

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
November 8, 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-17-207	Change the Use from General Retail Stores to Restaurants and to construct interior alterations to expand the existing Restaurant Use (Total Public space 167.4 square metres) 11218 - 76 Avenue NW, 11216 - 76 Avenue NW, 11214 - 76 Avenue NW, 11212 - 76 Avenue NW, 11222 - 76 Avenue NW Project No.: 000931377-005
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II	10:30 A.M.	SDAB-D-17-211	Construct and operate a temporary Non-accessory Parking lot (surface parking lot with 310 vehicular parking stalls) for three (3) years from the date of issuance of the Development Permit 10104 - 104 Avenue NW Project No.: 244581351-001
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III	1:30 P.M.	SDAB-D-17-209	Construct a Health Services and Convenience Retail building and to demolish existing 2 houses and 1 detached garage 11809 - 68 Street NW Project No.: 258883492-001
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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-17-207

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

APPELLANT:

ADDRESS OF APPELLANT: 11233 – 77 Avenue NW

APPLICATION NO.: 000931377-005

APPLICATION TO: Change the Use from General Retail Stores to Restaurants and to construct interior alterations to expand the existing Restaurant Use (Total Public space 167.4 square metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved

DECISION DATE: September 19, 2017

DATE OF APPEAL: October 13, 2017

NOTIFICATION PERIOD: Sept. 26, 2017 through Oct. 10, 2017

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11218 - 76 Avenue NW, 11216 - 76 Avenue NW, 11214 – 76 Avenue NW, 11212 - 76 Avenue NW, 11222 - 76 Avenue NW

LEGAL DESCRIPTION: Plan 169HW Blk 10 Lot 8, Plan 169HW Blk 10 Lot 9, Plan 169HW Blk 10 Lot 10, Plan 169HW Blk 10 Lots 6-7

ZONE: CSC-Shopping Centre Zone

OVERLAY: N/A

STATUTORY PLAN: McKernan / Belgravia Station Area Redevelopment Plan

Grounds for Appeal

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

Dear board members,

Please consider this appeal for the proposed building changes for 11212 76 Ave. (Plan 169HW Blk 10 Lot 10). This Appeal has been filed after the deadline, and leave is requested due to the preoccupation and considerations associated with my husband's mother suffering a stroke, and thereby requiring immediate attention.

The main concern is the fact that "The site has 24 parking stalls instead of 51." This is a very significant deficiency; it is not that only a few parking spots are missing, but more than half of the required amount is missing. The parking on the proposed site will not be sufficient for the expected quantity of patrons, so the only option will be residential street parking. As 77avenue is across the alley from the proposed site, in an attempt to find parking people will use 77 Avenue. We have found that even with the residential parking restriction on 77 avenue, there are numerous times where parking is an issue. Non-residents use this avenue for a number of purposes.

These include, but are not limited to:

- Increased parking on 77 Avenue from parents waiting to pick up and drop off their children in the morning, lunch and after school, this also includes evening school events such as soccer.
- Increased parking on 77 Avenue for sport and concert events where people park on the street in order to take the LRT.
- Increased parking on 77 Avenue from University students, where people park during the day, and even longer in the evenings, because 2 hour parking is legal during the day.
- Increased parking on 77 Avenue from people playing sports in the McKernan school field (Using the field during summer and hockey rink in winter)
- Increased parking on 77 Avenue as people walk their dogs in the McKernan school field.
- Infill properties in this neighborhood already add stress on the problematic parking infrastructure - especially since current zoning allows for duplex housing thereby effectively doubling the vehicle quantity. Allowing local businesses to overflow into this area, thereby exacerbating what already is an existing problem, is not in the best interest of the neighbourhood.
- One safety aspect to consider, further, is how the added traffic will affect the safety of the children who walk to McKernan school and play.

The added stress of excessive parking in this neighborhood will affect safety, add noise, and alter aesthetics. Ultimately it will affect the property value of local citizens, as parking is always a consideration when buying a house so if

there is an obvious overabundance of cars parked in front of houses, without the required parking sticker, this will make prospective buying reconsidered their interest.

General Matters

The Board is advised that the decision of approval by the Development Officer is dated September 19, 2017. The date of the Newspaper Notice was September 26, 2017. The Notice of Appeal Period began September 26, 2017 and ended October 10, 2017. The Notice of Appeal was filed on October 13, 2017.

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.

(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.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

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

...

or

(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.

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.

The *Edmonton Zoning Bylaw* states the following:

20.2 Class B Discretionary 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 metres 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 metres, 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.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 320.1 states the **General Purpose** of the **(CSC) Shopping Centre Zone** is to provide for larger shopping centre developments intended to serve a community or regional trade area. Residential, office, entertainment and cultural uses may also be included within such shopping complexes.

Section 320.2(21) states **Restaurants**, for less than 200 occupants and 240 square metres of Public Space, is a **Permitted Use** in the **(CSC) Shopping Centre Zone**.

