

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
October 19, 2016**

**Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

I	9:00 A.M.	SDAB-D-16-262	1976701 Alberta Ltd. Change the use from General Retail Stores to Minor Alcohol Sales and to construct interior alterations 11740 - 89 Street NW Project No.: 226016819-001
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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-16-262

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:	1976701 Alberta Ltd.
APPLICATION NO.:	226016819-001
ADDRESS OF APPELLANT:	11740 - 89 Street NW
APPLICATION TO:	Change the use from General Retail Stores to Minor Alcohol Sales and to construct interior alterations
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	September 23, 2016
DATE OF APPEAL:	September 26, 2016
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	11740 - 89 Street NW
LEGAL DESCRIPTION:	Plan RN43B Blk 63 Lots 15-18
ZONE:	CB2, RF3-General Business Zone, Small Scale Infill Development Zone
OVERLAY:	Alberta Avenue Pedestrian Commercial Shopping Street Overlay
STATUTORY PLAN:	N/A

Grounds for Appeal

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

It's not going to impact negatively.

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.

(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,

- (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

...

- (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 340.1 states that the **General Purpose** of the **CB2 General Business Zone** is to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.

Section 821 states that the **General Purpose** of the **Alberta Avenue Pedestrian Commercial Shopping Street Overlay** is to facilitate development of a pedestrian-oriented character to commercial and mixed use developments along 118 Avenue, between 76 and 105 Streets, in close proximity to residential areas, in accordance with the Avenue Initiative Revitalization Strategy and Plans in effect for this area of the City.

<i>Discretionary Use</i>

Under Section 340.3(18), **Minor Alcohol Sales** is a **Discretionary Use** in the **CB2 General Business Zone**.

Section 7.4(32) states:

Minor Alcohol Sales, means development used for the retail sale of any and all types of alcoholic beverages to the public. This Use Class may include retail sales of related products such as soft drinks and snack foods. The maximum Floor Area for this Use Class shall be no more than 275 square metres per individual business premises.

Development Officer's Determination

The proposed development is a Discretionary Use in the CB2 Zone. As a result, the Development Officer must consider whether or not the proposed use is compatible with adjacent development. Further, the Development Officer must be satisfied that the proposed development will not unduly and negatively impact adjacent or abutting development and neighbourhoods.

The Development Officer is aware of research indicating that an increased presence of Alcohol Sales facilities is linked to various social disorders and criminal conduct. Based on the information provided by the applicant through his application submission, and in particular the CPTED studies submitted, there is insufficient evidence that the proposed development will not have an undue negative impact on the surrounding neighbourhood and adjacent properties. It is therefore the Development Officer's opinion that the proposed development is likely to unduly and negatively impact adjacent and abutting development, and is incompatible with the surrounding neighbourhood and existing development.

<i>Crime Prevention Through Environmental Design</i>

Section 85.7 states the Development Officer may consider Crime Prevention Through Environmental Design Criteria by ensuring:

- a. the exterior of all stores have ample glazing from the street to allow natural surveillance;
- b. exterior lighting should be in accordance with the minimum safety standards prescribed by the Illuminating Engineers Society;
- c. any landscaping around the facilities be low-growing shrubs or deciduous trees with a high canopy at maturity and that all foliage be kept trimmed back to prevent loss of natural surveillance;
- d. no customer parking is in behind a facility and that all parking areas in front of the building be well-lighted; and
- e. customer access to the store is limited to a store front that is visible from the street, shopping centre parking lot or a mall access that allows visibility from the interior.

Development Officer's Determination

The Development Officer may consider Crime Prevention Through Environmental Design Criteria (Section 85.7):

A review of the CPTED report provided by the applicant by EPS indicated that the report's findings were sufficiently lacking in detail to be able to truly determine the acceptability of the proposed development from a CPTED perspective. An opportunity given by the Development Officer to revise the CPTED resulted in revisions that continued to lack detail, and is considered to be not acceptable to the Development Officer.

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: **226016819-001**
 Application Date: JUL 13, 2016
 Printed: September 26, 2016 at 2:01 PM
 Page: 1 of 2

Application for Major Development Permit

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

Applicant <div style="border: 1px solid black; width: 200px; height: 50px; margin: 10px auto;"></div>	Property Address(es) and Legal Description(s) 11740 - 89 STREET NW Plan RN43B Blk 63 Lots 15-18 Specific Address(es) Entryway: 11740 - 89 STREET NW Building: 11740 - 89 STREET NW
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Scope of Application

To change the use from General Retail Stores to Minor Alcohol Sales and to construct interior alterations.

