

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
September 22, 2016**

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

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

I	9:00 A.M.	SDAB-D-16-237	Install (1) Freestanding Minor Digital Off-premises Sign (6.1 metres by 3 metres facing east / west) 10360 - 111 Street NW Project No.: 224507305-001
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TO BE RAISED

II	10:30 A.M.	SDAB-D-16-204	Develop a Secondary Suite in the Basement of a Single Detached House, existing without permits 10033 - 81 Avenue NW Project No.: 220621200-001
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TO BE RAISED

III	1:30 P.M.	SDAB-D-16-192	Change the Use from General Retail to Minor Alcohol Sales (AKP Liquors) 4105 - 118 Avenue NW Project No.: 189366222-001
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WITHDRAWN

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-16-237

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 224507305-001

APPLICATION TO: Install (1) Freestanding Minor Digital Off-premises Sign (6.1 metres by 3 metres facing east / west)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 15, 2016

DATE OF APPEAL: August 26, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10360 - 111 Street NW

LEGAL DESCRIPTION: Plan 1282RS Blk 11 Lot 125A

ZONE: DC1 (Bylaw 17595 – Area 2) Direct Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: 104 Avenue Corridor Area Redevelopment Plan

Grounds for Appeal

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

We are solicitors for Pattison Outdoor Advertising, the Applicant in the above noted matter. Our clients' Development Permit Application has been refused. On behalf of our clients, we hereby appeal the refusal on the following grounds:

1. The Development Officer failed to follow the Directions of Council by applying an extended and inappropriate meaning to the phrase "Major or Minor Digital Signs shall not be installed on a Freestanding Sign" as that phrase appears in section 8(e), DCI Area 2, of Bylaw 17595.

2. In the alternative, the Development Officer failed to follow the Directions of Council by not considering whether the variance powers granted to him by the provisions of sections 1.2(4) and 11.3 of the Edmonton Zoning Bylaw ought be exercised and by failing to grant a variance in the circumstances of this application.

3. The proposed development is, for all practical purposes, a Permitted Use that complies with the development control regulations of the Edmonton Zoning Bylaw.

4. To the extent a variance is required (and, it is respectfully submitted, no variance is required), the proposed development will have no material impact on the use, enjoyment or value of neighbouring properties nor unduly affect the amenities of the neighbourhood. This sign has existed at the current location for in excess of six years without complaint.

But for the Appellants' inability to contact the owner of the subject land for an extended period of time, the provisions of the applicable Sign Schedule would have allowed the then current Development Permit to be reissued without recourse.

<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.

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

...

Designation of direct control districts

641(4) Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

- (a) ...
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

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*:

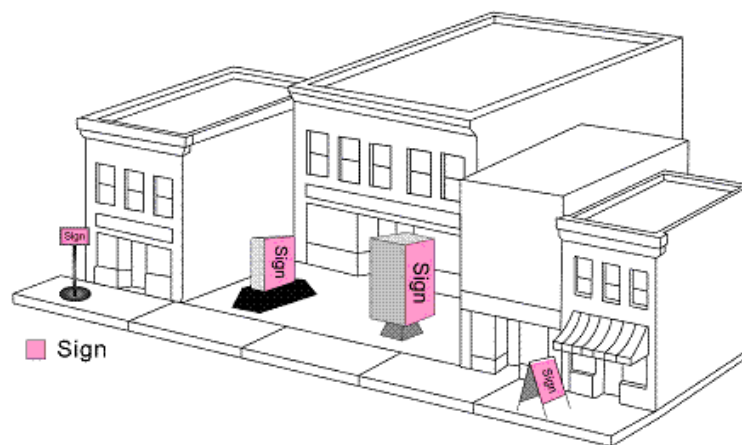
Under section 3(11), **Minor Digital Off-premises Signs** are a **listed Use** in the DC1 (Bylaw 17595 – Area 2) Direct Development Control Provision.

Under section 7.9(6), **Minor Digital Off-premises Signs** means:

any Sign that is remotely changed on or off Site and has a Message Duration greater than or equal to 6 seconds. Minor Digital Off-premises Signs incorporate a technology or method allowing the Sign to change Copy without having to physically or mechanically replace the Sign face or its components. The Copy on such Sign directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, entertainment or service provided on the premises or Site where the Sign is displayed.

