

**SUBDIVISION**  
**AND**  
**DEVELOPMENT APPEAL BOARD**  
**AGENDA**

**Thursday, 9:00 A.M.**  
**September 17, 2015**

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

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

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-15-211

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 172560246-001

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 (See page 9 for Decision)

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

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***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 780-483-0120 (Jean-Luc Guindon). [unedited].

**General Matters**

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

**Grounds for Appeal**

685(1) If a development authority

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

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

**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.

**General Provisions from the *Edmonton Zoning Bylaw*:**

Under section 330.2(6), **General Retail Stores**, up to a maximum Floor Area of 1 000 m<sup>2</sup> 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 m<sup>2</sup> is a **Discretionary Use** in the CB1 Low Intensity Business Zone.

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

Under section 7.4(22), **General Retail Stores** means:

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 7.4(24), **Health Services** means:

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

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.

Section 6.1(34) defines **Floor Area** to mean “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:	
a.	less than 4 500 m <sup>2</sup>	1 parking space per 40.0 m <sup>2</sup> of Floor Area
b.	4 500m <sup>2</sup> - 9 000m <sup>2</sup>	1 parking space per 33.3 m <sup>2</sup> of Floor Area
c.	9 000 m <sup>2</sup> 28 000 m <sup>2</sup>	1 parking space per 28.5 m <sup>2</sup> of Floor Area
d.	greater than 28 000 m <sup>2</sup>	1 parking space per 25.0 m <sup>2</sup> of Floor Area

...

19.	Health Services	1 parking space per 22.2 m <sup>2</sup> 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

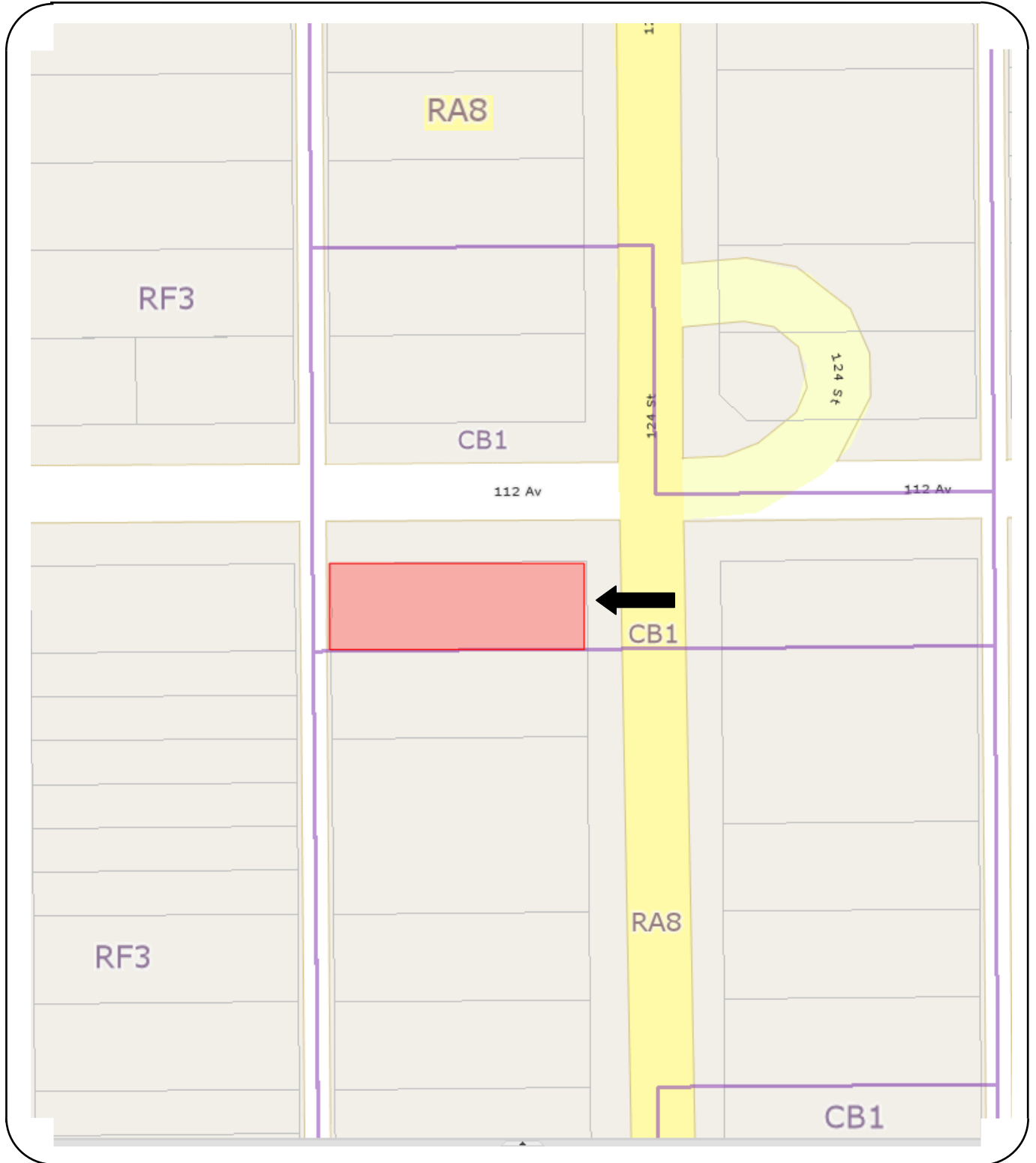
Deficiency: 2.75m [unedited]

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**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*.

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**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-15-211







Project Number: **172560246-001**  
 Application Date: MAY 15, 2015  
 Printed: August 24, 2015 at 11:57 AM  
 Page: 1 of 2

## Application for Major Development Permit

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

<b>Applicant</b>  BECKER ELZEIN & ASSOCIATES 	<b>Property Address(es) and Legal Description(s)</b> 12407 - 112 AVENUE NW Plan 2531AB Blk 4 Lot 10  <b>Specific Address(es)</b> 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
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**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.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
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I/We certify that the above noted details are correct.

Applicant signature: \_\_\_\_\_

**Development 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**

***BUSINESS LAID OVER***

SDAB-D-15-161	An appeal by <u>Ali Abdulhadi</u> to construct four Dwellings of Row Housing with attached Garages and to demolish the existing Single Detached House and rear detached Garage <b><i>September 23 or 24, 2015</i></b>
SDAB-D-15-195	An appeal by Romana Latenko VS Highstreet Crystallina Apartments Ltd. to construct 3 Apartment Housing buildings (184 Dwellings) with underground parkdades and an Accessory Building (amenity building) <b><i>September 23, 2015</i></b>