

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
October 5, 2017**

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

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

I 9:00 A.M. SDAB-D-17-180

WITHDRAWN

Construct exterior alterations to an existing Bars and Neighbourhood Pubs Use (110 indoor seats; 20 outdoor seats) and Major Amusement Establishments Use building. (fire damage repairs to TUMBLE WEEDS TEXAS & LATIN GRILL)

15207 - 111 Avenue NW
Project No.: 229627629-005

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-17-180

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

APPELLANT:

ADDRESS OF RESPONDENT: 15212 – 110A Avenue NW

APPLICATION NO.: 229627629-005

APPLICATION TO: Construct exterior alterations to an existing Bars and Neighbourhood Pubs Use (110 indoor seats; 20 outdoor seats) and Major Amusement Establishments Use building. (fire damage repairs to TUMBLE WEEDS TEXAS & LATIN GRILL)

WITHDRAWN

DECISION OF THE DEVELOPMENT AUTHORITY: Approved

DECISION DATE: August 22, 2017

DATE OF APPEAL: September 7, 2017

NOTIFICATION PERIOD: August 29, 2017 through September 12, 2017

RESPONDENT: Antrim Construction

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 15207 - 111 Avenue NW

LEGAL DESCRIPTION: Plan 191KS Blk 8 Lot 1

ZONE: CHY-Highway Corridor 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:

Our objections to this structure are:

1. Delivery trucks park behind this building and block traffic for the lane and residents directly behind the structure preventing residents from exit or entry to their property. Having to wait several minutes for rude delivery people to move their vehicles.
2. This building forces heavy delivery trucks to further damage the ally which drains by gravity as the alley has no drain. These homes and alley were built around 1960 and the City has since raised the alley causing residents to sometimes deal with spring runoff and freezing into garages.
3. If this structure was removed traffic flow issues would be reduced.
4. Pot holes filled with water are always being splashed on home owner's fences causing extra work to keep them clean. All affected home owners have since installed chain link fences at their own expense.
5. Being that this commercial property is directly adjacent to residential property we challenge the permits approval and advise you that we do not support this structure and neither should the city as it does non-conform to city Bylaw and we therefore DO NOT support a variance.

Also, please be advised that the last tenant was not a good neighbour. Cigarette butts, loud music to early in the morning, failure to advise delivery trucks to be considerate to longtime residents are just a few issues. Thefts, vandalism, garbage, prostitution, homeless people, is an issue in our Neighbourhood due to its proximity to the New West Hotel and the 3 motels along 111th. Avenue. We see and deal with this all the time. Please accept this appeal in our favour to help keep the Neighbourhood of High Park clean, safe, & secure.

<i>General Matters</i>

Appeal Information:

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

Non-conforming use and non-conforming buildings

Section 643 of the *Municipal Government Act*, RSA 2000, c M-26, states the following:

- (1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

- (2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.
- (3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.
- (4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.
- (5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except
 - (a) to make it a conforming building,
 - (b) for routine maintenance of the building, if the development authority considers it necessary, or
 - (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

Grounds for Appeal

685(1) If a development authority

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

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

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after

- (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

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

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

- (i) the proposed development would not

- (A) unduly interfere with the amenities of the neighbourhood, or

- (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 350.1 states the **General Purpose** of the **(CHY) Highway Corridor Zone** is to provide for high quality commercial development along those public roadways, which serve as entrance routes to the City or along limited access public roadways intended to provide a connection to entrance routes.

Section 3.2(f) states **Minor Eating and Drinking Establishments** is deemed to be:

- i. Specialty Food Services;
- ii. Restaurants; and
- iii. Bars and Neighbourhood Pubs for less than 100 Occupants.

Section 350.2(1) states **Bars and Neighbourhood Pubs**, for less than 200 occupants and 240 square metres of Public Space, provided the Site is not adjacent to or across a Lane from a Site zoned residential, is a **Permitted Use** in the **(CHY) Highway Corridor Zone**.

Section 350.3(3) states **Bars and Neighbourhood Pubs**, for less than 200 occupants and 240 square metres of Public Space, if the Site is adjacent to or across a Lane from a Site zoned residential, is a **Discretionary Use** in the **(CHY) Highway Corridor Zone**.

Under Section 7.4(6) of the Edmonton Zoning Bylaw, **Bars and Neighbourhood Pubs** means development where the primary purpose of the facility is the sale of alcoholic beverages to the public, for consumption within the premises or off the Site. This Use typically has a limited menu and minors are prohibited from patronizing the establishment during at least some portion of the hours of operation. Typical Uses include neighbourhood pubs, bars, beverage rooms, and cocktail lounges. This Use does not include Cannabis Lounges.

