

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Wednesday, 9:00 A.M.
October 20, 2021

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

TO BE RAISED

I 9:00 A.M. SDAB-S-21-006

Tentative plan of subdivision to create 113 single detached residential lots, one (1) non-credit Municipal Reserve lot, and four (4) Public Utility lots

611 - 167 Avenue NE
Project No.: 354972909-001

II 1:30 P.M. SDAB-D-21-174

Develop a Restaurant and Mobile Catering Food Service. (Ghost Kitchen) (TEMPORARY - 3 YEARS)

10460 - 83 Avenue NW, 8309 - 105 Street NW
Project No.: 361226358-002

III 1:30 P.M. SDAB-D-21-175

Develop 2 Restaurant and Mobile Catering Food Service buildings. (Ghost Kitchens) (TEMPORARY - 3 YEARS)

10216 - 142 Street NW
Project No.: 361225793-002

NOTE: *Unless otherwise stated, all references to "Section numbers" in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

TO BE RAISED

ITEM I: 9:00 A.M.

FILE: SDAB-S-21-006

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 354972909-001

APPLICATION TO: Tentative plan of subdivision to create 113 single detached residential lots, one (1) non-credit Municipal Reserve lot, and four (4) Public Utility lots

DECISION OF THE SUBDIVISION AUTHORITY: Approved with Conditions

DECISION DATE: July 29, 2021

DATE OF APPEAL: August 19, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 611 - 167 Avenue NE

LEGAL DESCRIPTION: NW-33-53-23-4

ZONE(S): (AP) Public Parks Zone
(PU) Public Utility Zone
(RLD) Residential Low Density 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:

1 - Qualico is appealing their subdivision in the Marquis neighbourhood due to the conditions around Meridian Street. Since this appeal is in process, we have to be consistent with the Meridian Street conditions, and as such cannot agree to what is stated in our subdivision conditions at this time.

2 Regarding Multi Use Trails (MUT):

- a. The required multi use trails are outside of our subdivision boundary. The South trail was a condition on a previous development and as such cannot be put on our development as a condition to complete.
- b. the north MUT required is a requirement for cash to be built in the future, and as such this trail is not required to access our development. There is no benefit to our development if this trail does not get constructed for there is no imminent timing on this.

<i>General Matters</i>

The Subdivision and Development Appeal Board (the “Board”) made and passed the following motion on September 15, 2021:

“That the appeal hearing be scheduled on October 20, 2021 at the request of the Appellant and with the written consent of the Subdivision Authority”.

The Subdivision and Development Appeal Board (the “Board”) made and passed the following motion on August 26, 2021:

“That the appeal hearing be scheduled on September 29, 2021 or to a date agreed to by all parties, at the written request of the Subdivision Authority and with written consent from the Appellant.”

Appeal Information:

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

Appeals

678(1) The decision of a subdivision authority on an application for subdivision approval may be appealed

- (a) by the applicant for the approval,

- (b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- (c) by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the municipal planning commission of the municipality is not the subdivision authority, or
- (d) by a school board with respect to
 - (i) the allocation of municipal reserve and school reserve or money in place of the reserve,
 - (ii) the location of school reserve allocated to it, or
 - (iii) the amount of school reserve or money in place of the reserve.

(2) An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681

- (a) with the Land and Property Rights Tribunal
 - (i) unless otherwise provided in the regulations under section 694(1)(h.2)(i), where the land that is the subject of the application
 - (A) is within the Green Area as classified by the Minister responsible for the Public Lands Act,
 - (B) contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site,
 - (C) is the subject of a licence, permit, approval or other authorization granted by the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Alberta Energy RSA 2000 Section 679 Chapter M-26 MUNICIPAL GOVERNMENT ACT 437 and Utilities Board or Alberta Utilities Commission, or

(D) is the subject of a licence, permit, approval or other authorization granted by the Minister of Environment and Parks, or

(ii) in any other circumstances described in the regulations under section 694(1)(h.2)(ii), or (b) in all other cases, with the subdivision and development appeal board.

(2.1) Despite subsection (2)(a), if the land that is the subject-matter of the appeal would have been in an area described in subsection (2)(a) except that the affected Government department agreed, in writing, to vary the distance under the subdivision and development regulations, the notice of appeal must be filed with the subdivision and development appeal board.

(3) For the purpose of subsection (2), the date of receipt of the decision is deemed to be 7 days from the date the decision is mailed.

(4) A notice of appeal under this section must contain

- (a) the legal description and municipal location, if applicable, of the land proposed to be subdivided, and
- (b) the reasons for appeal, including the issues in the decision or the conditions imposed in the approval that are the subject of the appeal.

(5) If the applicant files a notice of appeal within 14 days after receipt of the written decision or the deemed refusal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board.

Hearing and decision

680(1) The board hearing an appeal under section 678 is not required to hear from any person or entity other than

- (a) a person or entity that was notified pursuant to section 679(1), and
- (b) each owner of adjacent land to the land that is the subject of the appeal,

or a person acting on any of those persons' behalf.

(1.1) For the purposes of subsection (1), "owner" has the same meaning as in section 653.

(2) In determining an appeal, the board hearing the appeal

- (a) repealed 2020 c39 s10(48);
- (a.1) must have regard to any statutory plan;
- (b) must conform with the uses of land referred to in a land use bylaw;
- (c) must be consistent with the land use policies;
- (d) must have regard to but is not bound by the subdivision and development regulations;
- (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;
- (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

(2.1) In the case of an appeal of the deemed refusal of an application under section 653.1(8), the board must determine whether the documents and information that the applicant provided met the requirements of section 653.1(2).

(2.2) Subsection (1)(b) does not apply to an appeal of the deemed refusal of an application under section 653.1(8).

...

Approval of application

654(1) A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any growth plan under Part 17.1, any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,

- (c) the proposed subdivision complies with this Part and Part 17.1 and the regulations under those Parts, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.

(1.1) Repealed 2018 c11 s13.

(1.2) If the subdivision authority is of the opinion that there may be a conflict or inconsistency between statutory plans, section 638 applies in respect of the conflict or inconsistency.

(2) A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,

- (a) the proposed subdivision would not
 - (i) unduly interfere with the amenities of the neighbourhood, or
 - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.

(3) A subdivision authority may approve or refuse an application for subdivision approval.

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.



Subdivision Authority

7th Floor, Edmonton Tower
10111 – 104 Avenue NW
Edmonton, Alberta T5J 0J4

July 29, 2021

File No. LDA20-0113

RE: Tentative plan of subdivision to create 113 single detached residential lots, one (1) non-credit Municipal Reserve lot, and four (4) Public Utility lots from the NW 33-53-23-W4M, located south of 167 Avenue NE and east of Meridian Street; **RURAL NORTH EAST SOUTH STURGEON**

I The Subdivision by Plan is APPROVED on July 29, 2021, subject to the following conditions:

1. that the owner provide money in place of Municipal Reserve (MR), in the amount of \$185,816.94 representing 0.752 ha pursuant to Section 666 and Section 667 of the Municipal Government Act;
2. that the owner enter into a Servicing Agreement with the City of Edmonton pursuant to Section 655 of the Municipal Government Act;
3. that the owner prepare the necessary plans and documentation to grant new or carry forward existing easements and restrictive covenants in favour of the City of Edmonton, EPCOR Distribution & Transmission Inc., EPCOR Water Services Inc., and EPCOR Drainage Services, as required by the aforementioned agencies or shown on the engineering drawings that are deemed to be part of the Servicing Agreement;
4. that the owner dedicate, clear and level road right of way for the construction of Meridian Street between 153 Avenue and 167 Avenue, to the satisfaction of Subdivision and Development Coordination, as shown on the "Conditions of Approval" map, Enclosure II. The owner must register a road plan for any required road right-of-way. The owner must contact Christine Whalen (708-508-9248) of subdivision Planning for further information regarding the road plan registration. At the time of engineer drawing review, additional road dedication may not be required if the road upgrades can be accommodated through the existing road right of way along Meridian Street;
5. that the owner enter into a Maintenance Agreement with the City of Edmonton for the maintenance of Meridian Street between 153 Avenue and 167 Avenue until such time that Meridian Street is constructed to an urban arterial roadway. Details of the Agreement, including the responsibilities for each party, will be prepared and administered by City Operations (contact Sherron Hutchings at 780-496-6129 and/or sherron.hutchings@edmonton.ca);
6. that the property lines of the residential lots, flanking the emergency access walkway be modified should it be deemed necessary through the review of engineering drawings and

submission of a detailed Swept Path Analysis, to the satisfaction of Subdivision and Development Coordination, as shown on Enclosure I;

7. that the lots identified be withheld from registration until the temporary turnaround is no longer required as deemed by Subdivision and Development Coordination, as shown on the "Conditions of Approval" map, Enclosure I;
8. that Charter Bylaw 19740 (LDA21-0112) to amend the Edmonton Zoning Bylaw shall be approved prior to the endorsement of the plan of survey;
9. that the owner register a disturbed soil restrictive covenant in favour of EPCOR Water Services Inc. and EPCOR Drainage Services, against the lots flanking the walkways and PUL, as shown on the "Conditions of Approval" map, Enclosure I; and
10. that the owner pay all outstanding property taxes prior to the endorsement of the plan of survey.

