>Property Address(es) and Legal Description(s)</b><br>11739 - 44 AVENUE NW<br>Plan 1210NY Blk 24 Lot 19<br><br><b>Specific Address(es)</b><br>Suite: 11739 - 44 AVENUE NW<br>Entryway: 11739 - 44 AVENUE NW<br>Building: 11739 - 44 AVENUE NW |
|---|---|

**Scope of Permit**  
To operate a Major Home Based Business (Participant recreation services - DUONG MYTIEN).

|  |   |
|--|---|
| <b>Permit Details</b><br><br># of business related visits/day: 8<br>Administration Office Only?: N<br>Class of Permit:<br><br>Do you live at the property?: Y<br>Outdoor storage on site?: N | # of vehicles at one time: 4<br>Business has Trailers or Equipment?: N<br>Description of Business: Meditation, exercises, self-defense and confidence-building exercises.<br>Expiry Date: 2022-10-11 00:00:00 |
|--|---|

I/We certify that the above noted details are correct.  
Applicant signature: \_\_\_\_\_

**Development Permit Decision**  
Approved

The permit holder is advised to read the reverse for important information concerning this decision.





Project Number: **262563355-001**  
 Application Date: SEP 19, 2017  
 Printed: October 11, 2017 at 9:25 AM  
 Page: 2 of 2

## Home Occupation

**Subject to the Following Conditions**

Unless otherwise stated, all references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw #12800, as amended.

- 1.The business owner must live at the site. The business use must be secondary to the residential use of the building and shall not change the residential character of the Dwelling or Accessory Building (Section 7.3(7)).
- 2.There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling (Section 75.1).
- 3.The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located (Section 75.3).
- 4.The number of non-resident employees or business partners working on-site shall not exceed two at any one time (Section 75.4).
- 5.The number of visits associated with the business shall not exceed the number approved with this application.
- 6.There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
- 7.No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
- 8.The business use must maintain the privacy and enjoyment of adjacent residences and the characteristic of the neighbourhood.
- 9.All parking for the Dwelling and Home Based Business must be accommodated on site unless a parking variance has been granted for this Major Home Based Business.
- 10.This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
- 11.This approval is for a 5 year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on \*\*\*\*October/11/2022\*\*\*\*.

**Notes:**

- 1.An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It 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 (Section 5.2).
- 2.This Development Permit is not a Business License.
- 3.Subject to the right of appeal. The permit is not valid until the required Notification Period expires (date noted below in accordance with Section 21.1 and 17.1).

**VariANCES**

Discretionary Use - Major Home Based Business is approved as a Discretionary Use (Section 110.3.5).