Permit Details

Class of Permit: Class B
 Gross Floor Area (sq.m.): 155
 New Sewer Service Required: N
 Site Area (sq. m.):

Contact Person:
 Lot Grading Needed?: N
 NumberOfMainFloorDwellings:
 Stat. Plan Overlay/Annex Area: (none)

I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision

Refused

Reason for Refusal

- 1) The Development Officer may consider Crime Prevention Through Environmental Design Criteria (Section 85.7):

A review of the CPTED report provided by the applicant by EPS indicated that the report's findings were sufficiently lacking in detail to be able to truly determine the acceptability of the proposed development from a CPTED perspective. An opportunity given by the Development Officer to revise the CPTED resulted in revisions that continued to lack detail, and is considered to be not acceptable to the Development Officer.

- 2) The proposed development is a Discretionary Use in the CB2 Zone. As a result, the Development Officer must consider whether or not the proposed use is compatible with adjacent development. Further, the Development Officer must be satisfied that the proposed development will not unduly and negatively impact adjacent or abutting development and neighbourhoods.

The Development Officer is aware of research indicating that an increased presence of Alcohol Sales facilities is linked to various social disorders and criminal conduct. Based on the information provided by the applicant through his application submission, and in particular the CPTED studies submitted, there is insufficient evidence that the proposed development will not have an undue negative impact on the surrounding neighbourhood and adjacent properties. It is therefore the Development Officer's opinion that the proposed development is likely to unduly and negatively impact adjacent and abutting development, and is incompatible with the surrounding neighbourhood and existing development.

Rights of Appeal

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

Issue Date: Sep 23, 2016

Development Authority: WELCH, IMAI

Signature: _____

THIS IS NOT A PERMIT



Project Number: **226016819-001**
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Printed: September 26, 2016 at 2:01 PM
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Application for Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$323.00	\$323.00	03440523	Jul 13, 2016
DP Notification Fee	\$102.00	\$102.00	03440523	Jul 13, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$425.00	\$425.00		

THIS IS NOT A PERMIT

BUSINESS LAID OVER

SDAB-D-16-242	An appeal by <u>Ogilvie Law LLP</u> to change the Use from a General Retail Store to a Minor Alcohol Sales Use. <i>October 20, 2016</i>
SDAB-S-14-001	An appeal by <u>Stantec Consulting Ltd.</u> to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 <i>October 31, 2016</i>
SDAB-D-16-237	An appeal by <u>Pattison Outdoor Advertising</u> to install (1) Freestanding Minor Digital Off-premises Sign (6.1 m x 3 m facing E/W) <i>November 3, 2016</i>
SDAB-D-16-144	An appeal by <u>Kiewit Energy Canada Corp</u> to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>November 30 or December 1, 2016</i>

APPEAL HEARINGS TO BE SCHEDULED

188282372-001	An appeal by <u>Kennedy Agrios</u> to change the use from general Retail to a Bar and Neighbourhood Pub (maximum of 400 occupants and 691 square metres of Public Space) <i>November 2 or 3, 2016</i>
000413016-003	An appeal by <u>Wigalo Holding Ltd. / Kennedy Agrios</u> to Comply with a Stop Order to Cease the Non-Accessory Parking, REMOVE all meters, signage and material related to parking and REFRAIN from allowing Non-Accessory Parking. <i>November 17, 2016</i>
000413016-004	An appeal by <u>Wigalo Holding Ltd. / Kennedy Agrios</u> to Comply with a Stop Order to Cease the Non-Accessory Parking, REMOVE all meters, signage and material related to parking and REFRAIN from allowing Non-Accessory Parking. <i>November 17, 2016</i>
188283359-001	An appeal by <u>Kennedy Agrios</u> to change the use from a Flea Market Use to a Night Club and Major Amusement Establishment (1757 square metres of Public space) <i>November 23 or 24, 2016</i>
182548244-007	An appeal by <u>Stephanie Chan VS Deborah & Terence Nekolaichuk</u> to construct an Accessory Building (Shed, 3.20 metres by 3.12 metres), existing without permits <i>December 7 or 8, 2016</i>