II The Servicing Agreement required in Clause I (2) shall contain, among other things, the following conditions:

1. that the owner pay all servicing costs, assessments, roadway modification costs (including but not limited to sidewalk, shared use path and/or transit infrastructure), construction costs and inspection costs required by this subdivision;
2. that the owner pay all costs specified in the Servicing Agreement prior to endorsement of the plan of survey;
3. that the owner pay the Drainage Assessments applicable to this subdivision;
4. that the owner pay the Arterial Roadway Assessments applicable to this subdivision;
5. that the owner submits an Erosion and Sediment Control (ESC) Plan specific for this development and for implementation during and after construction in accordance with the City of Edmonton ESC Guidelines and Field Manual;
6. that the owner submits detailed engineering drawings and technical studies in accordance with the City of Edmonton Design and Construction Standards and to the satisfaction of the City Departments and affected utility agencies;
7. that the owner upgrade Meridian Street from 153 Avenue to 161 Avenue to an approved roadway cross section including the required base repair, to the satisfaction of Subdivision and Development Coordination, as shown on the "Conditions of Approval" map, Enclosure II;
8. that the owner upgrade 167 Avenue/Meridian Street to a full urban intersection including, but not limited to, all required turn bays, sidewalks, lighting, landscaping and any transitional improvements, to the satisfaction of Subdivision and Development Coordination, as shown on the "Conditions of Approval" map, Enclosure II;
9. that the owner construct a temporary 3 m shared use path including lighting on Meridian Street from 153 Avenue to 167 Avenue, to the satisfaction of Subdivision and Development Coordination, as shown on the "Conditions of Approval" map, Enclosure II;

10. that the owner provide cash in lieu for the future construction of a 3 m shared use path on the northside of 167 Avenue from the east to west boundary of the parent parcel. The developer must provide a cost estimate for shared use path construction with the submission of engineering drawings to be reviewed by Development Servicing Agreements;
11. that the owner constructs a temporary 12 m radius gravel surface turnaround with bollards or mini-barriers to the satisfaction of Subdivision and Development Coordination, as shown on the "Conditions of Approval" map, Enclosure I. This turnaround will be required prior to Construction Completion Certificate (CCC) for roads (or when required by Subdivision and Development Coordination);
12. that the owner pays for the installation of "no parking" signage on local roadways for emergency vehicle access to the satisfaction of Subdivision and Development Coordination and Fire Rescue Services, as shown on the "Conditions of Approval" map, Enclosure I;
13. that the owner constructs a 3 m hard surface shared use path within the west pipeline Public Utility Lot, with "Shared Use" signage, lighting, and bollards with connection to the sidewalk on 167 Avenue and the existing shared use path to the south of the subdivision, to the satisfaction of Subdivision and Development Coordination, as shown on the "Conditions of Approval" map, Enclosures I and II;
14. that the owner constructs a 3 m hard surface shared use path in the non-credit Municipal Reserve lot including bollards and lighting with connections to the shared use path in the Public Utility Lot, to the satisfaction of Subdivision and Development Coordination, as shown on the "Conditions of Approval" map, Enclosure I;
15. that the owner constructs a 3 m hard surface shared use path in the walkway south of the non-credit Municipal Reserve lot including bollards and lighting, to the satisfaction of Subdivision and Development Coordination, as shown on the "Conditions of Approval" map, Enclosure I;
16. that the owner constructs a 3 m concrete emergency access with lighting, and t-bollards to the satisfaction of Subdivision and Development Coordination, as shown on the "Conditions of Approval" map, Enclosure I. A Swept Path Analysis for fire trucks must be included in the submission of the engineer drawings to ensure functionality;
17. that the owner constructs an offsite sanitary sewer extension, to the satisfaction of EPCOR Water Services Inc., as shown on the "Conditions of Approval" map, Enclosure I;
18. that the owner construct all fences wholly on privately-owned lands, to the satisfaction of Subdivision and Development Coordination, as shown on the "Conditions of Approval" map, Enclosure I; and
19. that the owner is responsible for the landscape design and construction within the Public Utility lots, the non-credit Municipal Reserve lot, road rights of way, and walkways, to the satisfaction of City Departments and affected utility agencies.

Enclosure I and II are maps of the subdivision identifying major conditions of this approval.

Municipal Reserve for the NW 33-53-23-W4M in the amount of \$185,816.94, representing 0.752 ha, is being provided by money in place with this subdivision. Money in place may change dependent upon the final plan of survey.

Non-credit MR for the NW 33-53-23-W4M in the amount of 0.20 ha is being provided with this subdivision. It is determined to be non-credit since it is not developable, does not support any formal parks programming, and has limited ecological value.

Please be advised that the approval is valid for one (1) year from the date on which the subdivision approval is given to the application. An extension beyond that time may be granted by the City of Edmonton.

Please be advised that an appeal may be lodged in accordance to Section 678 of the Municipal Government Act with the Subdivision and Development Appeal Board, 10019 - 103 Avenue NW, Edmonton Alberta, T5J 0G9, within 14 days from the date of the receipt of this decision. The date of receipt of the decision is deemed to be seven (7) days from the date the decision is mailed.

If you have further questions, please contact subdivisions@edmonton.ca.