**Rights of Appeal**

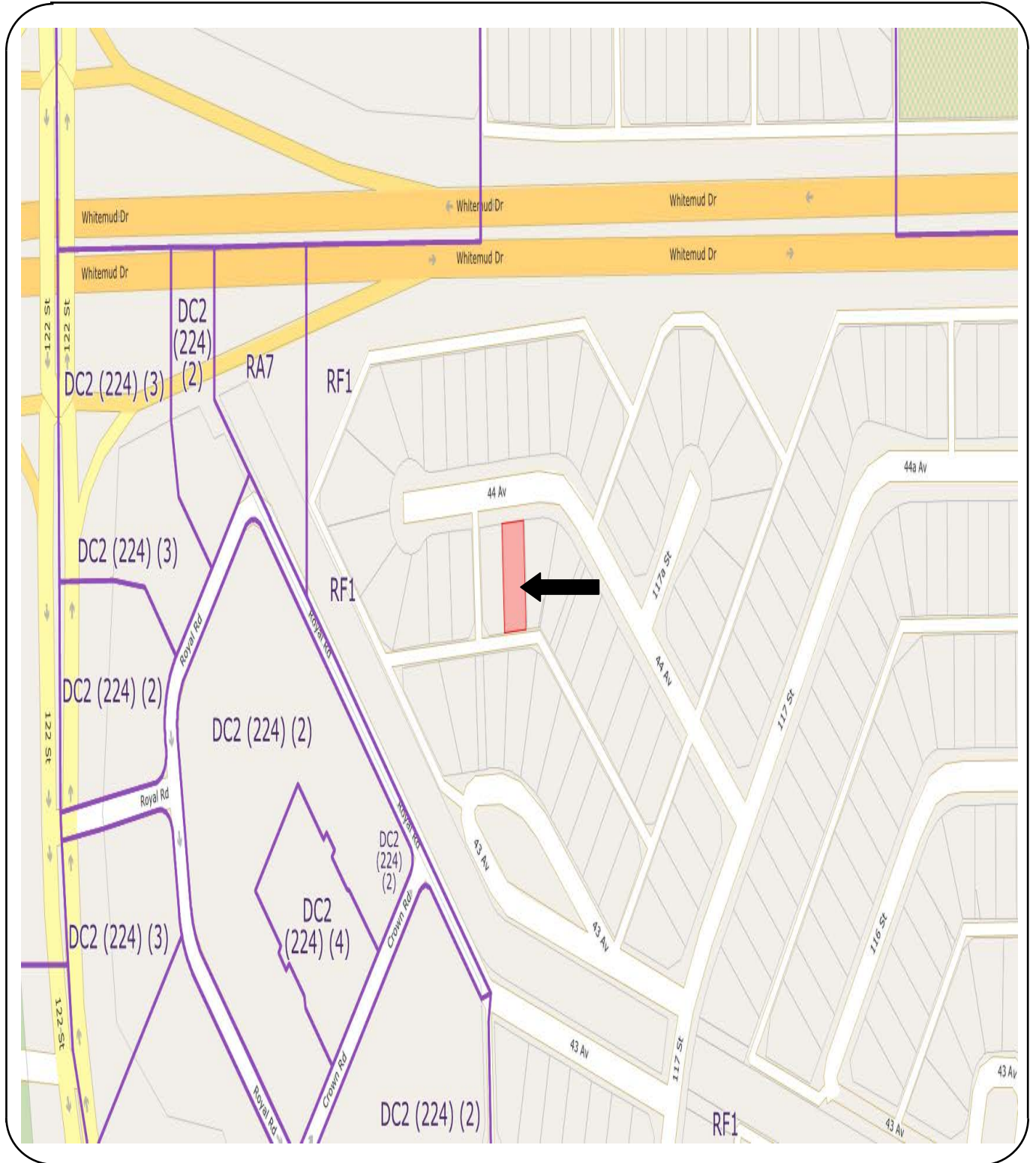
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

**Issue Date:** Oct 11, 2017    **Development Authority:** ANGELES, JOSELITO    **Signature:** \_\_\_\_\_  
**Notice Period Begins:** Oct 17, 2017    **Ends:** Oct 31, 2017

**Fees**

|                      | Fee Amount | Amount Paid | Receipt # | Date Paid    |
|----------------------|------------|-------------|-----------|--------------|
| Dev. Application Fee | \$309.00   | \$309.00    | 04465731  | Sep 19, 2017 |
| Total GST Amount:    | \$0.00     |             |           |              |
| Totals for Permit:   | \$309.00   | \$309.00    |           |              |

**The permit holder is advised to read the reverse for important information concerning this decision.**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-17-222



ITEM II: 10:30 A.M.

FILE: SDAB-D-17-223

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 260786370-001

APPLICATION TO: Change the Use from General Retail Stores to Minor Alcohol Sales and to construct interior alterations. (CRAFT BEERS ON JASPER)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 26, 2017

DATE OF APPEAL: October 11, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10336 Jasper Avenue NW

LEGAL DESCRIPTION: Plan NB Blk 3 Lot 156

ZONE: HA Heritage Area Zone

OVERLAY: Special Area Downtown

STATUTORY PLAN: Capital City Downtown Area Redevelopment Plan

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***Grounds for Appeal***

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

It was understood that this application would require a variance that was outside of the Development Officer' discretion to grant but there are circumstances that should be considered that may have it this outside of the intent of the restrictions in the zoning bylaw. Because of its location in the most densely populated part of Edmonton and its extremely high rate of pedestrian traffic, this location should be exempt [unedited]

***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
  - ...

On October 26, 2017, section 1(65) of *An Act to Strengthen Municipal Government*, SA 2017 c13, was proclaimed in force. Section 1(65) provides, in part:

**Section 686(1) [of the *Municipal Government Act*] is repealed and the following is substituted:**

**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 decision is made under section 642...

**The decision of the Development Officer is dated September 26, 2017. The Canada Post Registered Mail Receipt confirms delivery of the decision on September 28, 2017. The Notice of Appeal was filed on October 11, 2017.**

### **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 910.7(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(2)(p), **Minor Alcohol Sales** is a **Permitted Use** in the HA Heritage Area Zone.

Section 7.4(34) 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 m<sup>2</sup> per individual business premises.