Under Section 7.4(47), **Restaurants** mean development where the primary purpose of the facility is the sale of prepared foods and beverages to the public, for consumption within the premises or off the Site. Minors are never prohibited from any portion of the establishment at any time during the hours of operation. This Use typically has a varied menu, with a fully equipped kitchen and preparation area, and includes fast food and family restaurants.

Parking

Section 54.2, Schedule 1(A)(24). States Restaurants require 1 parking space per 9.6 square metres of Public Space.

Development Officer's Determination

Parking - The site has 24 parking stalls, instead of 51. (Section 54.2 and Schedule 1)

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: 931377-005
Application Date: JUL 12, 2017
Printed: September 19, 2017 at 3:45 PM
Page: 1 of 2

Major Development Permit

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.

Applicant <div style="border: 1px solid black; width: 300px; height: 50px; margin: 10px auto;"></div>	Property Address(es) and Legal Description(s) 11218 - 76 AVENUE NW Plan 169HW Blk 10 Lot 8 11216 - 76 AVENUE NW Plan 169HW Blk 10 Lot 9 11212 - 76 AVENUE NW Plan 169HW Blk 10 Lot 10 11222 - 76 AVENUE NW Plan 169HW Blk 10 Lots 6-7 Specific Address(es) Suite: 11212 - 76 AVENUE NW Suite: 11214 - 76 AVENUE NW Entryway: 11212 - 76 AVENUE NW Entryway: 11214 - 76 AVENUE NW Building: 11212 - 76 AVENUE NW
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Scope of Permit
To change the Use from General Retail Stores to Restaurants and to construct interior alterations to expand the existing Restaurant Use (Total Public space 167.4 sq.m).

Permit Details Class of Permit: Class B Gross Floor Area (sq.m.): 245 New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
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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: **931377-005**
 Application Date: JUL 12, 2017
 Printed: September 19, 2017 at 3:45 PM
 Page: 2 of 2

Major Development Permit

Subject to the Following Conditions

1. All required parking and loading facilities shall only be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the building or Use for which the parking and loading facilities are provided, and the parking and loading facilities shall not be used for driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind. (Reference Section 54.1.1.c)
2. Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51)

ADVISEMENTS:

- a. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)
- b. This Development Permit is NOT a Business Licence. A separate application must be made for a Business Licence. Please contact the 311 Call Centre (780-442-5311) for further information.
- c. Signs require separate Development Applications.
- d. A building permit is required for any construction or change in Use of a building. For a building permit, and prior to the plans examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre (780-442-5311) for further information.
- e. The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.
- f. 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 including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2)
- g. Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800 as amended.

Variances

Parking - The site has 24 parking stalls, instead of 51. (Section 54.2 and Schedule 1)

Rights of Appeal

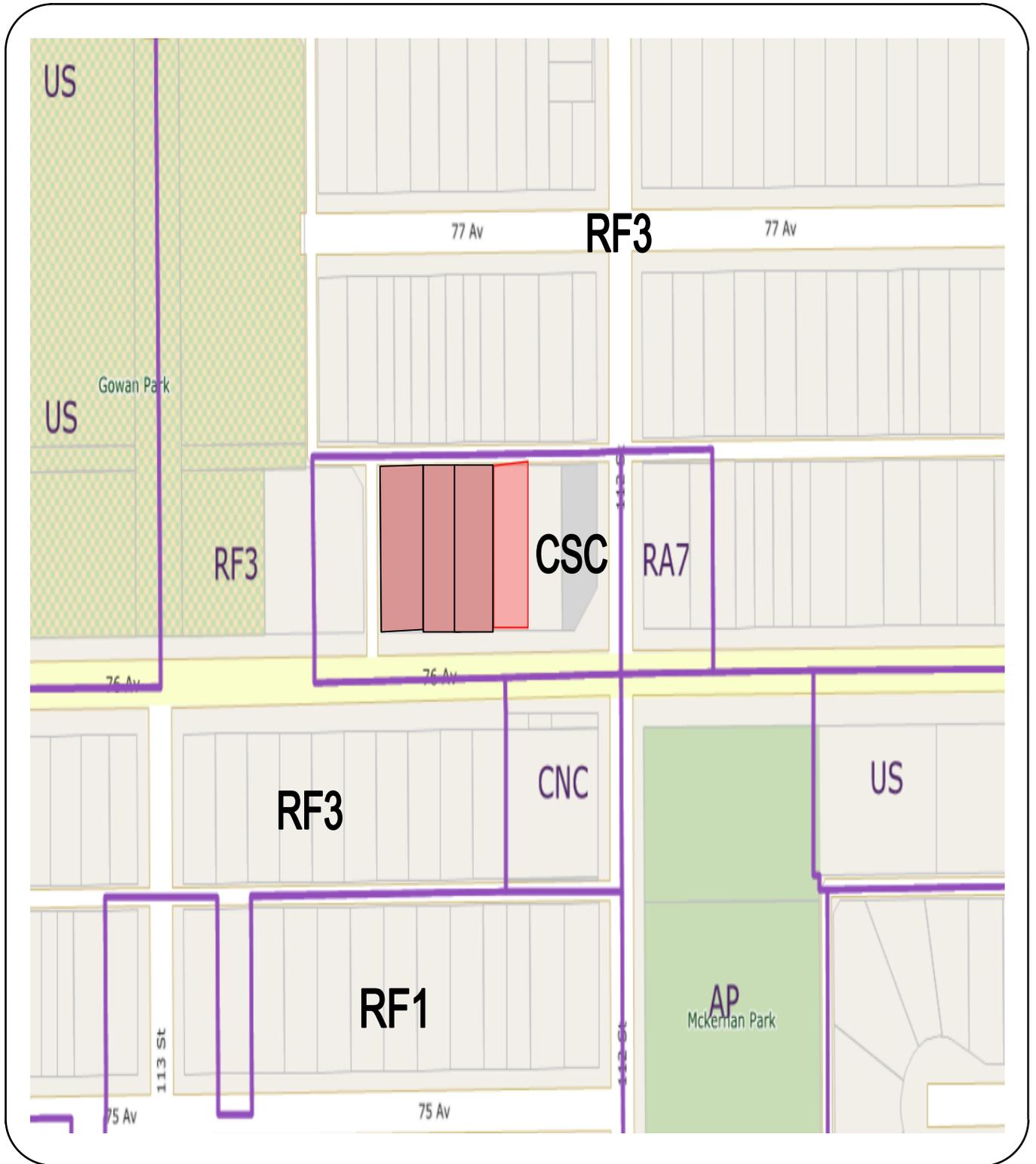
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Sep 19, 2017 **Development Authority:** BELZILE, PAUL **Signature:** _____
Notice Period Begins: Sep 26, 2017 **Ends:** Oct 10, 2017