Under section 6.2(8), **Freestanding Signs** means:

any On-premises or Off-premises Sign supported independently of a building. The Sign may take the form of single or multiple icons, product or corporate symbol, may involve a three dimensional or volumetric representation, may have single or multiple faces and may or may not be permanently fixed to the ground;



”

Section 1 states the **General Purpose** of the **DC1 (Bylaw 17595 – Area 2) Direct Development Control Provision** is:

...to facilitate the development of a pedestrian friendly and transit-supportive area that is characterized by its mix of commercial and residential uses, directing the most intensive development around station areas while creating a sensitive transition to the south.

DC1 (Bylaw 17595 – Area 2) Direct Development Control Provision - Signage

Section 8 provides the following with regard to Signage:

- a. Signs shall comply with the General Provisions of Section 59 and the regulations found in Schedule 59F of the Zoning Bylaw.

- b. A Comprehensive Sign Design Plan in accordance with the Provisions of Section 59.3 shall be required to the satisfaction of the Development Officer.
- c. Notwithstanding Section 8(a) of this Provision, Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs, shall comply with the regulations found in Schedule 59F.2 and 59F.3.
- d. Any application for a Major or Minor Digital Sign Use may require the submission of a Traffic Safety Study prepared by a qualified engineer and shall be to the satisfaction of the Development Officer in consultation with Transportation Services.
- e. **Major or Minor Digital Signs shall not be installed on a Freestanding Sign.**

Development Officer's Determination

1) Major & Minor Digital Signs shall not be installed on a Freestanding Sign (Reference Section 8(e), DC1 Area 2, Bylaw 17595 (April 4, 2016)).

The existing Minor Digital Off-premises Sign was approved by SDAB (File No. D-10-090) May 7, 2010 for a period of 5 years and expired May 7, 2015. This application was made on June 15, 2016, after the expiry of the sign approved by the Subdivision and Development Appeal Board.


The proposed Minor Digital Sign is installed on Freestanding Sign, contrary to Section 8(e), DC1 Area 2, Bylaw 17595.

Advisements

A Freestanding Signs means any On-premises or Off-premises Sign supported independently of a building. The Sign may take the form of single or multiple icons, product or corporate symbol, may involve a three dimensional or volumetric representation, may have single or multiple faces and may or may not be permanently fixed to the ground (Ref. Section 6.2(8)). [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.

	Project Number: 224507305-001 Application Date: JUN 23, 2016 Printed: August 16, 2016 at 8:48 AM Page: 1 of 2
<h2 style="margin: 0;">Application for Sign Combo Permit</h2>	
This document is a Development Permit Decision for the development application described below.	
Applicant	Property Address(es) and Legal Description(s) 10360 - 111 STREET NW Plan 1282RS Blk 11 Lot 125A
Scope of Application To install (1) Freestanding Minor Digital Off-premises Sign (6.1 m x 3 m facing E/W)	
Permit Details	
ASA Sticker No./Name of Engineer: Construction Value: 100000	Class of Permit: Expiry Date:
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 2 Minor Digital On/Off-premises Sign: 0	Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Application Decision Refused Reason for Refusal 1) Major & Minor Digital Signs shall not be installed on a Freestanding Sign (Reference Section 8(e), DC1 Area 2, Bylaw 17595 (April 4, 2016)). The existing Minor Digital Off-premises Sign was approved by SDAB (File no. D-10-090) May 7, 2010 for a period of 5 years and expired May 7, 2015. This application was made June 15, 2016, after the expiry of the sign by the Subdivision and Development Appeal Board. The proposed Minor Digital Sign is installed on Freestanding Sign, contrary to Section Section 8(e), DC1 Area 2, Bylaw 17595. Advisements A Freestanding Signs means any On-premises or Off-premises Sign supported independently of a building. The Sign may take the form of single or multiple icons, product or corporate symbol, may involve a three dimensional or volumetric representation, may have single or multiple faces and may or may not be permanently fixed to the ground (Ref. Section 6.2(8)).	
THIS IS NOT A PERMIT	



Project Number: 224507305-001
Application Date: JUN 23, 2016
Printed: August 16, 2016 at 8:48 AM
Page: 2 of 2