Section 910.1 states that the **General Purpose** of the **Special Area Downtown** 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.”

***Separation Distance from Other Alcohol Sales***

Section 85(1) states: “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**

There are 5 Major Alcohol Sales or Minor Alcohol Sales Uses located within 500 m of the proposed Minor Alcohol Sales Use. The subject site is:

- 57 m from 10111 - 104 Street NW (Devine Wine and Spirits)
- 208 m from 10150 - Jasper Avenue NW (Sunterra Cellar)
- 315 m from 10311 - 103 Avenue NW (Arena Liquor)
- 440 m from 1 - Edmonton City Centre NW (Unwined)
- 441 m from 1C, 10020 - Jasper Avenue NW (Downtown Liquor)

***Development Officer Variance Powers***

Section 85(6) states: “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).”

Sections 85(7) to (9) provide as follows:

7. When the Development Officer receives an application for a Development Permit that is for the purpose of accommodating the temporary relocation of an approved Major Alcohol Sales or Minor Alcohol Sales within 500 m of its original location, a variance to subsection 85(1) or subsection 85(2) may be granted where:

- a. the application for the Development Permit is for a Temporary Development, in order to limit the introduction of an additional Major

Alcohol Sales or Minor Alcohol Sales within 500 m of the original approved Development Permit;

b. the temporary location for any Major Alcohol Sales or Minor Alcohol Sales is not within 500 m of any legally conforming Major Alcohol Sales or Minor Alcohol Sales;

c. the application for a Development Permit will not result in a total Floor Area for a Major Alcohol Sales or Minor Alcohol Sales that is 10.0% greater than the Floor Area of the existing approved Major Alcohol Sales or Minor Alcohol Sales, to a maximum increase of 50 m<sup>2</sup>; and

d. the application for a Development Permit will not result in a change of Use from Minor Alcohol Sales to Major Alcohol Sales.

8. When a Development Officer receives an application for a Development Permit that is for the purpose of accommodating the reversion of an existing approved Major Alcohol Sales or Minor Alcohol Sales back to its original location on a Site, a variance of subsection 85(1) or subsection 85(2) may only be granted where the application for the reversion is submitted to the Development Officer within 5 years of the date of vacating the original location and the application will not result in a total Floor Area that is greater than the original approved Major Alcohol Sales or Minor Alcohol Sales. and
9. The issuance of a Development Permit which contains a variance pursuant to subsection 85(7) shall be issued as a Temporary Development for a duration of up to 5 years or less, to be determined by the Development Officer.

#### **Development Officer's Determination**

Subsections 85(7), 85(8) and 85(9) regulate the Temporary Relocation of an existing Minor or Major Alcohol Sales Use. The proposed Minor Alcohol Sales Use is not for the temporary relocation of an existing Minor Alcohol Sales Use. Therefore, the Development Officer does not have the authority to grant a variance to Section 85(1).

|   |
|---|
| <b><i>Separation Distance from Park</i></b> |
|---|

Section 85(4) states:

Any Site containing a Major Alcohol Sales or Minor Alcohol Sales shall not be located less than 100 m from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Major Alcohol Sales or Minor Alcohol Sales. Sites that are greater than 2.0 ha

in size and zoned either CSC or DC2, are exempt from this restriction. For the purposes of this subsection only:

- a. the 100 m separation distance shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;
- b. the term "community or recreation activities" is limited to Community Recreation Services, as defined in subsection 7.8(1) of this Bylaw, which includes community league buildings and facilities, and children's playgrounds and play areas. This term does not include arenas or other public assembly Uses, Child Care Services, Public Libraries and Cultural Exhibits, or Religious Assembly;
- c. the term "public or private education facilities" is limited to elementary through to high schools inclusive only, and does not include dance schools, driving schools or other Commercial Schools; and
- d. the term "public lands" is limited to Sites zoned AP, and active recreation areas in the North Saskatchewan River Valley and Ravine System, as shown in Appendix I of Section 811 of this Bylaw, that are zoned A; it does not include passive areas in the North Saskatchewan River Valley and Ravine System, as shown in Appendix I of Section 811 of this Bylaw and other areas zoned A.

**Development Officer's Determination**

The proposed Minor Alcohol Sales Use is 57 m from a site zoned AP (Michael Phair Park at 10124 - 104 Street NW).