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$271.00	\$271.00	04286312	Jul 12, 2017
Development Permit Inspection Fee	\$0.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$271.00	\$271.00		

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-207



ITEM II: 10:30 A.M.

FILE: SDAB-D-17-211

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 244581351-001

APPLICATION TO: Construct and operate a temporary Non-accessory Parking lot (surface parking lot with 310 vehicular parking stalls) for three (3) years from the date of issuance of the Development Permit

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 5, 2017

DATE OF APPEAL: October 13, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10104 - 104 AVENUE NW

LEGAL DESCRIPTION: Plan 1425251 Blk 9E Lot 7

ZONE: AED-Arena and Entertainment District Zone

OVERLAY: Special Area Downtown Overlay

STATUTORY PLAN: Capital City Downtown Plan

Grounds for Appeal

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

To continue the use of surface parking after the demolition of the Baccarat Casino.

General Matters

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.

(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.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

Appeals

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(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

...

or

(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.

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

(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*:

Section 910.12(3)(1) states a **Non-accessory Parking** is a **Discretionary Use** in the **Arena & Entertainment District Zone**.

Under Section 7.4(41), **Non-accessory Parking** means development providing vehicular parking which is not primarily intended for the Use of residents, employees or clients of a particular development. Typical Uses include surface parking lots and parking structures located above or below Grade.

Section 910.12(1) states that the **General Purpose** of **(AED) - Arena & Entertainment District Zone** is to provide for a vibrant mixed-Use district that will accommodate a multi-purpose sports and entertainment complex complemented by a variety of entertainment, retail, service, office, institutional and Residential Uses that will strengthen the Downtown Core as a regional destination point. The area will be characterized by an accessible, pedestrian-friendly street environment, innovative signage, iconic architecture and exceptional urban design to create a strong sense of place in the Downtown Core and an exciting new image for Edmonton.

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

Section 900.1 states the **General Purpose** of the **Special Areas General Provisions** is to provide a means to regulate the Use, design and extent of development within specific geographic areas of the City in order to achieve the planning objectives of an Area Structure Plan or Area Redevelopment Plan for those areas with special or unique attributes, which cannot be satisfactorily addressed through conventional land Use zoning.

Capital City Downtown Plan - Surface Parking

Section CC3.4, Station Lands Site Planning and Design, of the **Capital City Downtown Plan**, states the following:

To further strengthen the urban character, quality and development concepts for the Station Lands, site planning and design shall ensure that:

- Streetwalls will be highly transparent and articulated at ground level and the 2nd storey to reflect a high level of pedestrian interaction.
- No surface parking or above grade parkades will be allowed to front onto adjacent streets and avenues.
- The north-south view corridors shall be maintained to reflect the Downtown grid street pattern. This may be provided in the form of a street, linear park or pedestrian walkway.
- Development adjacent to 105 Avenue shall complement and be compatible with the design of the Downtown North Edge area.

Development Officer's Determination

1) No surface parking or above grade parkades will be allowed to front onto adjacent streets and avenues in the Sub Area 3, Station Lands. (Capital City Downtown Plan, Land Use and Development Policies, Section CC 3.4, pages 158 and 164)

Proposed: The proposed development is to construct and operate a temporary Non-accessory Parking lot (surface parking lot with 310 vehicular parking stalls) for three (3) years from the date of issuance of the Development Permit.