Application for Sign Combo Permit

Rights of Appeal

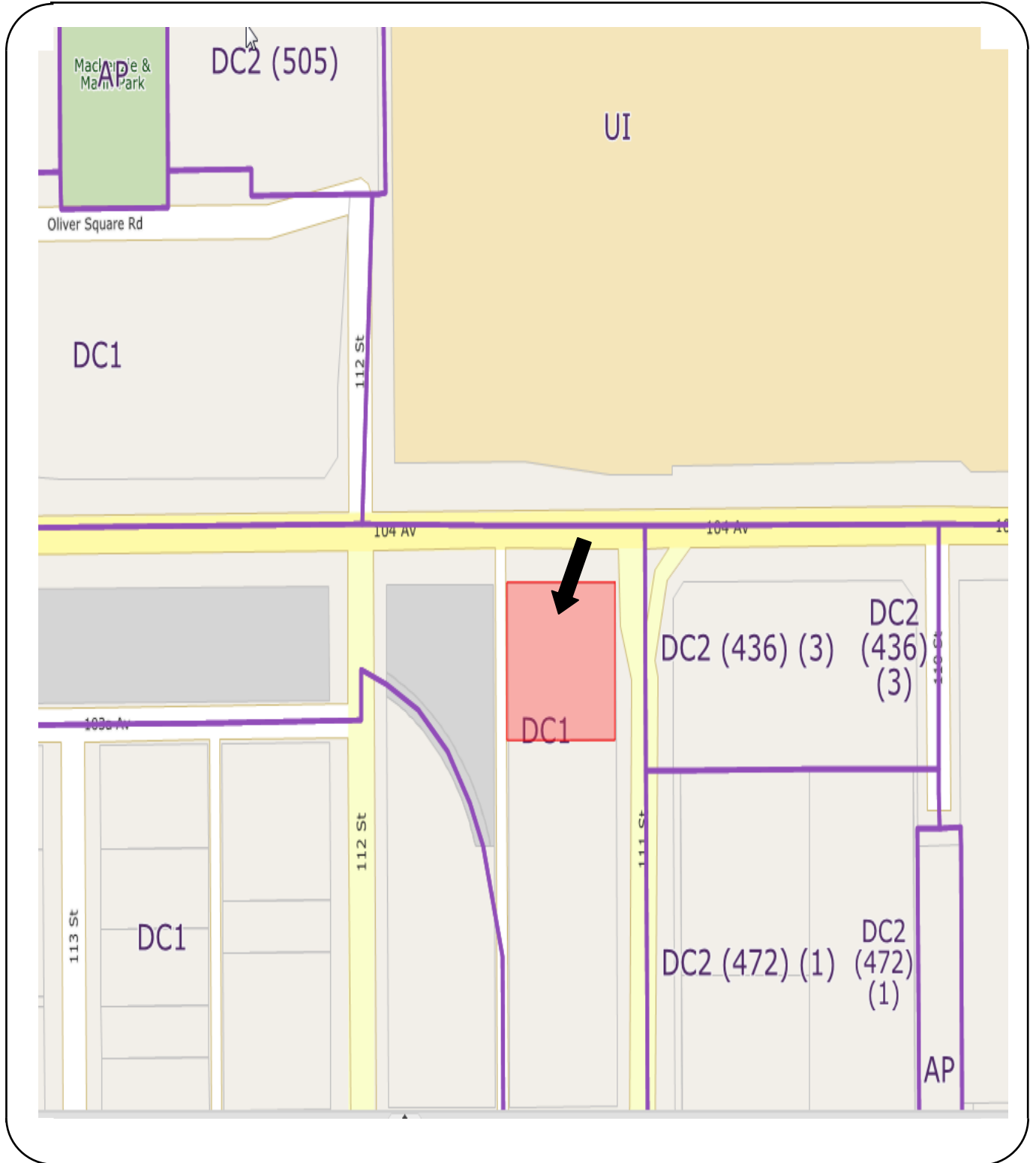
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Aug 15, 2016 Development Authority: AHUJA, SACHIN Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sign Dev Appl Fee - Digital Signs	\$850.00	\$850.00	03391297	Jun 27, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$850.00	\$850.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location



File: SDAB-D-16-237



TO BE RAISED
ITEM II: 10:30 A.M.

FILE: SDAB-D-16-204

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 220621200-001

APPLICATION TO: Develop a Secondary Suite in the
Basement of a Single Detached House,
existing without permits

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 21, 2016

DATE OF APPEAL: July 27, 2016

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 10033 - 81 Avenue NW

LEGAL DESCRIPTION: Plan I17 Blk 52 Lot 8

ZONE: CB2 General Business Zone

OVERLAY: Pedestrian Commercial Shopping Street
Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

We need the basement kitchen facilities for our family, and also we will be applying for a church meeting place.

General Matters

Appeal Information:

On August 10, 2016, the Subdivision and Development Appeal Board made the following decision:

“That the hearing for SDAB-D-16-204 be TABLED to September 21 or 22, 2016, at the written request of the Appellant.”