Regards,



Blair McDowell
Subdivision Authority

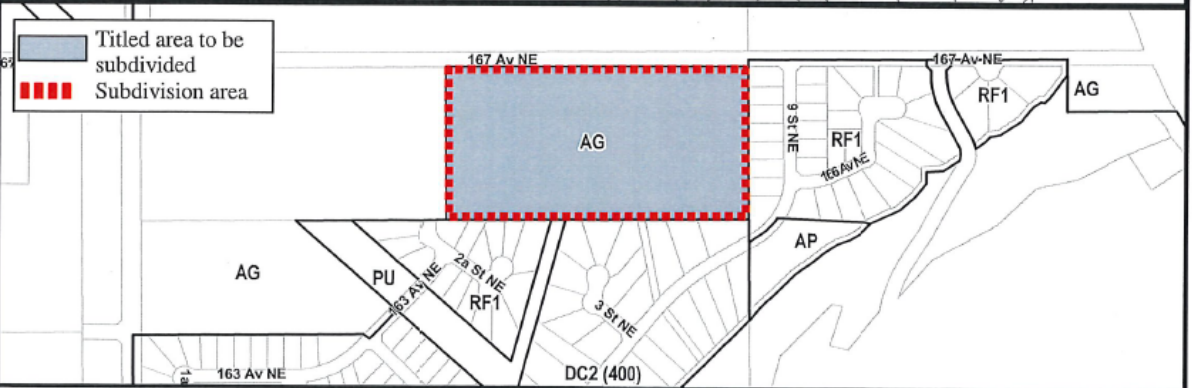
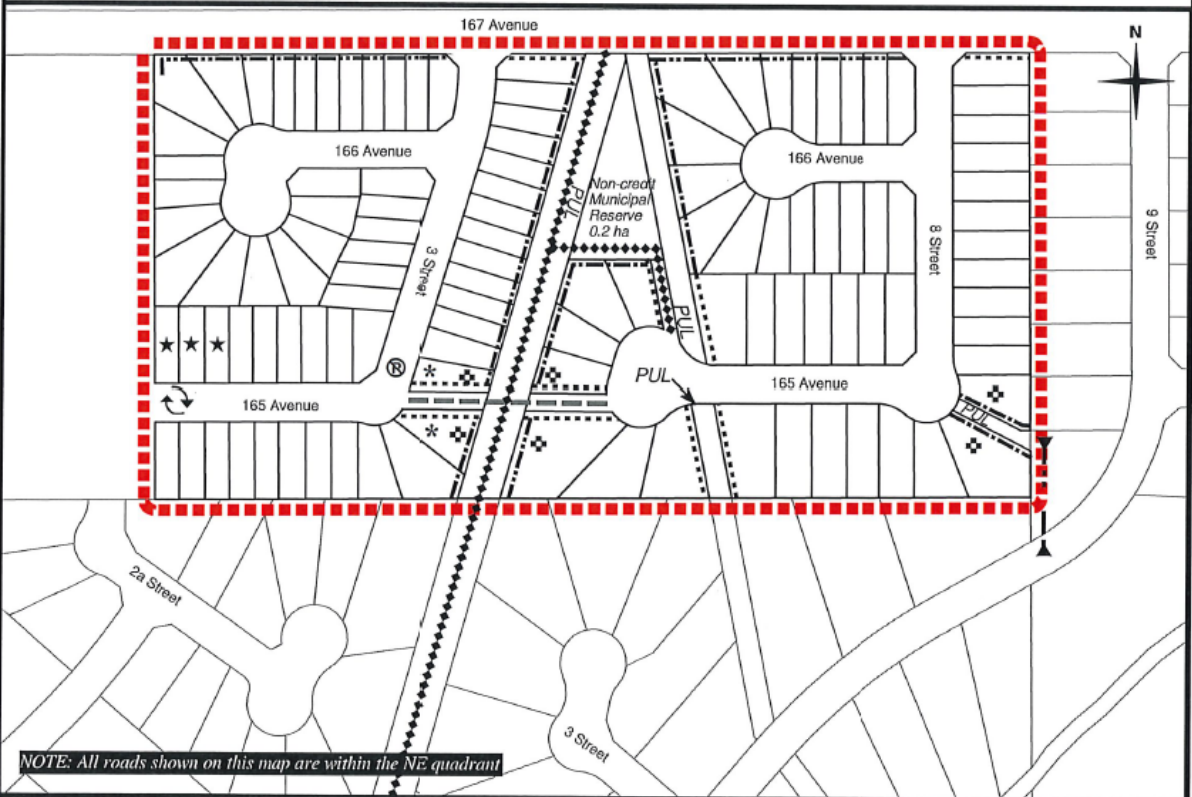
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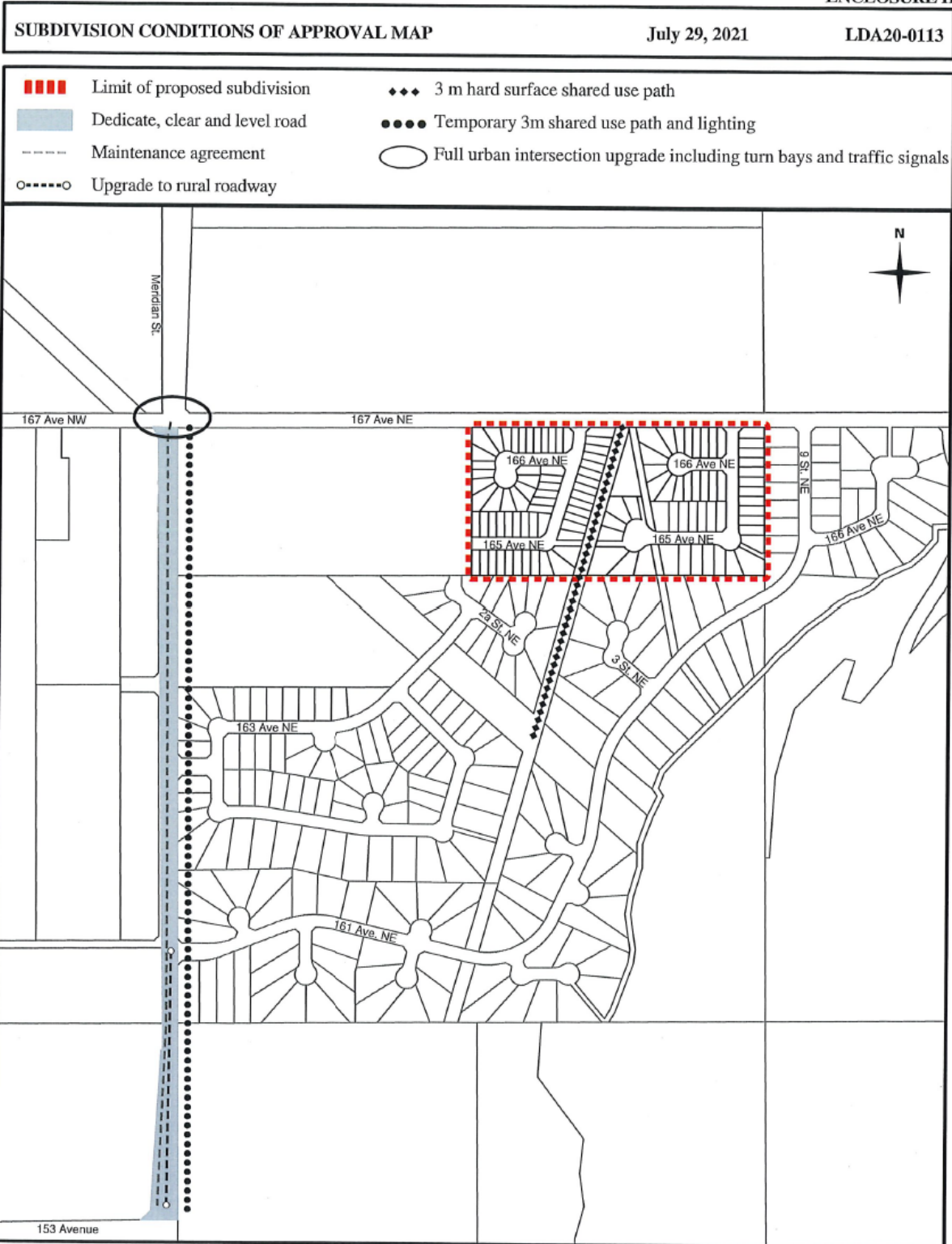
Enclosure(s)

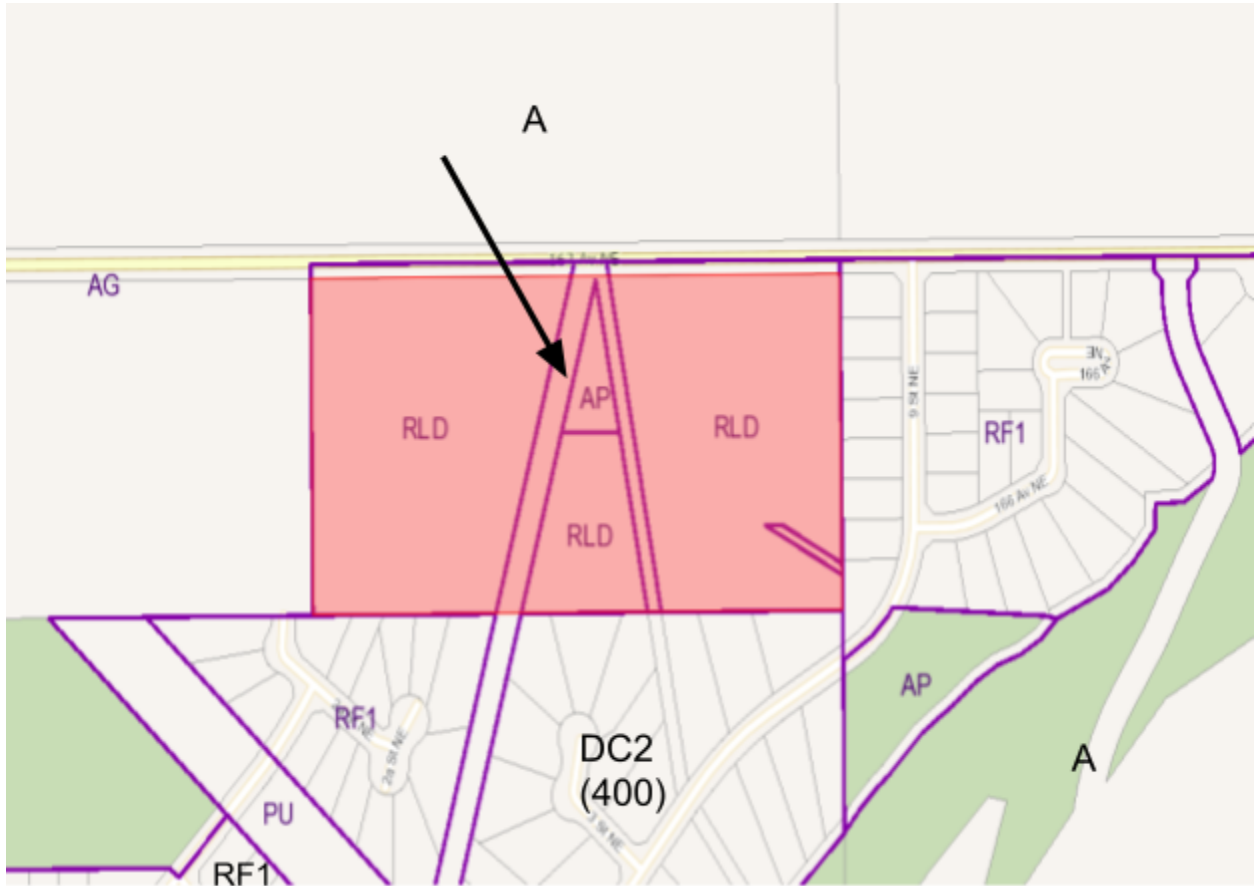
ENCLOSURE I

SUBDIVISION CONDITIONS OF APPROVAL MAP July 29, 2021 LDA20-0113

- | | |
|--|---|
| <ul style="list-style-type: none"> ■■■■ Limit of proposed subdivision ▬▬▬ Emergency access walkway ◆◆◆ 3 m hard surface shared use path ■ ■ ■ 1.8 m uniform screen fence as per Zoning ----- Bylaw 1.8 m uniform screen fence | <ul style="list-style-type: none"> ----- 1.2 m uniform fence * Modify lots if necessary ★ Withhold lots from registration Ⓜ No parking signage ⊕ Restrictive covenant re: Disturbed Soil ↻ Temporary 12 m radius turnaround — — Sanitary sewer extension |
|--|---|







SURROUNDING LAND USE DISTRICTS

Site Location ←

N

File: SDAB-S-21-006 ▲

ITEM II: 1:30 P.M.