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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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Project Number: **260786370-001**  
Application Date: AUG 29, 2017  
Printed: September 26, 2017 at 3:29 PM  
Page: 1 of 2

## Application for Major Development Permit

This document is a Development Permit Decision for the development application described below.

|   |  |
|---|--|
| <b>Applicant</b><br><br> | <b>Property Address(es) and Legal Description(s)</b><br>10336 - JASPER AVENUE NW<br>Plan NB Blk 3 Lot 156                                  |
|   | <b>Specific Address(es)</b><br>Suite: 10340 - JASPER AVENUE NW<br>Entryway: 10340 - JASPER AVENUE NW<br>Building: 10332 - JASPER AVENUE NW |

**Scope of Application**  
To change the Use from General Retail Stores to Minor Alcohol Sales and to construct interior alterations. (CRAFT BEERS ON JASPER)

|   |   |
|---|---|
| <b>Permit Details</b>   |   |
| Class of Permit:<br>Gross Floor Area (sq.m.): 271.7<br>New Sewer Service Required: N<br>Site Area (sq. m.): | Contact Person:<br>Lot Grading Needed?: N<br>NumberOfMainFloorDwellings:<br>Stat. Plan Overlay/Annex Area: Downtown |

I/We certify that the above noted details are correct.  
Applicant signature: \_\_\_\_\_

**Development Application Decision**  
Refused

**THIS IS NOT A PERMIT**



Project Number: **260786370-001**  
 Application Date: AUG 29, 2017  
 Printed: September 26, 2017 at 3:29 PM  
 Page: 2 of 2

## Application for Major Development Permit

**Reason for Refusal**

[1] 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 Major Alcohol Sales or Minor Alcohol Sales Uses located within 500 m of the proposed Minor Alcohol Sales Use. The subject site is:

- 57 m from 10111 - 104 Street NW (Devine Wine and Spirits)
- 208 m from 10150 - Jasper Avenue NW (Sunterra Cellar)
- 315 m from 10311 - 103 Avenue NW (Arena Liquor)
- 440 m from 1 - Edmonton City Centre NW (Unwined)
- 441 m from 1C, 10020 - Jasper Avenue NW (Downtown Liquor)

[2] 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 85(7), 85(8) and 85(9) regulate the Temporary Relocation of an existing Minor or Major Alcohol Sales Use. The proposed Minor Alcohol Sales Use is not for the temporary relocation of an existing Minor Alcohol Sales Use. Therefore, the Development Officer does not have the authority to grant a variance to Section 85(1).

[3] Any Site containing a Major Alcohol Sales or Minor Alcohol Sales shall not be located less than 100 m from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Major Alcohol Sales or Minor Alcohol Sales. (Section 85(4))

The proposed Minor Alcohol Sales Use is 57 m from a site zoned AP (Michael Phair Park at 10124 - 104 Street NW).