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 Officer is dated June 21, 2016. The Notice of Appeal was filed on July 27, 2016. The Development Officer submitted a Registered Mail Delivery Confirmation dated July 4, 2016 that delivery date of the Refusal of the Development Permit was signed by Omer Moyon on June 24, 2016.

Non-conforming use and non-conforming buildings

643(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.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75percent of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

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*:

Under sections 340.2 and 340.3, **Single Detached Housing** is **neither** a Permitted Use nor a Discretionary Use in the CB2 General Business Zone.

Under sections 340.2 and 340.3, a **Secondary Suite** is **neither** a Permitted Use nor a Discretionary Use in the CB2 General Business Zone.

Under section 7.2(9), **Single Detached Housing** means:

development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use Class in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use Class includes Mobile Homes which conform to Section 78 of this Bylaw.

Under section 7.2(7), **Secondary Suite** means:

development consisting of a Dwelling located within, and Accessory to, a structure in which the principal use is Single Detached Housing. A Secondary Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are physically separate from those of the principal Dwelling within the structure. A Secondary Suite also has an entrance separate from the entrance to the principal Dwelling, either from a common indoor landing or directly from the side or rear of the structure. This Use Class includes the Development or Conversion of Basement space or above Grade space to a separate Dwelling, or the addition of new floor space for a Secondary Suite to an existing Single Detached Dwelling. This Use Class does not include Apartment Housing, Duplex Housing, Garage Suites, Garden Suites, Semi-detached Housing, Lodging Houses, Blatchford Lane Suites, Blatchford Accessory Suites, or Blatchford Townhousing.

Section 340.1 states that the **General Purpose** of the **CB2 General Business Zone** is:

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

Section 819.1 states that the **General Purpose** of the **Pedestrian Commercial Shopping Street Overlay** is:

...to maintain the pedestrian-oriented character of commercial areas, comprised of shopping streets in close proximity to residential areas of the City.

Development Officer’s Determination

1. Non-listed Use - Secondary Suites is neither a Permitted nor Discretionary Use in the CB2 (General Business) Zone.

2. Non-conforming Use - Single Detached Housing is neither a Permitted nor Discretionary Use in the CB2 (General Business) Zone.

Advisements:

1. 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 (Section 643.3, Alberta Municipal Government Act). [unedited].


Previous Subdivision and Development Appeal Board Decisions

Application Number	Description	Decision
180570351-002 SDAB-D-16-040	To construct an Accessory Building (shed - 3.05 metres by 3.66 metres), existing without permits.	March 18, 2016; “the appeal is DENIED and the decision of the Development Authority is CONFIRMED. The Development is REFUSED.”
105230094-002 SDAB-D-11-090	Stop Order: No development permit - Single detached house converted to a five suite apartment	October 12, 2011; “Further to correspondence received in our office on October 5, 2011 from the Sustainable Development Department, we confirm that the Stop Order has been withdrawn. Therefore, there is no longer an appeal before the Subdivision and Development Appeal Board.”
97866097-002 SDAB-D-10-138	To construct a 6.4 metres by 8.0 metres two (2) storey addition (1.83 metres by 8.0 metres covered / enclosed area and 4.57 metres by 8 metres uncovered unenclosed balcony over main floor addition) and to	May 28, 2010; Appeal withdrawn

97866097-002 SDAB-D-10-138 <i>Continued</i>	construct an exterior covered 2nd floor egress stair to grade to a single detached house, existing without permits.	
77853483-002 SDAB-D-09-007	To change the use from a Single Family Dwelling to Professional, Financial, Office and Support Services (main floor and basement) and Apartment Housing (one dwelling on second storey) and to construct an addition (fire escape from second floor)	January 23, 2009; "that the appeal be DENIED and the decision of the Development Authority CONFIRMED. The Development is REFUSED."
66053704-003 SDAB-D-07-177	To change the use from a Single Family Dwelling to a four-dwelling Apartment House (three dwellings on second floor; one in basement), to operate a Professional, Financial, and Office Support Service (main floor) and to construct an addition (second floor - living space)	August 16, 2007; "that the appeal be DENIED and the DEVELOPMENT REFUSED."
63428627-003 SDAB-D-07-034	To construct an addition to a Single Detached House (second floor addition 12.6 feet by 26.2 feet) and rear uncovered deck (8.6 feet by 26.2 feet) and to operate a three unit Boarding/Lodging House from the second floor and to develop a Secondary Suite in the basement	March 30, 2007; "that the Appeal be DENIED and the Development REFUSED."