FILE: SDAB-D-21-174

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 361226358-002

APPLICATION TO: Develop a Restaurant and Mobile Catering Food Service.
(Ghost Kitchen) (TEMPORARY - 3 YEARS)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 3, 2021

DATE OF APPEAL: September 24, 2021

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 10460 - 83 Avenue NW
8309 - 105 Street NW

LEGAL DESCRIPTION: Plan I Blk 80 Lot 23, Plan I Blk 80 Lots 21-22

ZONE: (CB2) General Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan

Grounds for Appeal

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

The development permit requested is temporary/interim only as the site is intended for eventual redevelopment by the property owner. While full compliance with the overlay is impossible for these structures, much effort has been employed to see the buildings fulfil the spirit of the bylaw and alleviate neighbours concerns. At all times REEF has worked to address

concerns as they've presented themselves in a timely manner. By providing income to the owner, the site is maintained and kept active rather than becoming a fenced yard that is cared for on a more occasional basis.

Reef may be a Global company but REEF actually have a very local footprint and our blueprint to success is to focus on our local neighbourhoods and partnerships. Currently at Reef REEF employ over 100 hourly, full time employees who are residents of Edmonton. REEF provide benefits, vacation, PTO time and RRSP matching for our hourly employees. For the hospitality industry REEF are an employment leader and look to pay people fair and living wages.

During Covid, many restaurant brands have struggled to continue to keep their doors open and pay their bills. An example is the brand Via Cibo. They are an Alberta based brand that wanted to expand into Edmonton. They found a location in Sherwood Park in 2018, built a store front and unfortunately, they had to close their doors at the end of 2020. Being the entrepreneurs they are, they wanted to get back into the Edmonton market. They approached Reef and REEF have been able to work with them open 3 sites with them on May 6th, 2021. There was virtually no cost to Via Cibo to open these sites, and with the operations of these 3 sites they are generating more revenue than they were from their one location in Sherwood Park. On the other side REEF has a local brand, Wok Box, who wanted to grow outside of Edmonton. REEF worked with them and found suitable locations in Calgary and Toronto where they have been able to open and operate since June 29, 2021. Each month REEF continues to onboard and help local brands expand and reach more customers.

REEF also wants to give back to the communities they serve. On Feb 18th REEF donated 100 meals to the Edmonton Food Bank to feed their volunteers. REEF is in the hospitality industry and wanted to give back to some of the unsung heroes in Edmonton. REEF continues to donate any excess food or inventory to the foodbank and local shelters. During the heatwave that Edmonton experienced around the Canada day long weekend, the Bissell centre reached out to the public for bottled water donations. REEF purchased and worked with our vendor to deliver over 1000 bottles of water to help support the Bissel centre and the homeless that were at risk.

REEF also believe that our current presence actually does improve the sites in a temporary nature. Our presence reduces risk of theft and by having our sites active reduces other unwanted activities that may occur in the neighbourhood. There have been other criminal acts or vandalism in other parts of town and REEF have always and will cooperate with Edmonton Police to keep our neighbourhoods safe as they can be.

Operationally, improvements to the sites have been made to address concerns that were brought up by neighbours and development officers,

specifically removing all garbage (including bins) from the site daily. The zoning of the site would allow for a range of food and beverage uses so there is no more noise or odours than would be allowed for a brick and mortar establishment.

<i>General Matters</i>

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 the decision in accordance with subsection (2.1).

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of

that period under section 684, within 21 days after the date the period or extension expires,

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (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.

Hearing and Decision

687(3) In determining an appeal, the board hearing the appeal referred to in subsection (1)

...

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

...

- (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*:

Under section 340.2(27), **Restaurants**, for less than 200 occupants and 240 m² of Public Space, is a **Permitted Use** in the **(CB2) General Business Zone**.

Under section 340.3(29), **Restaurants**, for more than 200 occupants and 240 m² of Public Space, provided the Site is not adjacent to or across a Lane from a Site zoned residential, is a **Discretionary Use** in the **(CB2) General Business Zone**.

Under section 340.3(17), **Mobile Catering Food Services** is a **Discretionary Use** in the **(CB2) General Business Zone**.

Under section 7.4(45), **Restaurant** means:

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.

Under section 7.4(36), **Mobile Catering Food Services** means “development using a fleet of three or more vehicles for the delivery and sale of food to the public.”

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. This zone also accommodates limited Residential-related uses.

Section 819.1 states that the **General Purpose** of the **Main Streets Overlay** is:

to encourage and strengthen the pedestrian-oriented character of Edmonton’s main street commercial areas that are located in proximity to residential and transit-oriented areas, by providing visual interest, transparent storefront displays, and amenities for pedestrians.

General Purpose of the Main Streets Overlay

Development Officer's Determination

1) The proposed development does not meet the General Purpose of the Main Streets Overlay (S. 819.1). In particular, the development is vehicular-oriented instead of pedestrian-oriented, lacks visual interest or transparent storefront displays, or appropriate pedestrian amenities.

[unedited]

Bicycle Parking

Section 54.5 provides regulations with respect to ***Bicycle Parking Facilities***.

Under section 6.1, **Bicycle Parking** means:

a space designed for the securing of one or more bicycles in an orderly fashion. Bicycle Parking can be either:

- a. long term, meaning a weather-protected, secure location where access to the enclosure is limited to authorized individuals only. For example: a room within a residential building or workplace; an enclosure within a parking garage; or a cluster of bicycle lockers.
- b. short term, meaning a publicly-accessible location that is visible from and close to the entrance of the building it serves. For example: a bicycle rack or bicycle corral.

Development Officer's Determination

2) Bicycle parking is required under Section 54.3 Schedule 2.

Minimum bicycle parking required: 5 spaces

Proposed bicycle parking: 2 spaces

Deficiency: 3 spaces.

[unedited]

(CB2) General Business Zone - Setback

Section 340.4(5) states:

No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback. Loading, storage and trash collection areas shall be located to the rear or sides of the principal building and shall be screened from view from any adjacent Sites, public roadways or a LRT line in accordance with the provisions of Section 55.5 of this Bylaw. If the rear or sides of a Site are used for parking, an outdoor service or display area or both, and Abut a Residential Zone or a Lane serving a Residential Zone, such areas shall be screened in accordance with the provisions of subsection 55.4 of this Bylaw.

Under section 6.1, **Setback** means “the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space.”

Development Officer’s Determination

3) A setback shall not be used for vehicular parking (Section 340.4(5)).

Proposed: The parking area is located in the setback, 0m from the property line facing 8315-105 Street.

[unedited]

Main Streets Overlay - Development Regulations

Section 819.4(5) states “To improve architectural interest of the principal structure and create a pedestrian-friendly environment for all seasons, design techniques including but not limited to entrance features, varied roof design, outdoor seating areas, canopies, or Landscaping shall be incorporated.”

Development Officer’s Determination

4) Pedestrian-friendly architectural design shall be incorporated into the development (Section 819.4(5)).

Proposed: No pedestrian-friendly architectural features have been proposed, in the opinion of the Development Officer.

[unedited]

Section 819.3(8) states:

All vehicular access shall be from an Abutting Lane. Where there is no Abutting Lane, vehicular access shall be provided from a flanking public roadway. When a Site with existing vehicular access from a public roadway other than a Lane is redeveloped, the existing vehicular access shall be closed where an Abutting Lane exists, or relocated to a flanking public roadway where an Abutting Lane does not exist.

Development Officer's Determination

5) All vehicular access shall be from an Abutting Lane. (Section 819.3(8)).

Proposed: A road access is located off of 83 Avenue (front) instead of the alley.

[unedited]

Section 819.4(9)(a) states:

Each Façade facing a public or private roadway other than a Lane shall have a minimum of 70% clear, non-reflective glazing on the exterior of the ground floor to promote pedestrian interaction and safety, except:

- a. when a Development Permit application is solely for exterior alterations to existing buildings, each Façade facing a public roadway other than a Lane shall have a minimum of 50% clear, non-reflective glazing on the exterior of the ground floor.

Proportion of glazing is calculated as a percent of linear meters at 1.5 m above finished Grade.

Development Officer's Determination

6) Each Façade facing a public or private roadway other than a Lane shall have a minimum of 70% clear, non-reflective glazing on the exterior of the ground floor (Section 819.4(9)).

