SUBDIVISION

AND

DEVELOPMENT APPEAL BOARD

AGENDA

Thursday, 9:00 A.M. October 29, 2015

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

SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING ROOM NO. 3

<u>TO</u>	BE RAISED		
Ι	9:00 A.M.	SDAB-D-15-211	Change the Use from Professional, Financial, and Office Support Services to General Retail Stores (main floor) and Health Services (2nd floor), and construct additions, interior alterations, and exterior alterations
			12407 - 112 Avenue NW Project No.: 172560246-001
II	11:00 A.M.	SDAB-D-15-253	Change the Use from an Automotive and Equipment Repair Shop to an Animal Hospital and Shelter, and construct interior alterations (dog indoor play park)
			10417 - 79 Avenue NW Project No.: 179375367-001
III Tab	2:00 P.M. bled to Nover	SDAB-D-15-252 mber 25 or 26, 2015	Change the Use from an Indoor Participant Recreation Service to a Religious Assembly with a capacity of 456 seats, and to construct interior alterations (SouthWest Muslim Community Centre)
			280 - Saddleback Road NW, 280C - Saddleback Road NW Project No.: 172775213-001

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

TO BE RAISED

<u>ITEM I: 9:00 A.M.</u> <u>FILE: SDAB-D-15-211</u>

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 172560246-001

ADDRESS OF APPELLANT: 12407 - 112 AVENUE NW

APPLICATION TO: Change the Use from Professional,

Financial, and Office Support Services to General Retail Stores (main floor) and Health Services (2nd floor), and construct additions, interior alterations, and exterior

alterations

DECISION OF THE

DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 14, 2015

DATE OF APPEAL: August 21, 2015

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 12407 - 112 Avenue NW

LEGAL DESCRIPTION: Plan 2531AB Blk 4 Lot 10

ZONE: CB1 Low Intensity Business Zone

OVERLAY: N/A

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

Reasons for Appeal are as follows;

1) We feel that our business model is very different then a normal medical center and will require significantly less parking then needed as per Edmonton By-laws. Bigstone Health Commission offers free transportation from many different cities for aboriginal people to be able to receive needed dental/medical aid.

This service transports approximately 1200 (number to be confirmed) people each month delivering them to several different facilities including hospital and dental/medical facilities. This future building will give Bigstone Health Commission a needed outlet for aboriginal people in need of medical and dental services.

- 2) The parking requirement outlined in the development refusal letter is inflated and believe it should be lowered.
- 3) The proposed facility is on a major transit avenue and will have many of its customers using transit.
- 4) In the past, although there is no documentation a dental facility was at this location as well as a pharmacy. The development permit application form shows that is is current a Professional, Financial and Office Support Service (parking requirement 3.4/100M2) while our proposed facility will require the addition of .1/100m2 for a total of an extra 1.2 Parking stalls. Although the development application shows this there is still no records for this building.
- 5) We would also like to bring up that the building is an existing building will no room to expand a parking lot. Our design does not take away any of the existing parking stalls. We feel that if this building will not be accepted for our application that there is no other business that it would be accepted for and therefore would remain vacant for the rest of its life.

Please note these are not the only reasons that this application is being appealed and all proper documentation will be brought forth for the appeal process. If all documentation is needed prior to the appeal process we can gather properly and deliver. I can be contacted at

[unedited]

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or

(c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Appeals

- **686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,
 - (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

. . .

The decision of the Development Authority was dated August 14, 2015. The Notice of Appeal Period expired on August 28, 2015 and the Notice of Appeal was filed on August 22, 2015.

Previous Tabling

On September 17, 2015, the Subdivision and Development Appeal Board granted the Appellant's postponement request for the following reasons:

- 1. There was no opposition to the postponement request from the Development Authority.
- 2. A postponement to October 29, 2015, will allow the Appellant to continue the community consultation process.
- 3. New plans were submitted and this postponement will ensure that the Development Authority as well as the Board has adequate time to review the changes made.

General Provisions from the Edmonton Zoning Bylaw:

Section 330.1 states the following with respect to the **General Purpose** of the **CB1 Low Intensity Business Zone:**

...to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

Under section 330.2(6), **General Retail Stores**, up to a maximum Floor Area of 1 000 m² is a **Permitted Use** in the CB1 Low Intensity Business Zone.

Under section 330.3(11), **General Retail Stores** with a Floor Area greater than 1 000 m² is a **Discretionary Use** in the CB1 Low Intensity Business Zone.