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: 220621200-001 Application Date: APR 28, 2016 Printed: June 21, 2016 at 7:56 AM Page: 1 of 2															
<h2 style="margin: 0;">Application for Minor Development Permit</h2>																
This document is a Development Permit Decision for the development application described below.																
Applicant	Property Address(es) and Legal Description(s) 10033 - 81 AVENUE NW Plan I17 Blk 52 Lot 8 Specific Address(es) Suite: BSMT, 10033 - 81 AVENUE NW Entryway: 10033 - 81 AVENUE NW Building: 10033 - 81 AVENUE NW															
Scope of Application To develop a Secondary Suite in the Basement of a Single Detached House, existing without permits.																
Permit Details																
# of Dwelling Units Add/Remove: 1 Client File Reference Number: Minor Dev. Application Fee: Secondary Suite Secondary Suite Included?: Y	Class of Permit: Class A Lot Grading Needed?: N New Sewer Service Required: Y Stat. Plan Overlay/Annex Area:															
I/We certify that the above noted details are correct. Applicant signature: _____																
Development Application Decision Refused Reason for Refusal <ol style="list-style-type: none"> 1. Non-listed Use - Secondary Suites is neither a Permitted nor Discretionary Use in the CB2 (General Business) Zone. 2. Non-conforming Use - Single Detached Housing is neither a Permitted nor Discretionary Use in the CB2 (General Business) Zone. Advisements: <ol style="list-style-type: none"> 1. 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 (Section 643.3, Alberta Municipal Government Act). 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: Jun 21, 2016 Development Authority: LEE, CHRISTIAN Signature: _____																
Fees <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 15%;">Fee Amount</th> <th style="width: 15%;">Amount Paid</th> <th style="width: 10%;">Receipt #</th> <th style="width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$266.00</td> <td style="text-align: right;">\$266.00</td> <td>03240145</td> <td>Apr 28, 2016</td> </tr> <tr> <td>Existing Without Permit Penalty Fee</td> <td style="text-align: right;">\$266.00</td> <td style="text-align: right;">\$266.00</td> <td>03240145</td> <td>Apr 28, 2016</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$266.00	\$266.00	03240145	Apr 28, 2016	Existing Without Permit Penalty Fee	\$266.00	\$266.00	03240145	Apr 28, 2016
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THIS IS NOT A PERMIT																



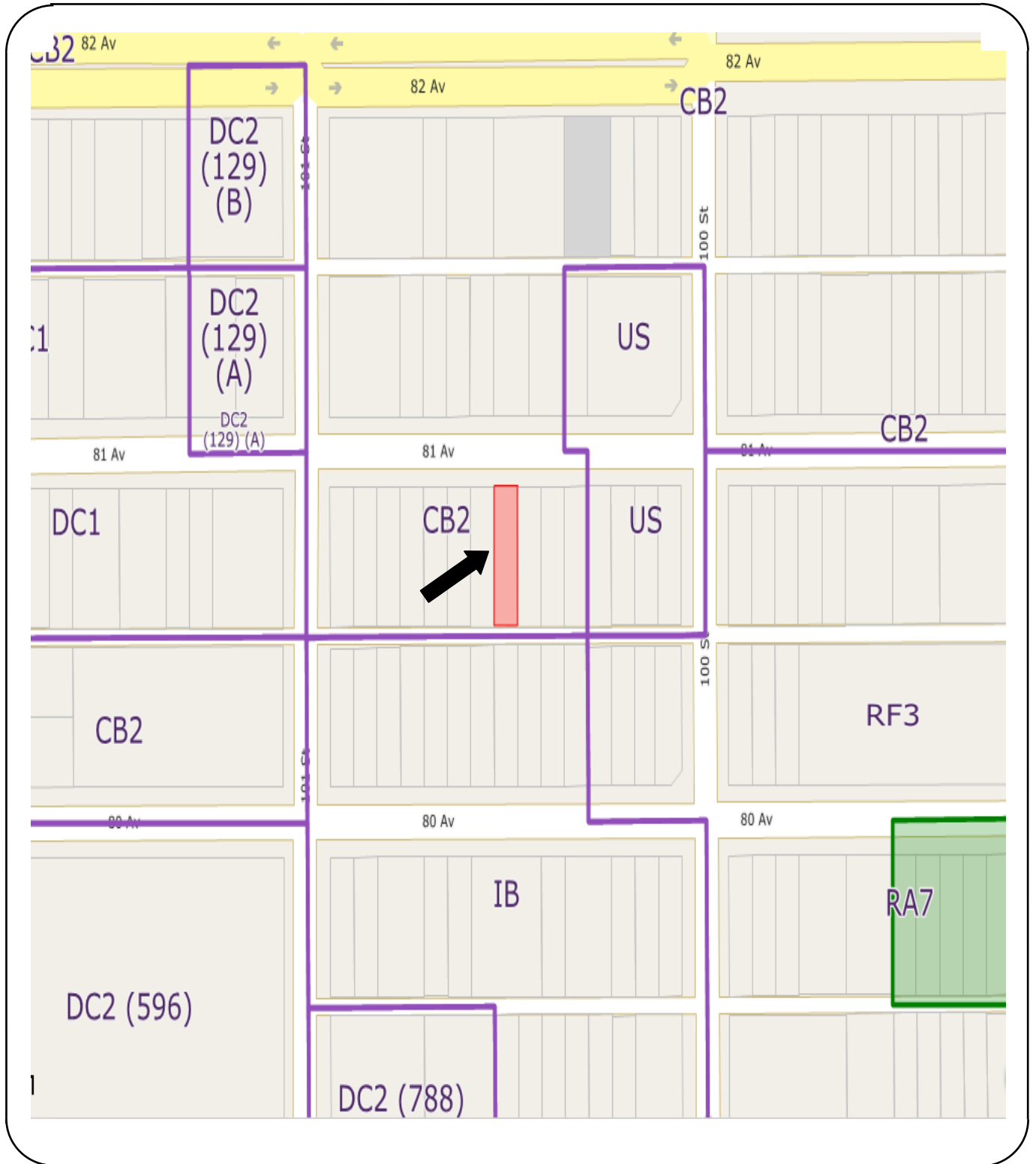
Project Number: **220621200-001**
Application Date: APR 28, 2016
Printed: June 21, 2016 at 7:56 AM
Page: 2 of 2