Surface Parking

Section 910.4(1)(f)(i) states Surface Parking Lots: no surface parking shall be allowed, other than accessory parking that is located at the rear of a building and is accessed from the abutting alley.

Development Officer's Determination

2) No surface parking shall be allowed, other than accessory parking that is located at the rear of a building and is accessed from the abutting alley. (Reference: Section 910.4(1)(e)(i))

Proposed: The proposed development is to construct and operate a temporary Non-accessory Parking lot (surface parking lot with 310 vehicular parking stalls) for three (3) years from the date of issuance of the Development Permit.

Landscaping

Section 910.4(1)(f)(ii) states a minimum 4 metres landscaped setback shall be provided from any property line abutting a Public Roadway, other than a lane, for any surface parking area.

Section 55.3(b)(i) states for new development consisting of Residential-Related Use Classes, Commercial Use Classes, Industrial Use Classes, Basic Services Use Classes, and Community, Educational, Recreational and Cultural Service Use Classes, the number of trees and shrubs provided shall be determined on the basis of the following:

- i. one tree for each 25 square metres and one shrub for each 15 square metres of Setback;
- ii. one tree for each 20 square metres and one shrub for each 10 square metres of parking area islands, as determined by subsection 54.2(3); and
- iii. in no case shall there be less than one tree per parking area island

Development Officer's Determination

3) The minimum number of required trees on the Site is deficient by 21 trees. (Reference: Sections 55.3(b)(i) and 910.4(1)(f)(ii))

Required: 68

Proposed: 47

Hardsurfacing and Curbing of Parking Spaces

Section 54.6(1)(a)(i) states required parking and loading facilities shall provide for, and include, an adequate, safe and convenient arrangement of vehicular points of ingress or egress, driveways, internal roadways, aisles and ramps, loading of motor vehicles all in relation to buildings and entry points to buildings on the Site. Such facilities shall comply with the following design, development and maintenance standards:

- i. all required parking and loading facilities shall be clearly demarcated, have adequate storm water drainage and storage facilities, and be Hardsurfaced;
- ii. Notwithstanding Section 54.6(1)(a)(i), parking and loading facilities, and the access thereto, are not required to be Hardsurfaced until the roadway or Lane from which access is provided is Hardsurfaced; and
- iii. in situations where lighting of off-street parking and loading facilities is to be provided, the lighting shall be arranged, installed and maintained to deflect, shade and focus light away from any adjacent land Uses.

Development Officer's Determination

4) All required parking and loading facilities shall be clearly demarcated, have adequate storm water drainage and storage facilities, and be hardsurfaced. (Reference: Section 54.6(1)(a)(i))

Proposed: The surface parking lot and drive aisles are gravelled, limited to hardsurfaced accesses from curbface to 10.0 meters into the Site on 102 Street and 105 Avenue. There are no storm water drainage and storage facilities identified on the submitted plans.

Parking spaces for the Disabled

Section 54.1(3), Parking for People with Disabilities, states

- a. Parking spaces for the disabled shall:
 - i. be provided in accordance with the Alberta Building Code in effect at the time of the Development Permit application, for which no discretion exists;
 - ii. be included, by the Development Officer, in the calculation of the applicable minimum parking requirement; and
 - iii. be identified as parking spaces for the disabled through the use of appropriate signage, in accordance with Provincial standards.

Development Officer's Determination

5) Parking spaces for the disabled shall be provided in accordance with the Alberta Building Code in effect at the time of the Development Permit application, for which no discretion exists; be included, by the Development Officer, in the calculation of the applicable minimum parking requirement; and be identified as parking spaces for the disabled through the use of appropriate signage, in accordance with Provincial standards. (Reference: Section 54.1(3)(a)(i-iii))

Proposed: There are no disabled parking spaces provided on the Site.

Landscaped Island

Section 54.2(3)(b) states for parking areas containing parking for 40 or more vehicles, a minimum of two landscaped islands shall be required. These islands shall be placed to provide visual relief, to assist vehicular circulation and to organize large areas of parking into smaller cells. The number of islands provided shall be to the satisfaction of the Development Officer.

Development Officer's Determination

6) Landscaped islands within parking areas containing parking for 40 or more vehicles, a minimum of two landscaped islands shall be required. These islands shall be placed to provide visual relief, to assist vehicular circulation and to organize large areas of parking into smaller cells. (Reference: Section 54.2(3)(b))

Proposed: There are no landscaped islands provided on the Site.

Location of Storage of Materials

Section 910.4(1)(f)(iii) states the storage of materials inclusive of accumulated snow on non-accessory parking surface lots shall be in a location away from the public roadway to improve safety and visibility.

Development Officer's Determination

7) The storage of materials inclusive of accumulated snow on non-accessory parking surface lots shall be in a location away from the public roadway to improve safety and visibility. (Reference: Section 910.4(1)(e)(iii))

Proposed: The location of storage of materials has not been identified on the submitted plans.