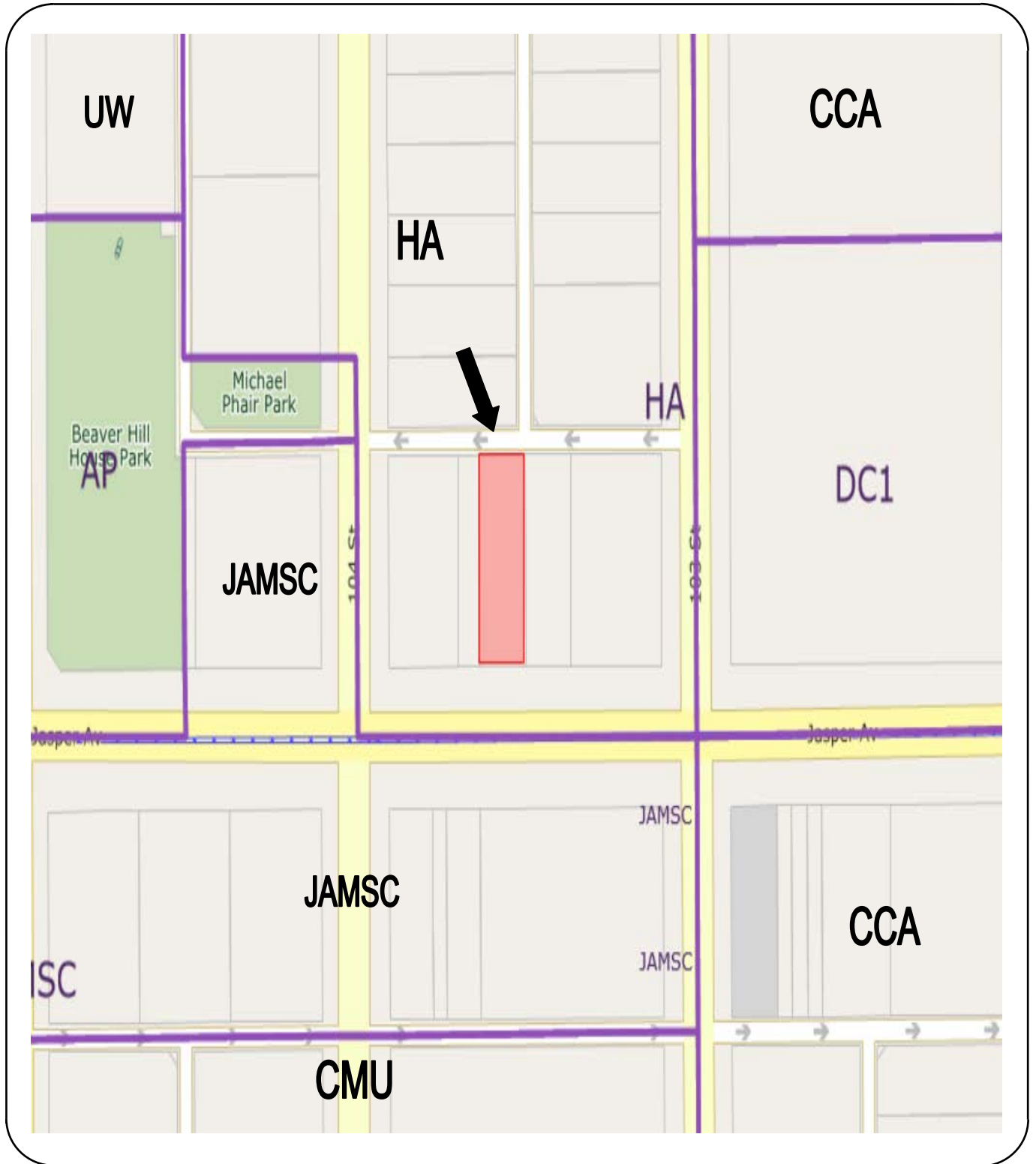
**Rights of Appeal**

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:** Sep 26, 2017    **Development Authority:** BELZILE, PAUL    **Signature:** \_\_\_\_\_

| <b>Fees</b>                |                   |                    |                  |                  |
|----------------------------|-------------------|--------------------|------------------|------------------|
|                            | <b>Fee Amount</b> | <b>Amount Paid</b> | <b>Receipt #</b> | <b>Date Paid</b> |
| Major Dev. Application Fee | \$271.00          | \$271.00           | 04413054         | Aug 30, 2017     |
| Total GST Amount:          | \$0.00            |                    |                  |                  |
| Totals for Permit:         | \$271.00          | \$271.00           |                  |                  |

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-17-223



ITEM III: 1:30 P.M.

FILE: SDAB-D-17-224

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 244029905-001

APPLICATION TO: Construct a Convenience Retail Store (24/7 Seven Eleven Store) and to demolish an existing Convenience Retail Store building

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 27, 2017

DATE OF APPEAL: October 12, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6545 - 99 Street NW

LEGAL DESCRIPTION: Plan 1198KS Blk 29 Lot 2U  
Plan 1198KS Blk 29 Lot 1  
Plan 1198KS Blk 29 Lot 2

ZONE: CNC Neighbourhood Convenience Commercial Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

***Grounds for Appeal***

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

We are solicitors for DVA Systems Ltd., owners of the above described lands, and their architects, EFG Architects, the Applicants in the above noted matter. Our clients' Development Permit Application has been refused. On behalf of our clients, we hereby appeal the refusal on the following grounds:

1. The proposed development is a Permitted Use in the CNC Zone.

2. The siting of the proposed building is necessitated by the existence of a City Utility Right-of-Way extending through the middle of the site.
3. The siting of the proposed building will serve as a visual buffer from the on-site parking areas and will result in a much improved streetscape along 99th Street.
4. A facility of the type proposed is lacking in the neighbourhood, and the same will add to the amenities of the neighbourhood. Neither will the proposed development, in any way, impact negatively on the use, enjoyment or value of neighbouring properties.
5. Such further and other reasons as may be presented at the hearing of this 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
  - ...