Section 7.4(22) defines **General Retail Stores** as follows:

...development used for the retail or consignment sale of new goods or merchandise within an enclosed building, not including the sale of gasoline, heavy agricultural and industrial equipment, alcoholic beverages, or goods sold wholesale. Accessory Uses may include the assembly or repair of products sold on Site, or minor public services such as postal services or pharmacies. This Use Class does not include Aircraft Sales/Rentals, Automotive and Minor Recreation Vehicle Sales/Rentals, Flea Market, Gas Bars, Greenhouses, Plant Nurseries and Market Gardens, Pawn Stores, Major Alcohol Sales, Minor Alcohol Sales, Major Service Stations, Minor Service Stations, Secondhand Stores, and Warehouse Sales.

Under section 330.2(7), **Health Services** is a **Permitted Use** in the CB1 Low Intensity Business Zone.

Section 7.4(24) defines **Health Services** as follows:

...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.

Under section 330.2(11), **Professional, Financial and Office Support Services** is a **Permitted Use**in the CB1 Low Intensity Business Zone.

Section 7.4(42) defines **Professional, Financial and Office Support Services** as follows:

... development primarily used for the provision of professional, management, administrative, consulting, and financial services, but does not include Health Services or Government Services. Typical Uses include: the offices of lawyers, accountants, engineers, and architects; offices for real estate and insurance firms; clerical, secretarial, employment, telephone answering, and similar office support services; and banks, credit unions, loan offices and similar financial Uses.

Section 6.1(34) defines **Floor Area** as follows:

...the total Floor Area of the building or structure, contained within the outside surface of the exterior and Basement walls, provided that in the case of a wall containing windows, the glazing line of windows may be used.

Vehicular Parking Requirement

Section 54.2 Schedule 1(A) provides the following with respect to the **minimum** number of Parking Spaces or Garage Spaces Required:

. . .

12.	Any development within a Commercial Use Class not listed separately in this table, with a Floor Area of:	Minimum Number of Parking Spaces or Garage Spaces
a.	less than 4 500 m ²	1 parking space per 40.0 m ² of Floor Area
b.	4 500m² - 9 000m²	1 parking space per 33.3 m ² of Floor Area
c.	9 000 m ² 28 000 m ²	1 parking space per 28.5 m ² of Floor Area
d.	greater than 28 000 m ²	1 parking space per 25.0 m ² of Floor Area

. . .

19. Health Services	1 parking space per 22.2 m ² of Floor Area
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Development Officer's Determination:

1) Parking shall be provided in accordance with Section 54.2 Schedule 1:

Required Parking: 43 spaces Proposed Parking: 5 spaces Deficiency: 38 spaces [unedited]

Setback requirement

Section 330.4(4) states "A minimum Setback of 3.0 m shall be required where the Rear or Side Lot Line of the Site abuts the lot line of a Site in a Residential Zone."

Section 6.1(34) defines **Setback** to mean "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:

2) A minimum setback of 3m shall be provided in accordance with Section 330.4(4):

Required Setback: 3m Proposed Setback: 0.25m Deficiency: 2.75m [unedited]

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.



Application for Major Development Permit

Project Number: **172560246-001**Application Date: MAY 15, 2015
Printed: October 21, 2015 at 11:11 Af 2

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

Applicant

BECKER ELZEIN & ASSOCIATES

Property Address(es) and Legal Description(s)

12407 - 112 AVENUE NW Plan 2531AB Blk 4 Lot 10

Specific Address(es)

Suite: 11148 - 124 STREET NW
Suite: 12407 - 112 AVENUE NW
Entryway: 11148 - 124 STREET NW
Entryway: 12407 - 112 AVENUE NW
Building: 12407 - 112 AVENUE NW

Scope of Application

To change the use from Professional, Financial, and Office Support Services to General Retail Stores (main floor) and Health Services (2nd floor), and construct additions, interior alterations, and exterior alterations.