Application for Minor Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sanitary Sewer Trunk Fee for Secondary Suite	\$693.00	\$693.00	03240145	Apr 28, 2016
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$1,225.00	\$1,225.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-204



TO BE RAISED
ITEM III: 1:30 P.M.

FILE: SDAB-D-16-192

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 189366222-001

APPLICATION TO: Change the Use from General Retail to
Minor Alcohol Sales (AKP Liquors)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 24, 2016

DATE OF APPEAL: July 13, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4105 - 118 Avenue NW

LEGAL DESCRIPTION: Plan 7242AH Blk 5 Lots 1-7

ZONE: CB1 Low Intensity Business Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

WITHDRAWN

Grounds for Appeal

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

Late Filing:

As the postage on the letter says 27th June 2016 but letter reached me after 1st July 2016 as 1st of July being Canada Day. Letter reached me on 2nd July or 3rd July. So that is the only reason for filing late. So please consider my appeal.

Reason for Appeal:

As far as development of liquor store is considered we have ample parking in the front as well as we have loading dock available at rear of the store.
And also 118 Ave street is a busy street and lot of customers are requesting a liquor store as we are running a convenience store also to next location of proposed site of liquor store.

General Matters

Appeal Information:

On August 10, 2016, the Subdivision and Development Appeal Board made the following decision:

“That the hearing for SDAB-D-16-192 be tabled to September 21 or 22, 2016, at the verbal request of the Appellant and with non-objection from the Development Officer and the parties in attendance.”

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 by the Development Officer is dated June 24, 2016. The Notice of Appeal was filed on July 13, 2016.

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*:

Under section 330.3(2), a **Minor Alcohol Sales** is a **Discretionary Use** in the CB1 Low Intensity Business Zone.

Under section 7.4(32), **Minor Alcohol Sales** means:

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

Section 330.1 states that the **General Purpose** of the **CB1 Low Intensity Business Zone** is:

...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.

Major and Minor Alcohol Sales Regulations

Section 85.3 states the following:

Any Major or Minor Alcohol Sales Use shall not be located closer than 500.0 metres from any other Major or Minor Alcohol Sales Use. For the purposes of this subsection only:

- a. the 500.0 metres separation distance shall be measured from the closest point of the Major or Minor Alcohol Sales Use to the closest point of any other existing or approved Major or Minor Alcohol Sales Use; and
- b. if there are two or more Major or Minor Alcohol Sales Uses lawfully operating within 500 metres of each other as of the date of the enactment of this Section they shall be considered legal non-conforming uses.