Proposed: No glazing is proposed at the 1.5m building height-line of the structure.

[unedited]

Section 819.4(11) states “Landscaping of Sites shall use plant materials that provide colour throughout the year to enhance appearance during the winter months.”

Development Officer’s Determination

7) Landscaping of Sites shall use plant materials that provide colour throughout the year to enhance appearance during the winter months (Section 819.4(11)).

Proposed: Landscaping has not been proposed as a part of the proposed Restaurant and Mobile Catering Food Service.

[unedited]

Section 819.3(9) states “All surface parking and underground parking access shall be located at the rear of the building.”

Development Officer’s Determination

8) All surface parking and underground parking access shall be located at the rear of the building (Section 819.3(9)).

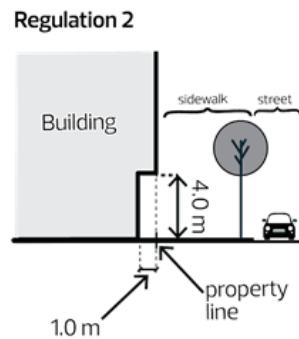
Proposed: The parking will be at the front and sides of the building, instead of at the rear.

[unedited]

Section 819.3(2) states:

A Setback of 1.0 m shall be required where a Site Abuts a public roadway, other than a Lane. The 1.0 m Setback shall be paved and visually incorporated into the public Walkway to the satisfaction of the Development Officer in consultation with the applicable City department. The Development Officer may allow this Setback to be increased to a maximum of 2.5 m to accommodate street related activities, such as patios and seating areas, or to retain existing mature landscaping, that contribute to the pedestrian-oriented shopping character of the area. Buildings may project to the front and side property lines above 4.0 m in Height.

Diagram of Regulation 2 - for illustrative purposes



Development Officer's Determination

9) A Setback of 1.0 m shall be required where a Site Abuts a public roadway, other than a Lane. The 1.0 m Setback shall be paved and visually incorporated into the public Walkway to the satisfaction of the Development Officer in consultation with the applicable City department. (Section 819.3(2)).

Proposed: The distance from the Restaurant and Mobile Catering Food Service to the property line along 83 Avenue (front lot line) is 6.58m instead of 1m-2.5m.

Proposed: The distance from the Restaurant and Mobile Catering Food Service to the property line along 105 Street (flanking side lot line) is 20.1m instead of 1m-2.5m.

[unedited]

Section 819.4(6) states "Winter design elements such as the use of colour and functional and decorative lighting to enhance the appearance of the building while minimizing light pollution during the winter months shall be incorporated."

Development Officer's Determination

10) Winter design elements such as the use of colour and functional and decorative lighting shall be incorporated (Section 819.4(6)).

Proposed: No winter design elements have been proposed, in the opinion of the Development Officer.

[unedited]

Section 819.4(8) states “Each Storey shall have windows on all Façades facing a public roadway.”

Development Officer’s Determination

11) Each Storey shall have windows on all Façades facing a public roadway. (Section 819.4(8)).

Proposed: The building has no windows facing the street, instead of windows facing both 105 Street and 83 Avenue.

[unedited]

Section 819.4(13) states “Where a Commercial Use is provided at ground level Abutting a public roadway other than a Lane, the principal entrance shall be designed for universal accessibility. A maximum of two ground floor commercial units may share a common entranceway.”

Development Officer’s Determination

12) Where a Commercial Use is provided at ground level Abutting a public roadway other than a Lane, the principal entrance shall be designed for universal accessibility (Section 819.4(13)).

Proposed: No universal accessibility features have been proposed, in the opinion of the Development Officer.

[unedited]

<i>Community Consultation</i>

Section 819.4(15) states:

When the Development Officer determines that a Development Permit application does not comply with the regulations contained in this Overlay:

- a. the Development Officer shall send notice to the municipal address and assessed owners of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development, and the President of each affected Community League and each Business Improvement Area Association operating within the distance described above to outline any requested variances to the Overlay and solicit comments directly

related to the proposed variance;

- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been mailed, unless the Development Officer receives feedback from all specified recipients; and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit application in accordance with Section 11.3.

Development Officer's Determination

13) The proposed development was subject to a required public consultation under Section 819.4(15) of the Zoning Bylaw.

A public consultation mailout was completed between 17 July - 7 Aug. 2021. Ten responses were received, all objecting to or otherwise expressing concerns with the proposed development.

One objection was received from the Strathcona BIA. All other responses came from adjacent residences.

A variety of reasons were provided for the concerns and objections, including the following:

- Noise and vapours from the mechanical equipment used.**
- Traffic issues from delivery/pickup drivers**
- Poor management of the waste and trash collection areas.**
- Lack of "fit" into the surrounding community and the proposed pedestrian-oriented typology for the area.**
- General lack of site enhancements or improvements, as implied by the MSO.**


The Development Officer notes that as the structures have been on the site for over a year, adjacent residents and landowners have had an opportunity to gauge the potential impacts. It is therefore the Development Officer's opinion that, although certain objections provided are not acceptable objections, the objections listed must be taken into account under Section 819.4(15)(c) of the Zoning Bylaw.

14) It is the Development Officer's opinion that, based on the above, the development, even if Temporary in nature, is likely to negatively and unduly impact adjacent and surrounding properties and development.

[unedited]

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

	Project Number: 361226358-002 Application Date: APR 30, 2020 Printed: September 3, 2021 at 3:46 PM Page: 1 of 3		
<h2>Application for Major Development Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
Applicant	Property Address(es) and Legal Description(s) 10460 - 83 AVENUE NW Plan I Blk: 80 Lot 23 8309 - 105 STREET NW Plan I Blk: 80 Lots 21-22		
Scope of Application To develop a Restaurant and Mobile Catering Food Service. (Ghost Kitchen) (TEMPORARY - 3 YEARS)			
Permit Details <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;"> Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): </td> <td style="width: 50%; padding: 5px;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Strat. Plan Overlay/Annex Area: Main Street Overlay </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Strat. Plan Overlay/Annex Area: Main Street Overlay
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Strat. Plan Overlay/Annex Area: Main Street Overlay		
Development Application Decision Refused Issue Date: Sep 03, 2021 Development Authority: WELCH, IMAI Reason for Refusal <ol style="list-style-type: none"> 1) The proposed development does not meet the General Purpose of the Main Streets Overlay (S. 819.1). In particular, the development is vehicular-oriented instead of pedestrian-oriented, lacks visual interest or transparent storefront displays, or appropriate pedestrian amenities. 2) Bicycle parking is required under Section 54.3 Schedule 2. Minimum bicycle parking required: 5 spaces Proposed bicycle parking: 2 spaces Deficiency: 3 spaces. 3) A setback shall not be used for vehicular parking (Section 340.4(5)). Proposed: The parking area is located in the setback, 0m from the property line facing 8315-105 Street. 4) Pedestrian-friendly architectural design shall be incorporated into the development (Section 819.4(5)). Proposed: No pedestrian-friendly architectural features have been proposed, in the opinion of the Development Officer. 5) All vehicular access shall be from an Abutting Lane. (Section 819.3(8)). Proposed: A road access is located off of 83 Avenue (front) instead of the alley. 6) Each Façade facing a public or private roadway other than a Lane shall have a minimum of 70% clear, non-reflective glazing on the exterior of the ground floor (Section 819.4(9)). Proposed: No glazing is proposed at the 1.5m building height-line of the structure. 7) Landscaping of Sites shall use plant materials that provide colour throughout the year to enhance appearance during the winter 			
THIS IS NOT A PERMIT			



Application for Major Development Permit

Project Number: **361226358-002**
 Application Date: APR 30, 2020
 Printed: September 3, 2021 at 3:46 PM
 Page: 2 of 3

months (Section 819.4(11)).

Proposed: Landscaping has not been proposed as a part of the proposed Restaurant and Mobile Catering Food Service.

8) All surface parking and underground parking access shall be located at the rear of the building (Section 819.3(9)).

Proposed: The parking will be at the front and sides of the building, instead of at the rear.

9) A Setback of 1.0 m shall be required where a Site Abuts a public roadway, other than a Lane. The 1.0 m Setback shall be paved and visually incorporated into the public Walkway to the satisfaction of the Development Officer in consultation with the applicable City department. (Section 819.3(2)).

Proposed: The distance from the Restaurant and Mobile Catering Food Service to the property line along 83 Avenue (front lot line) is 6.58m instead of 1m-2.5m.

Proposed: The distance from the Restaurant and Mobile Catering Food Service to the property line along 105 Street (flanking side lot line) is 20.1m instead of 1m-2.5m.

10) Winter design elements such as the use of colour and functional and decorative lighting shall be incorporated (Section 819.4(6)).

Proposed: No winter design elements have been proposed, in the opinion of the Development Officer.

11) Each Storey shall have windows on all Façades facing a public roadway. (Section 819.4(8)).