Permit Details

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

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

Contact Person:

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

Applicant signature:

Development Application Decision

Refused

Reason for Refusal

1) Parking shall be provided in accordance with Section 54.2 Schedule 1:

Required Parking: 43 spaces Proposed Parking: 5 spaces Deficiency: 38 spaces

2) A minimum setback of 3m shall be provided in accordance with Section 330.4(4):

Required Setback: 3m Proposed Setback: 0.25m Deficiency: 2.75m

Rights of Appeal

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

Issue Date: Aug 14, 2015	Development Authority: WELCH, IMAI	Signature:

THIS IS NOT A PERMIT

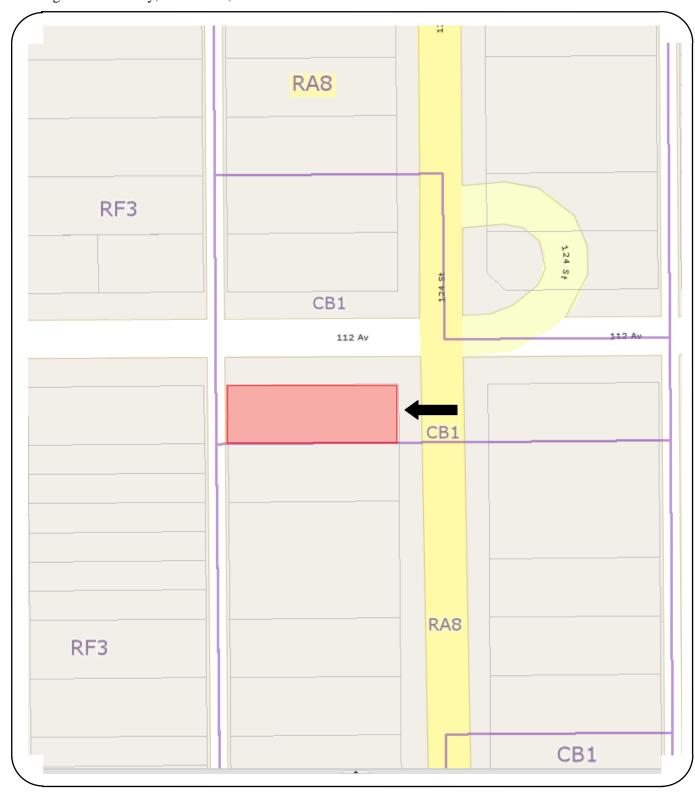


Application for Major Development Permit

Project Number: 172560246-001
Application Date: MAY 15, 2015
Printed: October 21, 2015 at 11:11 AM

Printed: October 21, 2015 at 11:11 A
Page: 2 of

Major Development Permit					
es					
	Fee Amount	Amount Paid	Receipt #	Date Paid	
Major Dev. Application Fee Total GST Amount:	\$811.00 \$0.00	\$811.00	02429266	May 15, 2015	
Totals for Permit:	\$811.00	\$811.00			
		THIS IS NOT A PEI	PMIT		



SURROUNDING LAND USE DISTRICTS

Site Location File: SDAB-D-15-211



ITEM II: 11:00 A.M.

FILE: SDAB-D-15-253

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 179375367-001

ADDRESS OF APPELLANT: 10417 - 79 AVENUE NW

APPLICATION TO: Change the Use from an Automotive and

Equipment Repair Shop to an Animal Hospital and Shelter, and construct interior alterations (dog indoor play park)

DECISION OF THE

DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 23, 2015

DATE OF APPEAL: October 1, 2015

MUNICIPAL DESCRIPTION

OF SUBJECT PROPERTY: 10417 - 79 AVENUE NW

LEGAL DESCRIPTION: Plan 8146ET Blk 31 Lot E

ZONE: CB2 General Business Zone

OVERLAY: Pedestrian Commercial Shopping Street

Overlay

STATUTORY PLAN: Strathcona Junction Area Redevelopment

Plan

Grounds for Appeal

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

There were 2 reasons for refusal. The first reason concerning potential noise. The business caters to smaller dogs that tend to have quieter barks than large dog, however, I will be putting in sound barriers on the walls facing the residential area to combat this potential problem. The noise will be baffled by the sound barriers to keep the noise level low. The original use for this building was an auto body shop. The machinery used in the shop would have been louder than any dogs barking in the facility.

The second reason was concerning the back space used for an outdoor area. I will no longer be using this space as planned and will be keeping it as customer parking, providing the necessary off street parking. [unedited]

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Appeals

- **686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,
 - (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

. . .

The decision of the Development Authority was dated September 23, 2015. The Notice of Appeal Period expired on October 7, 2015 and the Notice of Appeal was filed on October 1, 2015.

General Provisions from the Edmonton Zoning Bylaw:

Section 340.1 states the following with respect to the **General Purpose** of the **CB2 General Business Zone:**

... to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.