Section 350.3(9) states a **Major Amusement Establishment** is a **Discretionary Use** in the **(CHY) Highway Corridor Zone**.

Under Section 7.4(31) of the *Edmonton Zoning Bylaw*, **Major Amusement Establishments** means development providing facilities within any building, room or area having three or more table games or electronic games played by patrons for entertainment. This Use does not include Carnivals, Circuses, Indoor Participant Recreation Services, Adult Mini-Theatres, or Casinos and Other Gaming Establishments.

<i>Setback/Non-Conformity</i>

Section 350.4(3) states a minimum Setback of 7.5 metres shall be required where a Site abuts a public roadway including a Lane that serves a Residential Zone, or where a Site abuts the lot line of a Site zoned Residential.

Section 11.2(2) states that the Development Officer may approve, with or without conditions as a Class B Development, an enlargement, alteration or addition to a legal non-conforming building if the non-conforming building complies with the uses prescribed for the land in this Bylaw and 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:

Alteration to a Non-conforming Building - The building is Non-conforming because it has a setback of less than 7.5 metres from the property line that abuts a Lane that serves a Residential Zone. (Reference Sections 11.2(2) and 350.4(3))

Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-00-270	To construct interior alterations and expand the seating capacity of a Minor Eating and Drinking Establishment (132 seats to 222 seats) and increase the number table games in a Major Amusement (three additional pool tables)	September 8, 2000; That the appeal be DENIED and the development REFUSED
SDAB-D-94-408	To construct an addition to a Minor Eating and Drinking Establishment in order to operate a Major Amusement Establishment (6 V.L.T's and 2 pool tables) and to decrease the seating from 126 seats to 110 seats	November 17, 1994; That the appeal be ALLOWED and the development GRANTED, and the deficiencies in minimum yard abutting a public roadway and parking stalls be waived, subject to the following conditions: 1. The exterior finish on the addition on all three sides shall be face brick matching the brick on the existing structure. 2. The rear exit from the addition shall be for emergency purposes only.
SDAB-D-74-115	To construct a shopping centre	April 23, 1974; That the appeal be ALLOWED and the development GRANTED and the excess in Site Coverage and deficiency in Rear Setback be permitted.

Notice to Applicant/Appellant

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



Project Number: 229627629-005
Application Date: JUL 18, 2017
Printed: September 8, 2017 at 10:29 AM
Page: 1 of 3

Major Development Permit

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

Applicant 	Property Address(es) and Legal Description(s) 15207 - 111 AVENUE NW Plan 191KS Blk 8 Lot 1
	Specific Address(es) Suite: 15211 - 111 AVENUE NW Entryway: 15211 - 111 AVENUE NW Building: 15207 - 111 AVENUE NW

Scope of Permit
To construct exterior alterations to an existing Bars and Neighbourhood Pubs Use (110 indoor seats; 20 outdoor seats) and Major Amusement Establishments Use building. (fire damage repairs to TUMBLE WEEDS TEXAS & LATIN GRILL)

Permit Details	
Class of Permit: Class B Gross Floor Area (sq.m.): 392.42 New Sewer Service Required: N/A Site Area (sq. m.): 3081.96	Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)

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

Development Permit Decision
Approved

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



Project Number: 229627629-005
Application Date: JUL 18, 2017
Printed: September 8, 2017 at 10:29 AM
Page: 2 of 3

Major Development Permit

Subject to the Following Conditions

1. All required parking and loading facilities shall only be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the building or Use for which the parking and loading facilities are provided, and the parking and loading facilities shall not be used for driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind. (Reference Section 54.1(1)(c))
2. Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51)
3. All mechanical equipment, including roof mechanical units, shall be screened in a manner compatible with the architectural character of the building or concealed by incorporating it within the building. (Reference Section 350.4(8))
4. All exposed building faces shall have consistent and harmonious exterior finishing materials. (Reference Section 350.4(9))

ADVISEMENTS:

- a. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)
- b. This development permit approves the construction of the superstructure only. A development permit may be required for construction of interior alterations if the alterations will result in a change of use or increase in intensity of the existing use.
- c. This Development Permit is NOT a Business Licence. A separate application must be made for a Business Licence. Please contact the 311 Call Centre (780-442-5311) for further information.
- d. Signs require separate Development Applications.
- e. A building permit is required for any construction or change in Use of a building. For a building permit, and prior to the plans examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre (780-442-5311) for further information.
- f. The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.
- g. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2)
- h. Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800 as amended.