Proposed: The building has no windows facing the street, instead of windows facing both 105 Street and 83 Avenue.

12) Where a Commercial Use is provided at ground level Abutting a public roadway other than a Lane, the principal entrance shall be designed for universal accessibility (Section 819.4(13)).

Proposed: No universal accessibility features have been proposed, in the opinion of the Development Officer.

13) The proposed development was subject to a required public consultation under Section 819.4(15) of the Zoning Bylaw. A public consultation mailout was completed between 17 July - 7 Aug. 2021. Ten responses were received, all objecting to or otherwise expressing concerns with the proposed development.

One objection was received from the Strathcona BIA. All other responses came from adjacent residences.

A variety of reasons were provided for the concerns and objections, including the following:

- Noise and vapours from the mechanical equipment used.
- Traffic issues from delivery/pickup drivers
- Poor management of the waste and trash collection areas.
- Lack of "fit" into the surrounding community and the proposed pedestrian-oriented typology for the area.
- General lack of site enhancements or improvements, as implied by the MSO.

The Development Officer notes that as the structures have been on the site for over a year, adjacent residents and landowners have had an opportunity to gauge the potential impacts. It is therefore the Development Officer's opinion that, although certain objections provided are not acceptable objections, the objections listed must be taken into account under Section 819.4(15)(c) of the Zoning Bylaw.

14) It is the Development Officer's opinion that, based on the above, the development, even if Temporary in nature, is likely to negatively and unduly impact adjacent and surrounding properties and development.

THIS IS NOT A PERMIT



Project Number: **361226358-002**
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Application for Major Development Permit

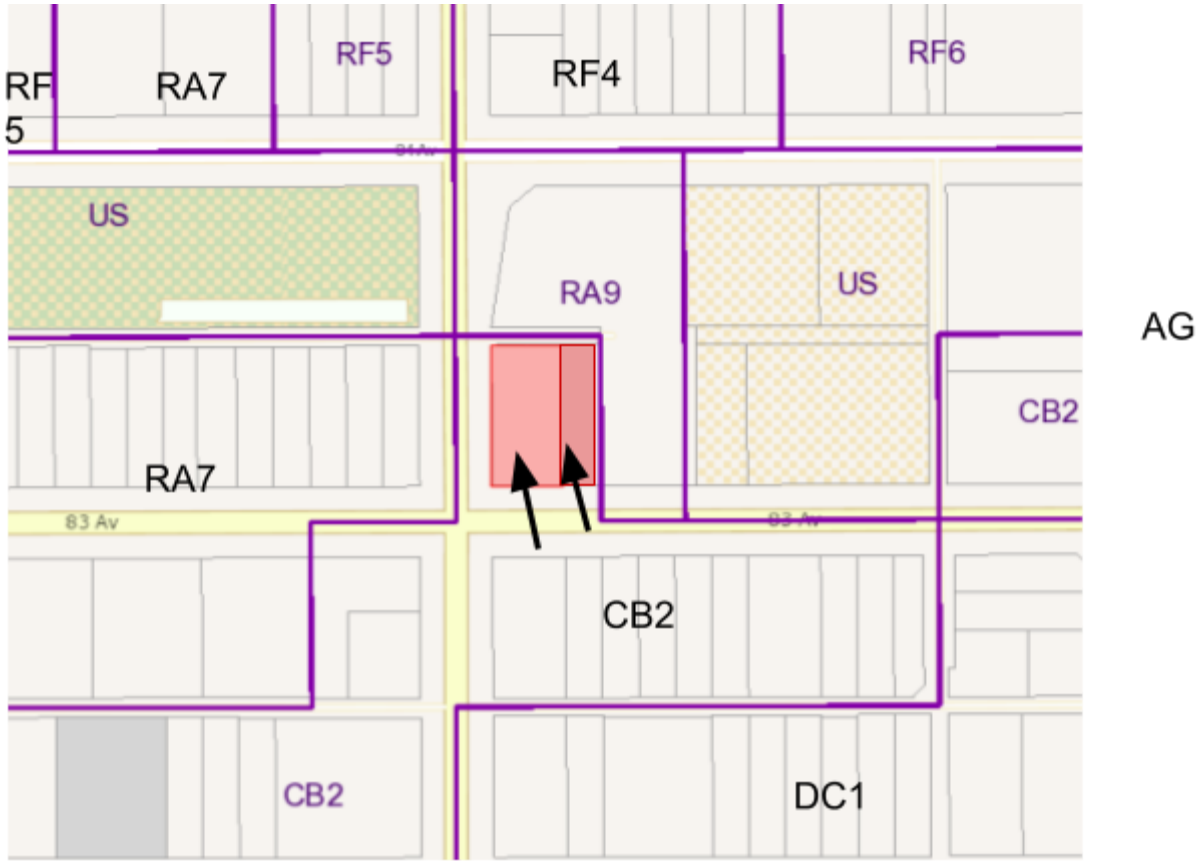
Rights of Appeal

The Applicant has the right of appeal to the Subdivision and Development Appeal Board (SDAB) within 21 days after the date on which the decision is made as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$981.00	\$981.00	06513968	May 04, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$981.00</u>	<u>\$981.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-21-174 **N** ↑

ITEM III: 1:30 P.M.

FILE: SDAB-D-21-175

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 361225793-002

APPLICATION TO: Develop 2 Restaurant and Mobile Catering Food Service buildings. (Ghost Kitchens) (TEMPORARY - 3 YEARS)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 3, 2021

DATE OF APPEAL: September 24, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10216 - 142 Street NW

LEGAL DESCRIPTION: Plan 1653Z Blk D Lot 10

ZONE: (CSC) Shopping Centre Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

The development permit requested is temporary/interim only as the site is intended for eventual redevelopment by the property owner. While full compliance with the overlay is impossible for these structures, much effort has been employed to see the buildings fulfil the spirit of the bylaw and alleviate neighbours concerns. At all times REEF has worked to address concerns as theyve presented themselves in a timely manner. By providing

income to the owner, the site is maintained and kept active rather than becoming a fenced yard that is cared for on a more occasional basis.

Reef may be a Global company but REEF actually have a very local footprint and our blueprint to success is to focus on our local neighbourhoods and partnerships. Currently at Reef REEF employ over 100 hourly, full time employees who are residents of Edmonton. REEF provide benefits, vacation, PTO time and RRSP matching for our hourly employees. For the hospitality industry REEF are an employment leader and look to pay people fair and living wages.

During Covid, many restaurant brands have struggled to continue to keep their doors open and pay their bills. An example is the brand Via Cibo. They are an Alberta based brand that wanted to expand into Edmonton. They found a location in Sherwood Park in 2018, built a store front and unfortunately, they had to close their doors at the end of 2020. Being the entrepreneurs they are, they wanted to get back into the Edmonton market. They approached Reef and REEF have been able to work with them open 3 sites with them on May 6th, 2021. There was virtually no cost to Via Cibo to open these sites, and with the operations of these 3 sites they are generating more revenue than they were from their one location in Sherwood Park. On the other side REEF has a local brand, Wok Box, who wanted to grow outside of Edmonton. REEF worked with them and found suitable locations in Calgary and Toronto where they have been able to open and operate since June 29, 2021. Each month REEF continues to onboard and help local brands expand and reach more customers.

REEF also wants to give back to the communities they serve. On Feb 18th REEF donated 100 meals to the Edmonton Food Bank to feed their volunteers. REEF is in the hospitality industry and wanted to give back to some of the unsung heroes in Edmonton. REEF continues to donate any excess food or inventory to the foodbank and local shelters. During the heatwave that Edmonton experienced around the Canada day long weekend, the Bissell centre reached out to the public for bottled water donations. REEF purchased and worked with our vendor to deliver over 1000 bottles of water to help support the Bissel centre and the homeless that were at risk.

REEF also believe that our current presence actually does improve the sites in a temporary nature. Our presence reduces risk of theft and by having our sites active reduces other unwanted activities that may occur in the neighbourhood. There have been other criminal acts or vandalism in other parts of town and REEF have always and will cooperate with Edmonton Police to keep our neighbourhoods safe as they can be.

Operationally, improvements to the sites have been made to address concerns that were brought up by neighbours and development officers, specifically removing all garbage (including bins) from the site daily. The

zoning of the site would allow for a range of food and beverage uses so there is no more noise or odours than would be allowed for a brick and mortar establishment.

<i>General Matters</i>

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 the decision in accordance with subsection (2.1).

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (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.

Hearing and Decision

687(3) In determining an appeal, the board hearing the appeal referred to in subsection (1)

...

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

...

- (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*:

Under section 320.2(23), **Restaurants**, for less than 200 occupants and 240 m² of Public Space, on a Site 2 ha or larger is a **Permitted Use** in the **(CSC) Shopping Centre Zone**.