Under section 340.2(2), **Automotive and Equipment Repair Shops** is a **Permitted Use** in the CB2 General Business Zone.

Section 7.4(4) defines **Automotive and Equipment Repair Shops** as follows:

...development used for the servicing and mechanical repair of automobiles, motorcycles, snowmobiles and similar vehicles or the sale, installation or servicing of related accessories and parts. This Use Class includes transmission shops, muffler shops, tire shops, automotive glass shops, and upholstery shops. This Use Class does not include body repair and paint shops.

Under section 340.3(1), **Animal Hospitals and Shelters** is a **Discretionary Use** in the CB2 General Business Zone.

Section 7.4(2) defines **Animal Hospitals and Shelters** as follows:

...development used for the temporary accommodation and care or impoundment of small animals within an enclosed building. This Use Class does not include Small Animal Breeding and Boarding Establishments.

Variance to Regulations

The Edmonton Zoning Bylaw states the following:

11.2 Duties with Respect to Development Applications

The Development Officer shall receive all applications for development and:

. . .

5. may relax a regulation in a Zone or other Section of this Bylaw in accordance with the regulations contained in that Zone or Section, or may relax regulations in accordance with Sections 11.3 and 11.4, and in such case, the development applied for shall be a Discretionary Development;

Section 11.3(1) states the following:

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

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

Development Officer's Determination

1) Proposed development is a Discretionary Use in the CB2 Zone. The proposed development is adjacent to residential properties. It is the Development Officer's opinion that the nature of the proposed development will negatively impact adjacent residential and other properties, in particular through potential noise. [unedited]

Variance to Regulations

Section 819.3(8) states the following:

The minimum number of off-street parking spaces required shall be in accordance with the provisions of Section 54, Schedule 1 of this Bylaw, except that:

- a. for Professional, Financial and Office Support Services at Grade, parking shall be provided on the basis of 1 parking space per 90.9 m2 of Floor Area and no parking spaces shall be required for this Use on upper floors;
- b. for Specialty Food Services, Restaurants, Bars and Neighbourhood Pubs, and Nightclubs, parking shall be provided on the basis of one parking space per 4.8 m2 of Public Space;
- c. for all other Commercial Use Classes, parking shall be provided on the basis of 1 parking space per 90.9 m2 of Floor Area; and [emphasis added]
- d. Accessory vehicular parking shall be located at the rear of the building.

Development Officer's Determination

3) Parking shall be provided in accordance with Section 819.3(8) of the Pedestrain Commercial Shopping Street Overlay.

Required off street parking: 6 spaces

Proposed: none

Deficient by: 6 spaces

[unedited]

Board Officer's Comments

The Application for Development Permit (see attached copy) states that the Gross Floor Area of the proposed development is 510.97 square metres.

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*.

SEP 16, 2015

October 22, 2015 at 3:07 PM

Project Number: 179375367-001

Application Date:

Printed:



Application for Major Development Permit

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

Applicant

LUCKY DONKEY INC

Property Address(es) and Legal Description(s)

10417 - 79 AVENUE NW Plan 8146ET Blk 31 Lot E

Specific Address(es)

Suite: 10417 - 79 AVENUE NW Entryway: 10417 - 79 AVENUE NW Building: 10417 - 79 AVENUE NW

Scope of Application

To change the use from an Automotive and Equipment Repair Shop to an Animal Hospital and Shelter, and construct interior alterations (dog indoor play park).

Permit Details

Class of Permit: Class B Gross Floor Area (sq.m.): 510.97 New Sewer Service Required: N Site Area (sq. m.):

Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)

Contact Person:

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

Applicant signature:

Development Application Decision

Refused

Reason for Refusal

- 1) Proposed development is a Discretionary Use in the CB2 Zone. The proposed development is adjacent to residential properties. It is the Development Officer's opinion that the nature of the proposed development will negatively impact adjacent residential and other properties, in particular through potential noise.
- 3) Parking shall be provided in accordance with Section 819.3(8) of the Pedestrain Commercial Shopping Street Overlay.