On October 26, 2017, section 1(65) of *An Act to Strengthen Municipal Government*, SA 2017 c13, was proclaimed in force. Section 1(65) provides, in part:

**Section 686(1) [of the *Municipal Government Act*] is repealed and the following is substituted:**

**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 decision is made under section 642...

**The decision of the Development Officer is dated September 27, 2017. The Canada Post Registered Mail Receipt confirms delivery of the decision on September 29, 2017. The Notice of Appeal was filed on October 12, 2017.**

**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 310.1 states that the **General Purpose** of the **CNC Neighbourhood Convenience Commercial Zone** “is to provide for convenience commercial and personal service uses, which are intended to serve the day-to-day needs of residents within residential neighbourhoods.”

Under section 310.2(1), **Convenience Retail Stores** is a **Permitted Use** in the CNC Neighbourhood Convenience Commercial Zone.

Section 7.4(13) states:

**Convenience Retail Stores** means development used for the retail sale of those goods required by area residents or employees on a day to day basis, from business premises which do not exceed 275 m<sup>2</sup> in gross Floor Area. Typical Uses include small food stores, drug stores, and variety stores selling confectionery, tobacco, groceries, beverages, pharmaceutical and personal care items, hardware or printed matter. This Use does not include Cannabis Retail Sales.

***Minimum Setback***

Section 310.4(5) states: “A minimum Setback of 4.5 m shall be required where a Site abuts a public roadway, other than a Lane.”

**Development Officer’s Determination**

Proposed: 0m  
Deficient by 4.5m

***Edmonton Design Committee***

Section 14.7 states:

1. The Development Officer, prior to rendering a decision on the Development Permit application, shall refer applications as outlined in Bylaw 14054 to the Edmonton Design Committee for review and

comment, and may refer applications for Digital Signs at the Development Officer's discretion.

2. Before rendering a decision, the Development Officer shall consider the Edmonton Design Committee's comments.

**Development Officer's Determination**

The Edmonton Design Committee has stated the following, dated June 22, 2017:

"As determined by the Edmonton Design Committee at the meeting on June 20, 2017, I regret to pass on the Committee's decision of nonsupport of the New Stand Alone 7Eleven (Development Permit Application) submitted by efg Architects. In its current configuration the site is overdeveloped. The required setbacks have not been provided, and the minimum landscape requirement has not been met."

The Development Officer concurs with the decision of the Edmonton Design Committee. This includes the revised landscaping plan (submitted September 19, 2017), wherein the loading space conflicts with the existing loading doors on the existing commercial building.

***Landscaping***

Section 55.3(1)(e) states: "all open space including Front Yards, Rear Yards, Side Yards and Yards, at Grade Amenity Areas, Private Outdoor Amenity Areas, Setback areas and Separation Spaces shall be landscaped with flower beds, grass, ground cover or suitable decorative hardscaping in addition to trees and shrubs. This requirement shall not apply to those areas designated for parking or vehicular circulation."

**Development Officer's Determination**

The Side Yard abutting 99 St. is not provided in accordance with Section 310.4(5), and therefore the required Landscaping is not provided in this Yard.

***Loading Spaces and Their Location***

Section 54.4 Schedule 3 – Loading Spaces Requirement provides as follows:

| Use of Building or Site   | Total Floor Area of Building                               | Minimum Number of loading Spaces Required |
|---|--|---|
| 1. Any development within the Commercial or Industrial Use Classes, excluding Professional, Financial and Office Support Services | Less than 465 m <sup>2</sup>                               | 1   |
|   | 465 m <sup>2</sup> to 2 300 m <sup>2</sup>                 | 2   |
|   | Each additional 2 300 m <sup>2</sup> , or fraction thereof | 1 additional                              |



Section 54.4(2) states:

Location of Loading Spaces

- a. Off-street loading spaces shall be provided entirely within the property of the development being served, and shall be subject to all Setback requirements specified elsewhere in this Bylaw.
- b. Off-street loading shall be oriented away from residential developments.
- c. All required loading spaces shall be clear of any access driveways, aisles, ramps, columns, Signs or other similar obstructions.

**Development Officer's Determination**

4) Section 54.4 Schedule 3 - Loading Spaces Requirement

Required: 2 stalls

Provided: 1 stall

Deficient by 1 stall

5) Section 54.4(2) - Location of Loading Spaces

Location and orientation of the proposed Loading Space is not clear of drive aisles and access driveways of the existing commercial building.