Under section 320.3(24), **Restaurants**, for more than 200 occupants and 240 m² of Public Space, on a Site 2 ha or larger, is a **Discretionary Use** in the **(CSC) Shopping Centre Zone**.

Under section 320.3(15), **Mobile Catering Food Services** is a **Discretionary Use** in the **(CSC) Shopping Centre Zone**.

Under section 7.4(45), **Restaurant** means:

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.

Under section 7.4(36), **Mobile Catering Food Services** means “development using a fleet of three or more vehicles for the delivery and sale of food to the public.”

Section 320.1 states that 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 819.1 states that the **General Purpose** of the **Main Streets Overlay** is:

to encourage and strengthen the pedestrian-oriented character of Edmonton’s main street commercial areas that are located in proximity to residential and transit-oriented areas, by providing visual interest, transparent storefront displays, and amenities for pedestrians.

General Purpose of the Main Streets Overlay

Development Officer's Determination

1) The proposed development does not meet the General Purpose of the Main Streets Overlay (S. 819.1). In particular, the development is vehicular-oriented instead of pedestrian-oriented, lacks visual interest or transparent storefront displays, or appropriate pedestrian amenities.

[unedited]

Bicycle Parking

Section 54.5 provides regulations with respect to ***Bicycle Parking Facilities***.

Under section 6.1, **Bicycle Parking** means:

a space designed for the securing of one or more bicycles in an orderly fashion. Bicycle Parking can be either:

- a. long term, meaning a weather-protected, secure location where access to the enclosure is limited to authorized individuals only. For example: a room within a residential building or workplace; an enclosure within a parking garage; or a cluster of bicycle lockers.
- b. short term, meaning a publicly-accessible location that is visible from and close to the entrance of the building it serves. For example: a bicycle rack or bicycle corral.

Development Officer's Determination

2) Bicycle parking is required under Section 54.5.

Minimum bicycle parking required: 1 space

Proposed bicycle parking: 0 spaces

Deficiency: 1 space.

[unedited]

(CSC) Shopping Centre Zone - Setback

Section 320.4(5) states:

No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback. Loading, storage and trash collection areas shall be located to the rear or sides of the principal building and shall be screened from view from any adjacent Sites, public roadways or a LRT line, in accordance with the provisions of Section 55.5 of this Bylaw. If the rear or sides of a Site are used for parking, an outdoor service or display area, or both, and Abut a Residential Zone or a Lane serving a Residential Zone, such areas shall be screened in accordance with the provisions of subsection 55.4 of this Bylaw.

Under section 6.1, **Setback** means “the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space.”

Development Officer’s Determination

3) A setback shall not be used for trash collection (Section 320.4(5)).

Proposed: The trash collection area is located in the setback, 1.83m from the property line facing 142 Street.

[unedited]

Section 320.4(7) states “All Uses shall be part of a purpose-designed shopping centre.”

Development Officer’s Determination

4) All Uses shall be part of a purpose-designed shopping centre (Section 320.4(7)).

Proposed: The Restaurant and Mobile Catering Food Service is a stand-alone facility, instead of being part of a purpose-designed shopping centre.

[unedited]

Main Streets Overlay - Development Regulations

Section 819.4(5) states “To improve architectural interest of the principal structure and create a pedestrian-friendly environment for all seasons, design techniques including but

not limited to entrance features, varied roof design, outdoor seating areas, canopies, or Landscaping shall be incorporated.”

Development Officer’s Determination

5) Pedestrian-friendly architectural design shall be incorporated into the development (Section 819.4(5)).

Proposed: No pedestrian-friendly architectural features have been proposed, in the opinion of the Development Officer.

[unedited]

Section 819.4(9)(a) states:

Each Façade facing a public or private roadway other than a Lane shall have a minimum of 70% clear, non-reflective glazing on the exterior of the ground floor to promote pedestrian interaction and safety, except:

- a. when a Development Permit application is solely for exterior alterations to existing buildings, each Façade facing a public roadway other than a Lane shall have a minimum of 50% clear, non-reflective glazing on the exterior of the ground floor.

Proportion of glazing is calculated as a percent of linear meters at 1.5 m above finished Grade.

Development Officer’s Determination

6) Each Façade facing a public or private roadway other than a Lane shall have a minimum of 70% clear, non-reflective glazing on the exterior of the ground floor (Section 819.4(9)).

Proposed: No glazing is proposed at the 1.5m building height-line of the structure.

[unedited]

Section 819.4(11) states “Landscaping of Sites shall use plant materials that provide colour throughout the year to enhance appearance during the winter months.”

Development Officer’s Determination

7) Landscaping of Sites shall use plant materials that provide colour throughout the year to enhance appearance during the winter months (Section 819.4(11)).

Proposed: Landscaping has not been proposed as a part of the proposed Restaurant and Mobile Catering Food Service.

[unedited]

Section 819.3(9) states “All surface parking and underground parking access shall be located at the rear of the building.”

Development Officer’s Determination

8) All surface parking and underground parking access shall be located at the rear of the building (Section 819.3(9)).

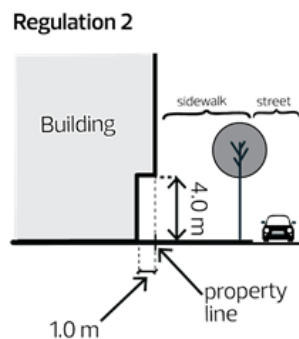
Proposed: The parking will be at the front of the building, instead of at the rear.

[unedited]

Section 819.3(2) states:

A Setback of 1.0 m shall be required where a Site Abuts a public roadway, other than a Lane. The 1.0 m Setback shall be paved and visually incorporated into the public Walkway to the satisfaction of the Development Officer in consultation with the applicable City department. The Development Officer may allow this Setback to be increased to a maximum of 2.5 m to accommodate street related activities, such as patios and seating areas, or to retain existing mature landscaping, that contribute to the pedestrian-oriented shopping character of the area. Buildings may project to the front and side property lines above 4.0 m in Height.

Diagram of Regulation 2 - for illustrative purposes



Development Officer's Determination

9) A Setback of 1.0 m shall be required where a Site Abuts a public roadway, other than a Lane. The 1.0 m Setback shall be paved and visually incorporated into the public Walkway to the satisfaction of the Development Officer in consultation with the applicable City department. (Section 819.3(2)).

Proposed: The distance from the Restaurant and Mobile Catering Food Service to the property line along 142 Street (front lot line) is 1.83m instead of 1m, and does not appear to be visually incorporated into the public walkway.

[unedited]

Section 819.4(13) states "Where a Commercial Use is provided at ground level Abutting a public roadway other than a Lane, the principal entrance shall be designed for universal accessibility. A maximum of two ground floor commercial units may share a common entranceway."

Development Officer's Determination

10) Where a Commercial Use is provided at ground level Abutting a public roadway other than a Lane, the principal entrance shall be designed for universal accessibility (Section 819.4(13)).

Proposed: No universal accessibility features have been proposed, in the opinion of the Development Officer.

[unedited]

Section 819.4(6) states "Winter design elements such as the use of colour and functional and decorative lighting to enhance the appearance of the building while minimizing light pollution during the winter months shall be incorporated."

Development Officer's Determination

11) Winter design elements such as the use of colour and functional and decorative lighting shall be incorporated (Section 819.4(6)).

Proposed: No winter design elements have been proposed, in the opinion of the Development Officer.

[unedited]

Section 819.4(8) states “Each Storey shall have windows on all Façades facing a public roadway.”

Development Officer’s Determination

12) Each Storey shall have windows on all Façades facing a public roadway. (Section 819.4(8)).

Proposed: The building does not have windows proposed on the east (142 Street) side of the structure.

[unedited]

Community Consultation

Section 819.4(15) states:

When the Development Officer determines that a Development Permit application does not comply with the regulations contained in this Overlay:

- a. the Development Officer shall send notice to the municipal address and assessed owners of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development, and the President of each affected Community League and each Business Improvement Area Association operating within the distance described above to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been mailed, unless the Development Officer receives feedback from all specified recipients; and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit application in accordance with Section 11.3.

Development Officer’s Determination

13) The proposed development was subject to a required public consultation under Section 819.4(15) of the Zoning Bylaw.

The public consultation mailout was completed between 14 May-4 June 2021. Eight responses were received, with all but one objecting to the proposed development.

Many of the objections came from the professional building immediately north of the site, and from the West Block building on the east side of 142 Street. A variety of reasons were provided for the concerns and objections, including the following:

- Noise and vapours from the mechanical equipment used.**
- Traffic issues from delivery/pickup drivers**
- Poor management of the waste and trash collection areas.**
- Lack of “fit” into the surrounding community and the proposed TOD typology for the area.**
- General lack of site enhancements or improvements, as implied by the MSO.**


The Development Officer notes that as the structures have been on the site for over a year, adjacent residents and landowners have had an opportunity to gauge the potential impacts. It is therefore the Development Officer’s opinion that, although certain objections provided are not acceptable objections, the objections listed must be taken into account under Section 819.4(15)(c) of the Zoning Bylaw.