Building Setback Areas

Section 910.12(5)(c)(ii) states building setback areas shall improve the public realm and may include, among other amenities, appropriate seating areas, distinctive paving materials, fountains or public art.

Development Officer's Determination

8) Building setback areas shall improve the public realm and may include, among other amenities, appropriate seating areas, distinctive paving materials, fountains or public art. (Reference: Section 910.12(5)(c)(ii))

Proposed: There are no seating areas, street furniture and/or public art provided within the Building setback areas on the submitted plans.

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*.



Application for Major Development Permit

Project Number: **244581351-001**
Application Date: MAR 30, 2017
Printed: October 13, 2017 at 11:08 AM
Page: 1 of 3

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

Applicant



Property Address(es) and Legal Description(s)

10104 - 104 AVENUE NW
Plan 1425251 Blk 9E Lot 7

Scope of Application

To construct and operate a temporary Non-accessory Parking lot (surface parking lot with 310 vehicular parking stalls) for three (3) years from the date of issuance of the Development Permit.

Permit Details

Class of Permit: Class B
Gross Floor Area (sq.m.):
New Sewer Service Required: Y
Site Area (sq. m.): 13183

Contact Person:
Lot Grading Needed?: Y
NumberOfMainFloorDwellings:
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: **244581351-001**
Application Date: MAR 30, 2017
Printed: October 13, 2017 at 11:08 AM
Page: 2 of 3

Application for Major Development Permit

Reason for Refusal

The proposed development is refused for the following reasons:

1) No surface parking or above grade parkades will be allowed to front onto adjacent streets and avenues in the Sub Area 3, Station Lands. (Capital City Downtown Plan, Land Use and Development Policies, Section CC 3.4, pages 158 and 164)

Proposed: The proposed development is to construct and operate a temporary Non-accessory Parking lot (surface parking lot with 310 vehicular parking stalls) for three (3) years from the date of issuance of the Development Permit.

2) No surface parking shall be allowed, other than accessory parking that is located at the rear of a building and is accessed from the abutting alley. (Reference: Section 910.4(1)(e)(i))

Proposed: The proposed development is to construct and operate a temporary Non-accessory Parking lot (surface parking lot with 310 vehicular parking stalls) for three (3) years from the date of issuance of the Development Permit.

3) The minimum number of required trees on the Site is deficient by 21 trees. (Reference: Sections 55.3(b)(i) and 910.4(1)(f)(ii))
Required: 68
Proposed: 47

4) All required parking and loading facilities shall be clearly demarcated, have adequate storm water drainage and storage facilities, and be hardsurfaced. (Reference: Section 54.6(1)(a)(i))

Proposed: The surface parking lot and drive aisles are gravelled, limited to hardsurfaced accesses from curbface to 10.0 meters into the Site on 102 Street and 105 Avenue. There are no storm water drainage and storage facilities identified on the submitted plans.

5) Parking spaces for the disabled shall be provided in accordance with the Alberta Building Code in effect at the time of the Development Permit application, for which no discretion exists; be included, by the Development Officer, in the calculation of the applicable minimum parking requirement; and be identified as parking spaces for the disabled through the use of appropriate signage, in accordance with Provincial standards. (Reference: Section 54.1(3)(a)(i-iii))

Proposed: There are no disabled parking spaces provided on the Site.

6) Landscaped islands within parking areas containing parking for 40 or more vehicles, a minimum of two landscaped islands shall be required. These islands shall be placed to provide visual relief, to assist vehicular circulation and to organize large areas of parking into smaller cells. (Reference: Section 54.2(3)(b))

Proposed: There are no landscaped islands provided on the Site.

7) The storage of materials inclusive of accumulated snow on non-accessory parking surface lots shall be in a location away from the public roadway to improve safety and visibility. (Reference: Section 910.4(1)(e)(iii))

Proposed: The location of storage of materials has not been identified on the submitted plans.

8) Building setback areas shall improve the public realm and may include, among other amenities, appropriate seating areas, distinctive paving materials, fountains or public art. (Reference: Section 910.12(5)(c)(ii))

Proposed: There are no seating areas, street furniture and/or public art provided within the Building setback areas on the submitted plans.

THIS IS NOT A PERMIT



Project Number: 244581351-001
Application Date: MAR 30, 2017
Printed: October 13, 2017 at 11:08 AM
Page: 3 of 3