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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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Project Number: **244029905-001**  
Application Date: MAR 23, 2017  
Printed: September 27, 2017 at 3:18 PM  
Page: 1 of 3

## Application for Major Development Permit

This document is a Development Permit Decision for the development application described below.

|                          |   |
|--------------------------|---|
| <b>Applicant</b><br><br> | <b>Property Address(es) and Legal Description(s)</b><br>6545 - 99 STREET NW<br>Plan 1198KS Blk 29 Lot 2U<br>6545 - 99 STREET NW<br>Plan 1198KS Blk 29 Lot 1<br>6545 - 99 STREET NW<br>Plan 1198KS Blk 29 Lot 2<br><br><b>Specific Address(es)</b><br>Suite: 6545 - 99 STREET NW<br>Entryway: 6545 - 99 STREET NW<br>Building: 6545 - 99 STREET NW |
|--------------------------|---|

**Scope of Application**  
 To construct a Convenience Retail Store (24/7 Seven Eleven Store) and to demolish an existing Convenience Retail Store building.

|   |   |
|---|---|
| <b>Permit Details</b>   |   |
| Class of Permit:<br>Gross Floor Area (sq.m.):<br>New Sewer Service Required: Y<br>Site Area (sq. m.): | Contact Person:<br>Lot Grading Needed?: Y<br>NumberOfMainFloorDwellings:<br>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: **244029905-001**  
 Application Date: MAR 23, 2017  
 Printed: September 27, 2017 at 3:18 PM  
 Page: 2 of 3

## Application for Major Development Permit

**Reason for Refusal**

1) Section 310.4(5) - A minimum Setback of 4.5 m shall be required where a Site abuts a public roadway, other than a Lane.  
 Proposed: 0m  
 Deficient by 4.5m

2) Section 14.7(1) and 14.7(2) - The Development Officer, prior to rendering a decision on the Development Permit application, shall refer applications as outlined in Bylaw 14054 to the Edmonton Design Committee for review and comment. Before rendering a decision, the Development Officer shall consider the Edmonton Design Committee's comments.

The Edmonton Design Committee has stated the following, dated June 22, 2017:  
 "As determined by the Edmonton Design Committee at the meeting on June 20, 2017, I regret to pass on the Committee's decision of nonsupport of the New Stand Alone 7Eleven (Development Permit Application) submitted by efg Architects. In its current configuration the site is overdeveloped. The required setbacks have not been provided, and the minimum landscape requirement has not been met."

The Development Officer concurs with the decision of the Edmonton Design Committee. This includes the revised landscaping plan (submitted September 19, 2017), wherein the loading space conflicts with the existing loading doors on the existing commercial building.

3) Section 55.5(1)(e) All open space including Front Yards, Rear Yards, Side Yards and Yards, at Grade Amenity Areas, Private Outdoor Amenity Areas, Setback areas and Separation Spaces shall be landscaped with flower beds, grass, ground cover or suitable decorative hardscaping in addition to trees and shrubs. This requirement shall not apply to those areas designated for parking or vehicular circulation.

The Side Yard abutting 99 St. is not provided in accordance with Section 310.4(5), and therefore the required Landscaping is not provided in this Yard.

4) Section 54.4 Schedule 3 - Loading Spaces Requirement  
 Required: 2 stalls  
 Provided: 1 stall  
 Deficient by 1 stall

5) Section 54.4(2) - Location of Loading Spaces  
 Location and orientation of the proposed Loading Space is not clear of drive aisles and access driveways of the existing commercial building.

**ADVISEMENT:**

1) The applicant and property Owner is advised that Plan 1198 KS, Block 29, Lot 2U is Utility Right-of-Way (URW). The Owner shall not, without the prior written consent for the City, stockpile, excavate, drill, install, erect, construct or place above, on or under the Right-of-Way, any pavement, building, fence, pit, sidewalk, or other structure or improvement. The Owner shall not permit any of these activities to occur by others without the City's prior written consent.

**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:** Sep 27, 2017    **Development Authority:** LI, CINDY    **Signature:** \_\_\_\_\_

**Fees**

|                                 | Fee Amount | Amount Paid | Receipt # | Date Paid    |
|---------------------------------|------------|-------------|-----------|--------------|
| Lot Grading Fee                 | \$227.00   | \$227.00    | 04000637  | Mar 24, 2017 |
| Major Dev. Application Fee      | \$929.00   | \$929.00    | 04000637  | Mar 24, 2017 |
| Sanitary Sewer Trunk Fund 2012+ | \$421.36   |             |           |              |