14) It is the Development Officer’s opinion that, based on the above, the development, even if Temporary in nature, is likely to negatively and unduly impact adjacent and surrounding properties and development.

[unedited]

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

	<p>Application for Major Development Permit</p>	<p>Project Number: 361225793-002 Application Date: APR 30, 2020 Printed: September 24, 2021 at 2:29 PM Page: 1 of 3</p>		
<p>This document is a Development Permit Decision for the development application described below.</p>				
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 10216 - 142 STREET NW Plan 1653Z Blk D Lot 10</p>			
<p>Scope of Application To develop 2 Restaurant and Mobile Catering Food Service buildings. (Ghost Kitchens) (TEMPORARY - 3 YEARS)</p>				
<p>Permit Details</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> Class of Permit: Class B Gross Floor Area (sq. m.): New Sewer Service Required: N Site Area (sq. m.): </td> <td style="width: 50%;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Strat. Plan Overlay/Annex Area: Main Street Overlay </td> </tr> </table>			Class of Permit: Class B Gross Floor Area (sq. m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Strat. Plan Overlay/Annex Area: Main Street Overlay
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<p>Development Application Decision Refused Issue Date: Sep 03, 2021 Development Authority: WELCH, IMAI</p> <p>Reason for Refusal</p> <ol style="list-style-type: none"> 1) The proposed development does not meet the General Purpose of the Main Streets Overlay (S. 819.1). In particular, the development is vehicular-oriented instead of pedestrian-oriented, lacks visual interest or transparent storefront displays, or appropriate pedestrian amenities. 2) Bicycle parking is required under Section 54.5. Minimum bicycle parking required: 1 space Proposed bicycle parking: 0 spaces Deficiency: 1 space. 3) A setback shall not be used for trash collection (Section 320.4(5)). Proposed: The trash collection area is located in the setback, 1.83m from the property line facing 142 Street. 4) All Uses shall be part of a purpose-designed shopping centre (Section 320.4(7)). Proposed: The Restaurant and Mobile Catering Food Service is a stand-alone facility, instead of being part of a purpose-designed shopping centre. 5) Pedestrian-friendly architectural design shall be incorporated into the development (Section 819.4(5)). Proposed: No pedestrian-friendly architectural features have been proposed, in the opinion of the Development Officer. 6) Each Façade facing a public or private roadway other than a Lane shall have a minimum of 70% clear, non-reflective glazing on the exterior of the ground floor (Section 819.4(9)). Proposed: No glazing is proposed at the 1.5m building height-line of the structure. 				
<p>THIS IS NOT A PERMIT</p>				

Application for Major Development Permit

7) Landscaping of Sites shall use plant materials that provide colour throughout the year to enhance appearance during the winter months (Section 819.4(11)).

Proposed: Landscaping has not been proposed as a part of the proposed Restaurant and Mobile Catering Food Service.

8) All surface parking and underground parking access shall be located at the rear of the building (Section 819.3(9)).

Proposed: The parking will be at the front of the building, instead of at the rear.

9) A Setback of 1.0 m shall be required where a Site Abuts a public roadway, other than a Lane. The 1.0 m Setback shall be paved and visually incorporated into the public Walkway to the satisfaction of the Development Officer in consultation with the applicable City department. (Section 819.3(2)).

Proposed: The distance from the Restaurant and Mobile Catering Food Service to the property line along 142 Street (front lot line) is 1.83m instead of 1m, and does not appear to be visually incorporated into the public walkway.

10) Where a Commercial Use is provided at ground level Abutting a public roadway other than a Lane, the principal entrance shall be designed for universal accessibility (Section 819.4(13)).

Proposed: No universal accessibility features have been proposed, in the opinion of the Development Officer.

11) Winter design elements such as the use of colour and functional and decorative lighting shall be incorporated (Section 819.4(6)).

Proposed: No winter design elements have been proposed, in the opinion of the Development Officer.

12) Each Storey shall have windows on all Façades facing a public roadway. (Section 819.4(8)).

Proposed: The building does not have windows proposed on the east (142 Street) side of the structure.

13) The proposed development was subject to a required public consultation under Section 819.4(15) of the Zoning Bylaw. The public consultation mailout was completed between 14 May-4 June 2021. Eight responses were received, with all but one objecting to the proposed development.

Many of the objections came from the professional building immediately north of the site, and from the West Block building on the east side of 142 Street. A variety of reasons were provided for the concerns and objections, including the following:

- Noise and vapours from the mechanical equipment used.
- Traffic issues from delivery/pickup drivers
- Poor management of the waste and trash collection areas.
- Lack of "fit" into the surrounding community and the proposed TOD typology for the area.
- General lack of site enhancements or improvements, as implied by the MSO.

The Development Officer notes that as the structures have been on the site for over a year, adjacent residents and landowners have had an opportunity to gauge the potential impacts. It is therefore the Development Officer's opinion that, although certain objections provided are not acceptable objections, the objections listed must be taken into account under Section 819.4(15)(c) of the Zoning Bylaw.

14) It is the Development Officer's opinion that, based on the above, the development, even if Temporary in nature, is likely to negatively and unduly impact adjacent and surrounding properties and development.

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Application for Major Development Permit

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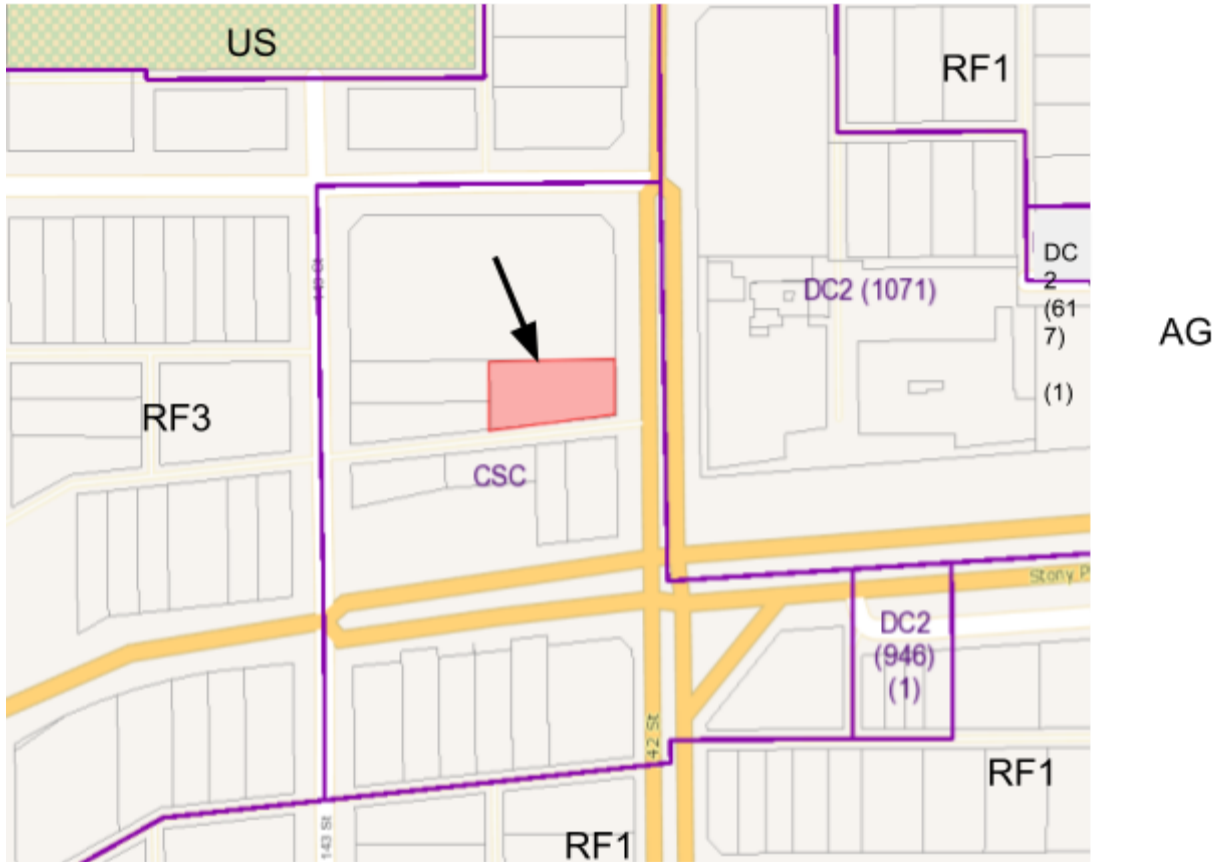
Rights of Appeal

The Applicant has the right of appeal to the Subdivision and Development Appeal Board (SDAB) within 21 days after the date on which the decision is made as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$981.00	\$981.00	06513996	May 04, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$981.00</u>	<u>\$981.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

N

File: SDAB-D-21-175 ▲