Variances

Alteration to a Non-conforming Building - The building is Non-conforming because it has a setback of less than 7.5 m from the property line that abuts a Lane that serves a Residential Zone. (Reference Sections 11.2(2) and 350.4(3))

Rights of Appeal

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

Issue Date: Aug 22, 2017 Development Authority: BELZILE, PAUL

Signature: _____

Notice Period Begins: Aug 29, 2017

Ends: Sep 12, 2017

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



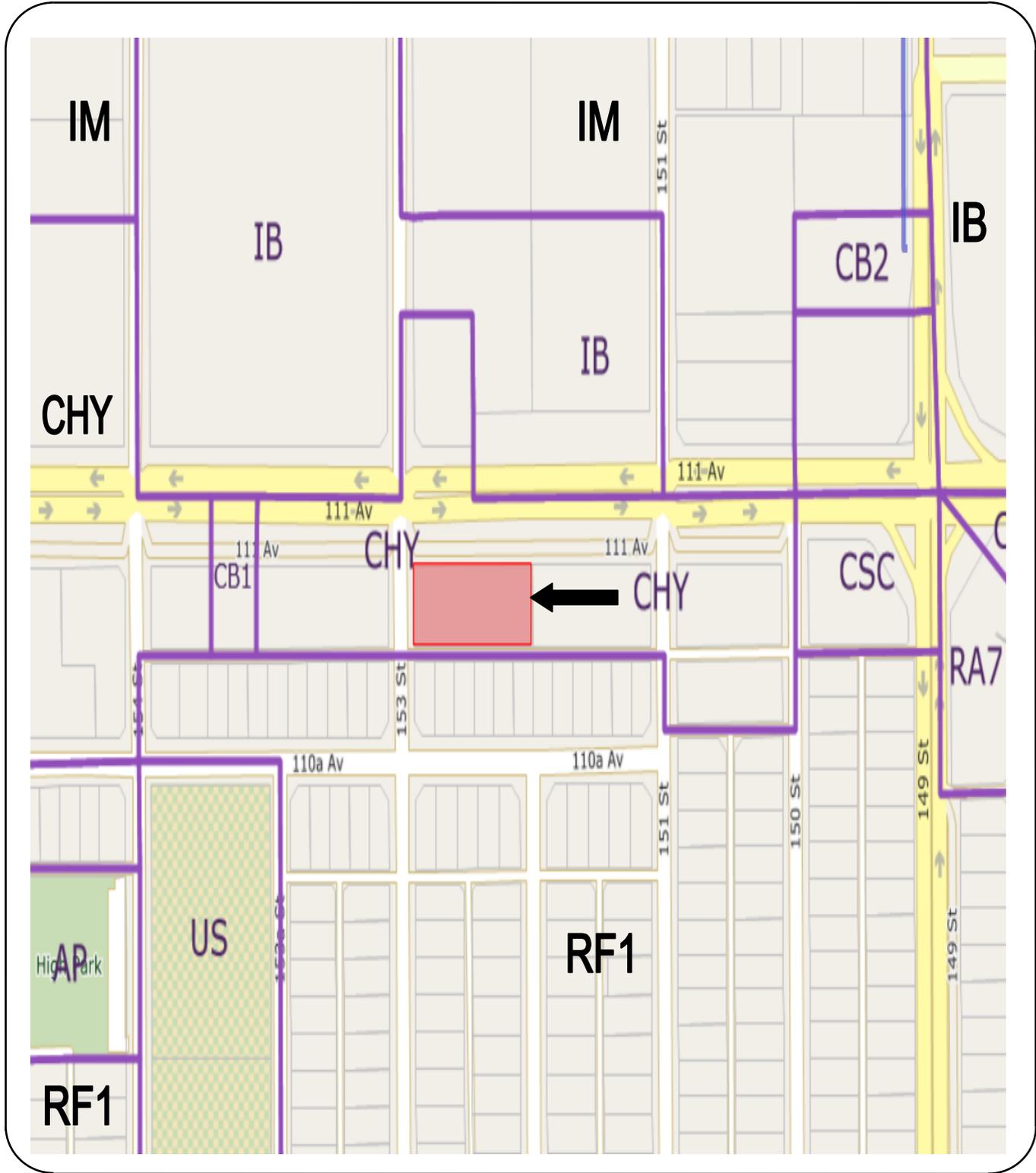
Project Number: **229627629-005**
Application Date: JUL 18, 2017
Printed: September 8, 2017 at 10:29 AM
Page: 3 of 3

Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Permit Inspection Fee	\$500.00	\$500.00	04300776	Jul 18, 2017
Major Dev. Application Fee	\$354.00	\$354.00	04300776	Jul 18, 2017
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$854.00	\$854.00		

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-180