**THIS IS NOT A PERMIT**



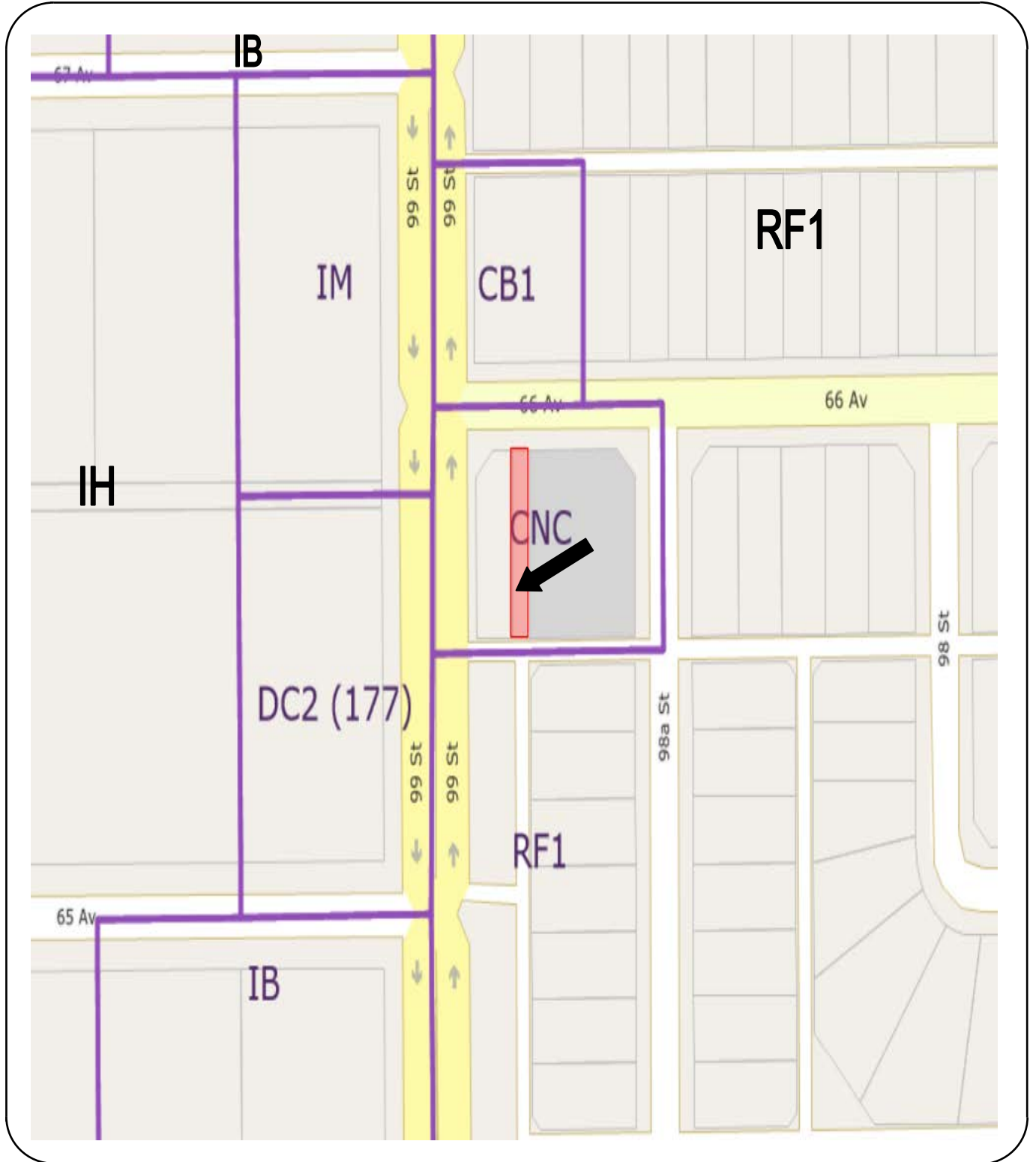
Project Number: **244029905-001**  
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## Application for Major Development Permit

**Fees**

|                                   | <b>Fee Amount</b> | <b>Amount Paid</b> | <b>Receipt #</b> | <b>Date Paid</b> |
|-----------------------------------|-------------------|--------------------|------------------|------------------|
| Development Permit Inspection Fee | \$500.00          |                    |                  |                  |
| Total GST Amount:                 | <u>\$0.00</u>     | <u>          </u>  |                  |                  |
| Totals for Permit:                | \$2,077.36        | \$1,156.00         |                  |                  |
| (\$921.36 outstanding)            |                   |                    |                  |                  |

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-17-224



N