Application for Major Development Permit

Rights of Appeal

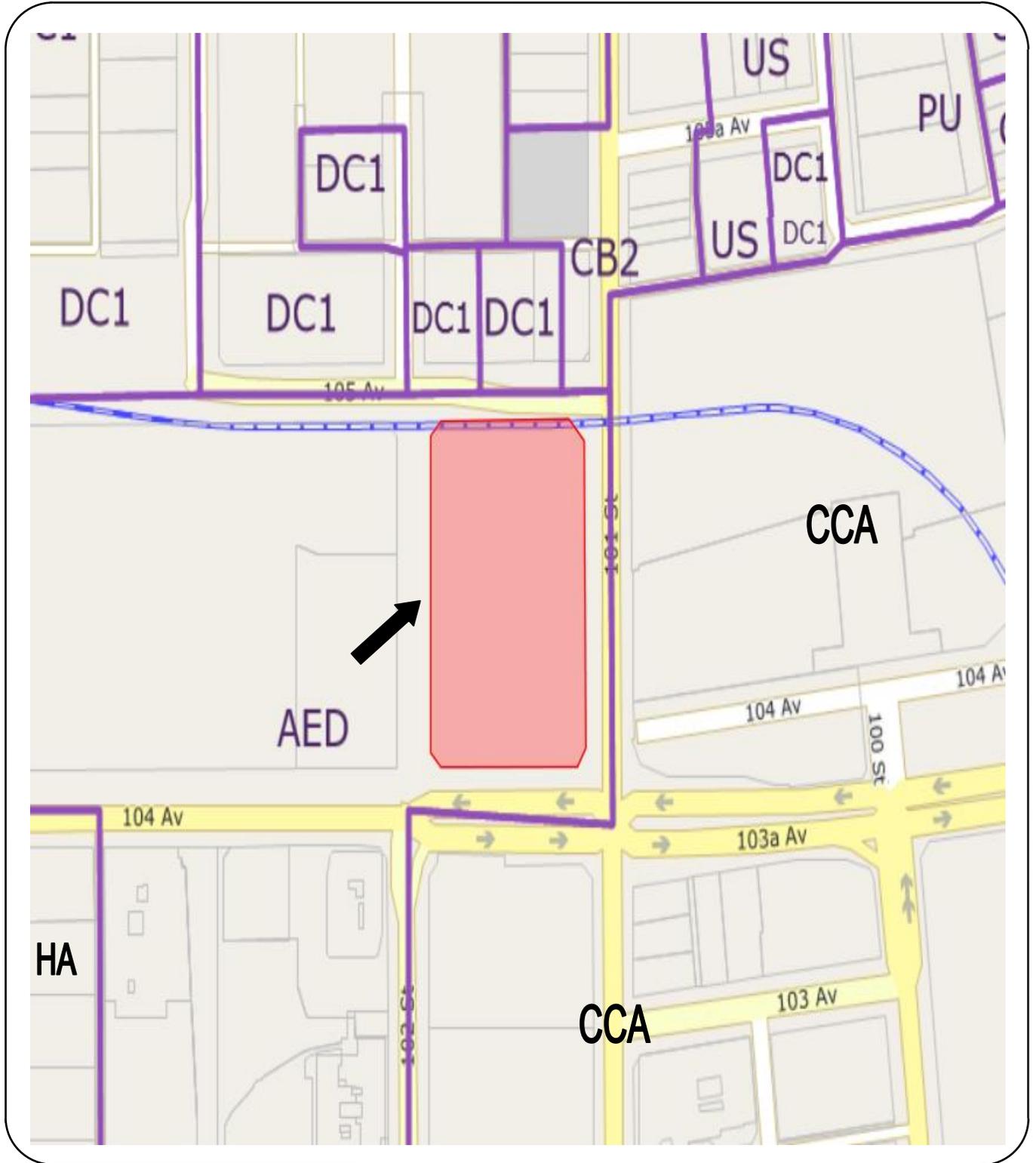
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Oct 05, 2017 Development Authority: LOUIE, CINDY Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$818.00	\$929.00	04017750	Mar 30, 2017
Lot Grading Fee	\$297.03	\$297.03	04017750	Mar 30, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,115.03	\$1,226.03		
(overpaid by \$111.00)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-211



ITEM III: 1:30 P.M.

FILE: SDAB-D-17-209

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 258883492-001

APPLICATION TO: Construct a Health Services and Convenience Retail building and to demolish existing 2 houses and 1 detached garage

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 11, 2017

DATE OF APPEAL: October 13, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11809 - 68 Street NW

LEGAL DESCRIPTION: Plan 1307P Blk 3 Lots 1-2, Plan 1307P Blk 3 Lots 2-3

ZONE: RA7-Low Rise Apartment Zone

OVERLAY: Medium Scale Residential Infill Overlay

STATUTORY PLAN: Montrose / Santa Rosa Area Redevelopment Plan

Grounds for Appeal

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

We are solicitors for Oskol Investment Inc. On behalf of our clients, we applied for a Development Permit for a health services and convenience retail building on the above noted property in August of 2017. That application was refused, and we hereby appeal that refusal for the following reasons:

1. The proposed development comprises Uses which are Discretionary in the RA7 Zone.

2. Noting the location of the proposed development along the busy 118th Avenue corridor, the proposed development is appropriate for this site.
3. The granting of the variances required to allow the proposed development to proceed would be requisite in the circumstances and would demonstrate sound land use planning. Moreover, the proposed development would not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.
4. Such other grounds as may be presented at the hearing of the appeal.

<i>General Matters</i>

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.

(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.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

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

...

or

- (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.