Development Officer's Determination

The minimum distance to any other Major or Minor Alcohol Sales Use shall be 500.0 metres. (Section 85.3)

Proposed: 363 metres

Deficient by: 137 metres [unedited]

Off-street Parking and Loading Regulations

Section 54.2, Schedule 1(A)(21) states a Minor Alcohol Sales requires a minimum of 1 parking space per 31.3 square metres of Floor Area.

Section 54.1(2)(h) states:

In the case of the multiple Use of a Site, the Development Officer shall calculate the vehicular parking, Bicycle Parking and total off-street loading requirement for each individual Use and the total shall be deemed to be the required vehicular parking, Bicycle Parking or off-street loading for the Site, unless the applicant can demonstrate that there is complementary use of the parking or loading facilities which would warrant a reduction in the requirements. Where such reduction is made, this shall be considered a variance and the Development Officer shall state the reduction and the reasons for it on the Development Permit.

Development Officer's Determination

The minimum number of required parking spaces from 67 to 31. (Section 54.2, Schedule 1)

Proposed: 31

Deficient by: 36

This is a deficiency increase of one parking to a previously approved Development Permit (DP #148443930-002) allowing a deficiency of 35 parking spaces. [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*.



Project Number: **189366222-001**
 Application Date: MAR 31, 2016
 Printed: June 24, 2016 at 8:40 AM
 Page: 1 of 2

Application for Major Development Permit

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

Applicant	Property Address(es) and Legal Description(s) 4105 - 118 AVENUE NW Plan 7242AH Blk 5 Lot 7 4105 - 118 AVENUE NW Plan 7242AH Blk 5 Lots 5-6 4105 - 118 AVENUE NW Plan 7242AH Blk 5 Lots 3-4 4105 - 118 AVENUE NW Plan 7242AH Blk 5 Lots 1-2
	Specific Address(es) Entryway: 4121 - 118 AVENUE NW Building: 4121 - 118 AVENUE NW

Scope of Application
 To change the Use from General Retail to Minor Alcohol Sales (AKP Liquors).

Permit Details Class of Permit: Class B Gross Floor Area (sq.m.): 102.2 New Sewer Service Required: N Site Area (sq. m.): 102.2	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
 The minimum distance to any other Major or Minor Alcohol Sales Use shall be 500.0 m. (Section 85.3)
 Proposed: 363 m
 Deficient by: 137 m

The minimum number of required parking spaces from 67 to 31. (Section 54.2, Schedule 1)
 Proposed: 31
 Deficient by: 36
 This is a deficiency increase of one parking to a previously approved Development Permit (DP #148443930-002) allowing a deficiency of 35 parking 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: Jun 24, 2016 Development Authority: KOWAL, PAUL Signature: _____