Required off street parking: 6 spaces

Proposed: none Deficient by: 6 spaces

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, 2015 Development Authority: WELCH, IMAI Signature:

Fees

 Fee Amount
 Amount Paid
 Receipt #
 Date Paid

 Major Dev. Application Fee
 \$316.00
 \$316.00
 02752445
 Sep 16, 2015

THIS IS NOT A PERMIT



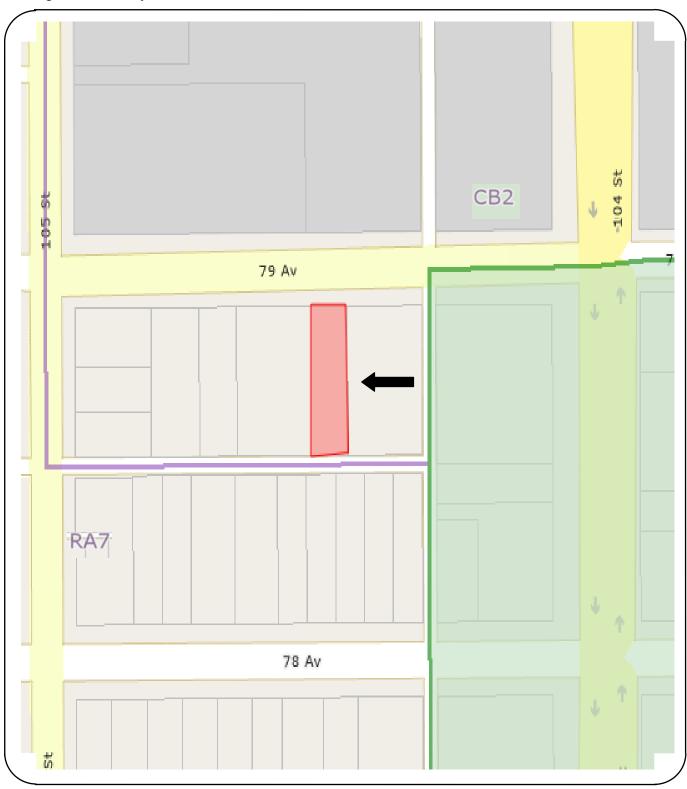
Application for

Project Number: 179375367-001 Application Date: SEP 16, 2015 Printed: October 22, 2015 at 3:07 PM Page:

Major Development Permit

Fees Amount Paid Date Paid Fee Amount Receipt # DP Notification Fee \$100.00 \$100.00 02752445 Sep 16, 2015 Total GST Amount: Totals for Permit: \$416.00 \$416.00

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location

File: SDAB-D-15-253



BUSINESS LAID OVER

An appeal by Go Outdoor Advertising Ltd. to install (1) Freestanding Off-		
premises Sign		
November 12, 2015		
An appeal by Ogilvie LLP to comply with six Orders to acquire valid		
development permits by September 25, 2015 or cease the Use and demolish		
and remove all materials by September 25, 2015; and to comply with all		
conditions of development permit No. 149045660-001.		
November 19, 2015		
An appeal by Walton Development & Management LP VS Jason & Sarah		
McPeak to construct exterior alterations (driveway extension, 9.0m x 1.52		
m) to an existing Single Detached House.		
November 18 or 19, 2015		
An appeal by Lain & Janet Birchall; Roger/Denele Walsh; Karen Bilinske		
VS Homes By Anthony Developments to construct a 2 storey Accessory		
Building (Garage Suite on 2nd floor, Garage on main floor; 10.06m x		
9.14m)		
November 26, 2015		
An appeal by Southwest Muslim Community Centre change the Use from		
an Indoor Participant Recreation Service to a Religious Assembly with a		
capacity of 456 seats, and to construct interior alterations (SouthWest		
Muslim Community Centre)		
November 25 or 26, 2015		
An appeal by Kennedy Agrios LLP VS. Eton-West Construction (Alta) Inc.		
change the use of "Building E" from Professional, Financial and Office		
Support Services to General Retail Stores and to construct interior and		
exterior alterations (increase building size and change dimensions, revision		
to parking layout and Drive-thru).		
March 9 or 10, 2016		

APPEAL HEARINGS TO BE SCHEDULED

175784462-002	An appeal by <u>Jarnail Dhaliwal</u> to construct exterior alterations (front yard concrete extension, 1.20m x 5.30m) to a Single Detached House, existing		
	without permits.		
	November 12, 2015		
178546662-001	An appeal by Gagan Garg / Miller Thomson LLP to change the Use of a		
	General Retail Store to Minor Alcohol Sales (LIQUOR SHOPPE)		
	November 18 or 19, 2015		
159269966-003	An appeal by Anh Padmore to construct an exterior alteration to an existing		
	Single Detached House, (driveway extension 2.8m x 8.4m) existing without		
	permits.		
	November 19, 2015		