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 210.3(7) states **Health Services**, is a **Discretionary Use** in (RA7) Low Rise Apartment Zone.

Under Section 7.4(26), **Health Services** means development used for the provision of physical and mental Health Services on an out-patient basis. Services may be of a preventive, diagnostic, treatment, therapeutic, rehabilitative, or counseling nature. Typical Uses include medical and dental offices, health clinics and counseling services, and medical Cannabis clinics and counseling services.

Section 210.3(2) states **Convenience Retail Stores**, is a Discretionary Use in (RA7) Low Rise Apartment Zone.

Under Section 7.4(14), **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 square metres 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.

Section 823.1 states the **General Purpose** of the **Medium Scale Residential Infill Overlay** is to accommodate the development of medium-scale infill housing in Edmonton's mature residential neighbourhoods in a manner that ensures compatibility with adjacent properties while maintaining or enhancing a pedestrian-friendly streetscape

General Purpose

Section 320.1 states the **General Purpose** of the **(RA7) Low Rise Apartment Zone** is to provide a Zone for Low Rise Apartments.

Development Officer's Determination

1) Section 210.1 - General Purpose: To provide a Zone for Low Rise Apartments

The proposed development is to construct a Health Service and Convenience Retail Store building, contrary to Section 210.1

Residential Uses

Section 210.5(1) states the following regulations shall apply to Personal Service Shops, Convenience Retail Stores and Health Services:

- a. the total Floor Area of these Uses on any Site shall not exceed 275 square metres; and
- b. these Uses shall not be permitted in any freestanding structure separate from a structure containing Residential Uses. Their principal entrance shall be a separate, outside entrance.

Development Officer's Determination

2) Section 210.5.1.b - The following regulations shall apply to Personal Service Shops, Convenience Retail Stores and Health Services:

- (b) these Uses shall not be permitted in any freestanding structure separate from a structure containing Residential Uses. Their principal entrance shall be a separate, outside entrance.

Proposed: No Residential Uses are proposed as part of this development, contrary to Section 210.5.1.b

Landscaping

Section 55.3(1)(b) states or new development consisting of Residential-Related Use Classes, Commercial Use Classes, Industrial Use Classes, Basic Services Use Classes, and Community, Educational, Recreational and Cultural Service Use Classes, the number of trees and shrubs provided shall be determined on the basis of the following:

- i. one tree for each 25 square metres and one shrub for each 15 square metres of Setback;
- ii. one tree for each 20 square metres and one shrub for each 10 square metres of parking area islands, as determined by subsection 54.2(3); and
- iii. in no case shall there be less than one tree per parking area island.

Development Officer's Determination

Section 55.3.1.b - for new development consisting of Residential-Related Use Classes, Commercial Use Classes, Industrial Use Classes, Basic Services Use Classes, and Community, Educational, Recreational and Cultural Service Use Classes, the number of trees and shrubs provided shall be determined on the basis of the following:

- i.) one tree for each 25 square metres and one shrub for each 15 square metres of Setback;

Required trees: 26
Provided trees: 10
Deficient trees: 16

Advisements

Development Officer's Determination

1)The Montrose/ Santa Rosa Area Redevelopment Plan contains conflicting direction for future development on this Site. Should the applicant wish to pursue a commercial development with no provision for residential dwellings on this Site, it is the Development Officer's opinion that a rezoning and Area Redevelopment Plan amendment exercise be undertaken to ensure the development is in accordance with the General Purpose of the new zone, and with the Statutory Plan.

2) Subdivision Planning (Transportation) advises that the stalls located onsite should be angled to accommodate the one-way operation.

3) Subdivision Planning (Transportation) requires that all required landscaping for the development be provided on site.

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: 258883492-001
Application Date: AUG 02, 2017
Printed: October 16, 2017 at 9:24 AM
Page: 1 of 2

Application for Major Development Permit

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

Applicant

Property Address(es) and Legal Description(s)

11809 - 68 STREET NW
Plan 1307P Blk 3 Lots 1-2
11809 - 68 STREET NW
Plan 1307P Blk 3 Lots 2-3

Specific Address(es)

Entryway: 101, 11809 - 68 STREET NW
Entryway: 102, 11809 - 68 STREET NW
Building: 101, 11809 - 68 STREET NW

Scope of Application

To construct a Health Services and Convenience Retail building and to demolish existing 2 houses and 1 detached garage.

Permit Details

Class of Permit:
Gross Floor Area (sq.m.): 274.9
New Sewer Service Required: N
Site Area (sq. m.): 1175.75

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

THIS IS NOT A PERMIT



Project Number: **258883492-001**
 Application Date: AUG 02, 2017
 Printed: October 16, 2017 at 9:24 AM
 Page: 2 of 2

Application for Major Development Permit

Reason for Refusal

1) Section 210.1 - General Purpose: To provide a Zone for Low Rise Apartments

The proposed development is to construct a Health Service and Convenience Retail Store building, contrary to Section 210.1

2) Section 210.5.1.b - The following regulations shall apply to Personal Service Shops, Convenience Retail Stores and Health Services:

(b) these Uses shall not be permitted in any freestanding structure separate from a structure containing Residential Uses. Their principal entrance shall be a separate, outside entrance.