THIS IS NOT A PERMIT



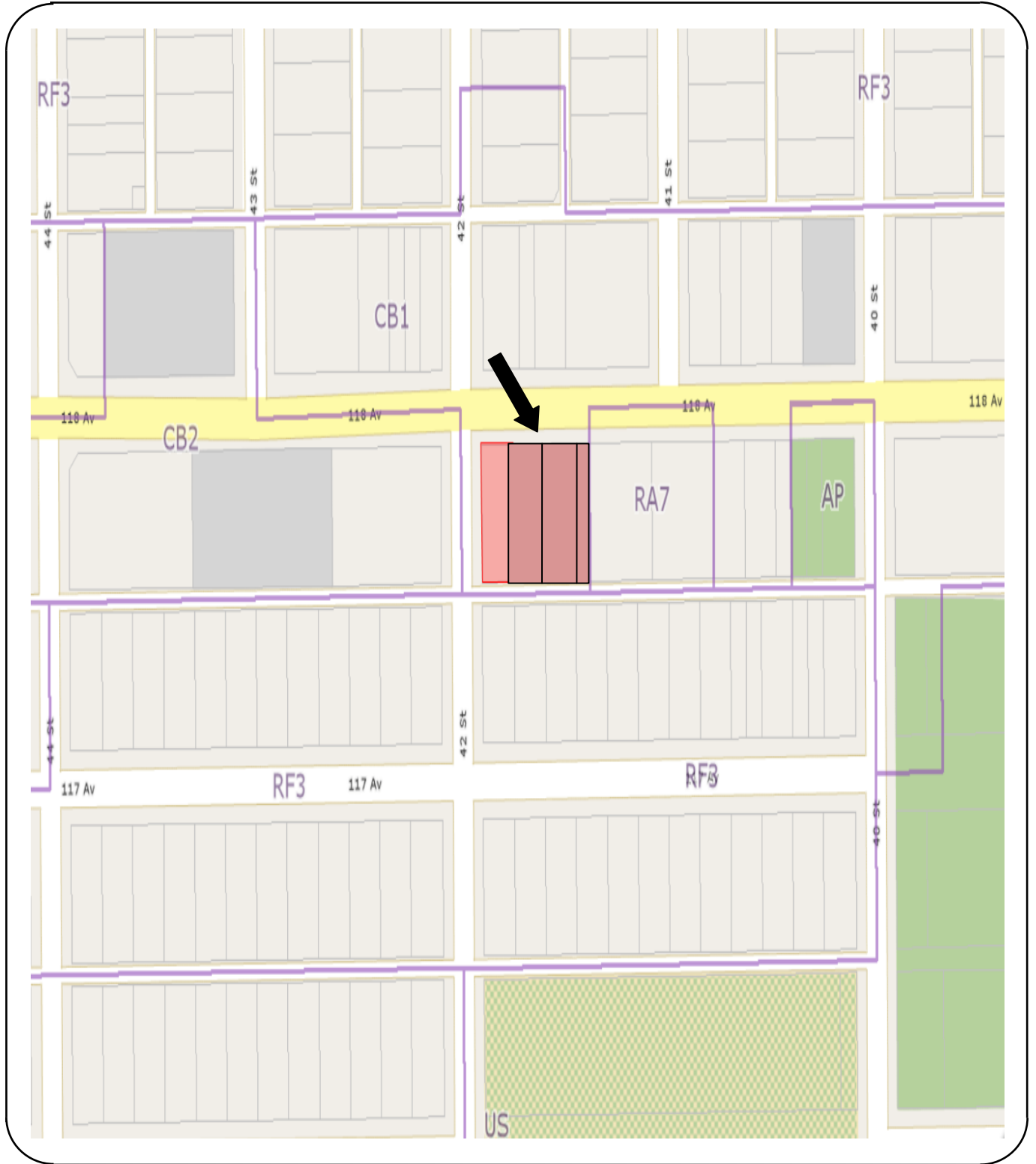
Project Number: **189366222-001**
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Application for Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$323.00	\$323.00	03166020	Mar 31, 2016
DP Notification Fee	\$102.00	\$102.00	03166020	Mar 31, 2016
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$425.00	\$425.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-192



BUSINESS LAID OVER

SDAB-D-16-213	An appeal by <u>E&F Arquitel Construction</u> to construct a Semi-detached House with front verandas and to demolish the existing Single Detached House <i>September 28 or 29, 2016</i>
SDAB-D-16-205	An appeal by <u>Rossdale Community League & Gabe Shelley VS Edmonton Fire Rescue Services</u> to continue and intensify the use of an existing Protective and Emergency Services Use (Fire Station 21 with a 24/7 crew) and to allow interior and exterior alterations <i>October 6, 2016</i>
SDAB-D-16-214	An appeal by <u>1665481 Alberta Ltd.</u> to comply with a Stop Order to immediately cease the use of the basement as Secondary Suites and Decommission the Secondary Suite. <i>October 6, 2016</i>
SDAB-D-16-225	An appeal by <u>Zhan (Jake) Chang (The Little Gym)</u> to change the use of a portion of a Professional, Financial and Office Support Service to an Indoor Participant Recreation Service <i>October 12, 2016</i>
SDAB-S-14-001	An appeal by <u>Stantec Consulting Ltd.</u> to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 <i>October 31, 2016</i>
SDAB-D-16-144	An appeal by <u>Kiewit Energy Canada Corp</u> to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>November 30 or December 1, 2016</i>

APPEAL HEARINGS TO BE SCHEDULED

169544513-002	An appeal by <u>Michael Skare</u> to construct an Accessory Building (Shed 1.98m x 4.57 m). <i>September 28 or 29, 2016</i>
188282372-001	An appeal by <u>Kennedy Agrios</u> to change the use from general Retail to a Bar and Neighbourhood Pub (maximum of 400 occupants and 691 square metres of Public Space) <i>November 2 or 3, 2016</i>
188283359-001	An appeal by <u>Kennedy Agrios</u> to change the use from a Flea Market Use to a Night Club and Major Amusement Establishment (1757 square metres of Public space) <i>November 23 or 24, 2016</i>