Proposed: No Residential Uses are proposed as part of this development, contrary to Section 210.5.1.b

3) Section 55.3.1.b - for new development consisting of Residential-Related Use Classes, Commercial Use Classes, Industrial Use Classes, Basic Services Use Classes, and Community, Educational, Recreational and Cultural Service Use Classes, the number of trees and shrubs provided shall be determined on the basis of the following:

i.) one tree for each 25 m2 and one shrub for each 15 m2 of Setback;

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ADVISEMENTS:

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3) Subdivision Planning (Transportation) requires that all required landscaping for the development be provided on site.

Rights of Appeal

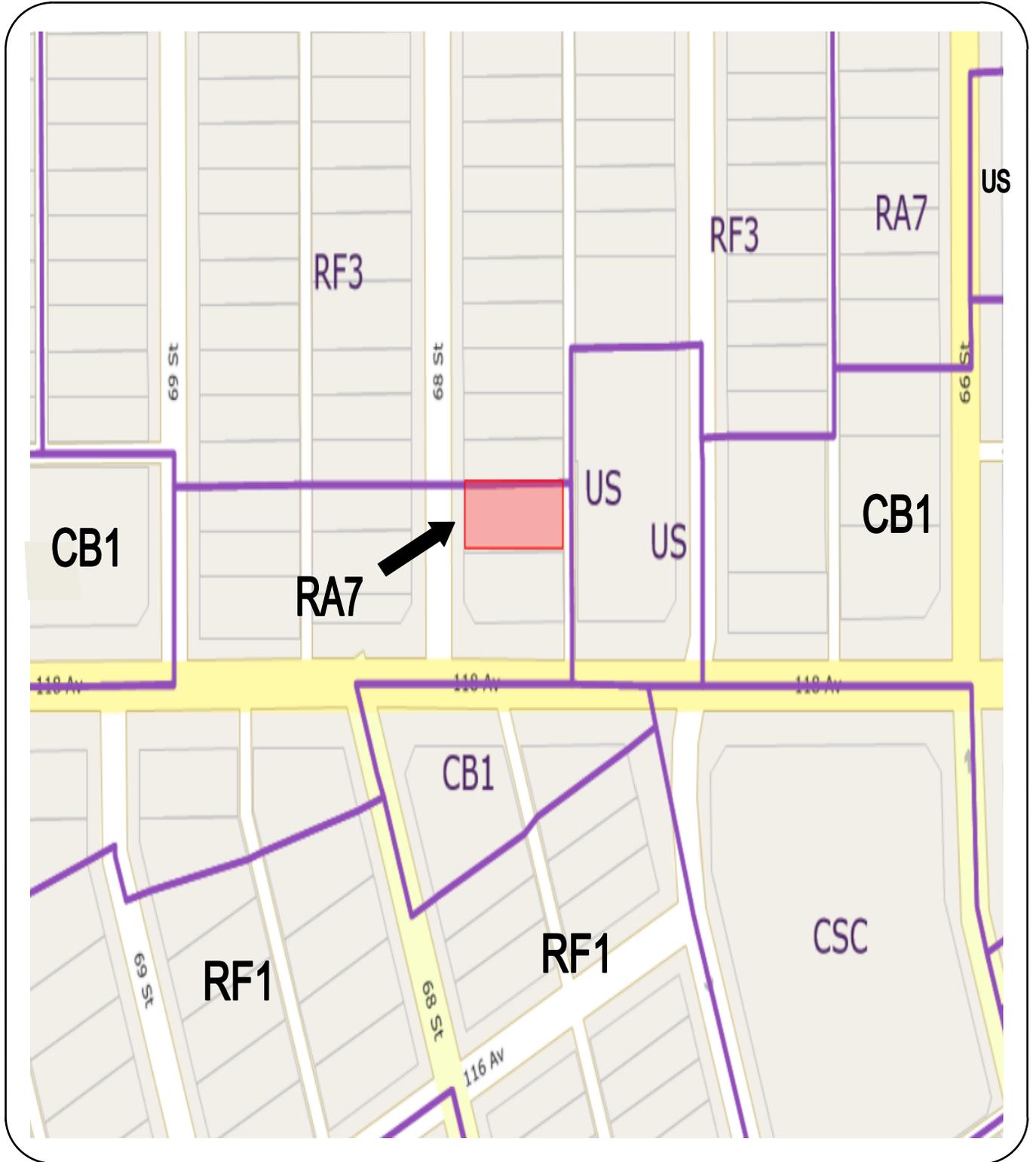
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Oct 11, 2017 **Development Authority:** BUCCINO, SAMANTHA **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Permit Inspection Fee	\$500.00	\$500.00	04345985	Aug 03, 2017
Major Dev. Application Fee	\$929.00	\$929.00	04342339	Aug 02, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,429.00	\$1,429.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-209

