

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
September 4, 2019**

**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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**TO BE RAISED**

I     9:00 A.M.     SDAB-S-19-005

To create two (2) additional single detached residential lots

9739 - 155 Street NW  
Project No.: 301232305-001

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II    1:30 P.M.     SDAB-D-19-139

To change the Use of a Bar and Neighbourhood Pub to a Restaurant

12720 - Fort Road NW  
Project No.: 285187885-004

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

**TO BE RAISED**

ITEM I: 9:00 A.M.

FILE: SDAB-S-19-005

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 301232305-001

APPLICATION TO: Create two (2) additional Single Detached Residential Lots

DECISION OF THE SUBDIVISION AUTHORITY: Refused

DECISION DATE: June 27, 2019

DATE OF APPEAL: July 9, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9739 - 155 Street NW

LEGAL DESCRIPTION: Plan 5058ET Blk 16 Lot 3

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Jasper Place Area Redevelopment Plan

***Grounds for Appeal***

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

Disagreement with decision of Subdivision Authority.

***General Matters***

The Subdivision and Development Appeal Board made and passed the following motion on August 7, 2019:

“That the appeal hearing be tabled to September 4, 2019 at the verbal request of the Appellant.”

**Appeal Information:**

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

**Appeals**

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

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

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

- (a) with the Municipal Government Board
  - (i) if the land that is the subject of the application is within the Green Area as classified by the Minister responsible for the Public Lands Act,
  - (ii) if the land that is the subject of the application contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site, or
  - (iii) in any other circumstances described in the regulations under section 694(1)(h.2),

or

- (b) in all other cases, with the subdivision and development appeal board.

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

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

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

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

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

#### **Hearing and decision**

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

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

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

**(1.1)** For the purposes of subsection (1), "adjacent land" and "owner" have the same meanings as in section 653.

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

- (a) must act in accordance with any applicable ALSA regional plan;

(a.1) must have regard to any statutory plan;

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

**Approval of application**

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

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any growth plan under Part 17.1, any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,
- (c) the proposed subdivision complies with this Part and Part 17.1 and the regulations under those Parts, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.

**(1.1)** Repealed 2018 c11 s13.

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

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

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

and

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

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

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

Section 110.4(1) states:

**Site regulations for Single Detached Housing:**

- a. the minimum Site area shall be 250.8 m<sup>2</sup>
- b. the minimum Site Width shall be 7.5 m; and
- c. the minimum Site depth shall be 30.0 m.

Section 41.1(3) states the following with respect to *Lot Dimensions and Areas*:

The Subdivision Authority may not approve the subdivision of a Lot zoned RF1, as it existed on March 16, 2015 into more than two lots, notwithstanding the Site Width in the RF1 Zone. Subdivision into more than two Lots may only be approved where the proposed subdivision:

- a. is supported by one or more City Council approved Statutory Plans or City Council approved Policies; or
- b. has a Site Width deemed by the Subdivision Authority to be in character with Lots on the same block.

Under section 6.1, **Site** means “an area of land consisting of one or more abutting Lots.”

Under section 6.1, **Site Depth** means “the distance between the mid-points of the Front Lot Line and the mid-points of the Rear Lot Line.”

Section 110.1 states that the **General Purpose** of the **(RF1) Single Detached Residential Zone** is “to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.”

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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.

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Subdivision Authority

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

June 27, 2019

File No. LDA19-0017

RE: Tentative plan of subdivision to create two (2) additional single detached residential lots from Lot 3, Block 16, Plan 5058 ET located south of 98 Avenue NW and east of 155 Street NW; **WEST JASPER PLACE**

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**The Subdivision by Plan is REFUSED on June 27, 2019 for the following reasons:**

1. The proposed subdivision does not comply with the Development Regulations identified in Section 41.1(3) of the City of Edmonton Zoning Bylaw 12800:  
  
"The Subdivision Authority may not approve the subdivision of a Lot zoned RF1, as it existed on March 16, 2015 into more than two lots, notwithstanding the Site Width in the RF1 Zone.  
  
The application proposes to subdivide the subject lot, which is zoned (RF1) Single Detached Residential Zone, into two (2) additional single detached residential lots for a total of three (3) lots. This is one (1) lot more than is allowed in Section 41.1(3) of the City of Edmonton Zoning Bylaw 12800.  
  
The proposal will also result in Site Depths and Site Areas that are uncharacteristically small when compared to adjacent properties. For example, with the exception of the lot immediately east of the subject lot, the depth of the properties on the block face are approximately 45 m. The proposed lot depth for Lots 3A, 3B, and 3C is 22.27 m which is 50.51% less than the lots on the block face.  
  
With the exception of the lot immediately east of the subject lot and two lots southwest of the subject lot, site areas for surrounding properties are approximately 675 square meters. The proposed site area for Lots 3A, 3B and 3C is 226.26 square meters which is 66.48 % less than most of the lots on the block face and 33.84% less than the two smallest lots southwest of the subject lot. Therefore, the proposal is out of character with the existing block face and surrounding properties.
2. The proposed subdivision does not comply with the minimum development regulations identified in Section 110.4(1)(c) of the City of Edmonton Zoning Bylaw 12800. The site is zoned (RF1) Single Detached Residential Zone. The minimum site depth identified in the RF1 Zone for single detached housing is 30.0 metres. The site depth of the proposed lots is 22.27 metres and is therefore deficient by 7.73 metres or 25.76%.
3. The proposed subdivision does not comply with the minimum development regulations identified in Section 110.4(1)(a) of the City of Edmonton Zoning Bylaw 12800. The site is zoned (RF1) Single Detached Residential Zone. The minimum site area identified in the RF1 Zone for

single detached housing is 250.8 square metres. The site area of the proposed lots is 226.26 square metres and is therefore deficient by 24.54 square metres or 9.78%.

4. The proposed subdivision will create three (3) non-conforming lots that do not meet the site depth and site area development regulation in the Edmonton Zoning Bylaw 12800. This situation will create unnecessary hardship for existing and future landowners. Landowners wishing to further develop or redevelop their site will require a Development Permit variance.
5. Given the absence of a lane to provide access to the existing site, access to the proposed lots must be from 155 Street NW or 98 Avenue NW. This would not align with the general intent of the Residential Infill Guidelines, which "should respect the role of lanes not only as a primary vehicular access route but as a factor in maintaining the livability of neighbourhoods" (City of Edmonton Policy C551, General Principle #8). The creation of two (2) additional lots instead of one (1) additional lot exacerbates the situation by requiring two (2) additional front driveways instead of one (1) additional front driveway.

Front driveways have negative impacts on the neighbourhood, including:

- a. Compromising pedestrian walkability and safety in a mature neighbourhood by increasing the interaction between private vehicle space and public pedestrian space along the sidewalk;
- b. Breaking up the streetscape by expanding the amount of hard surface along the boulevard. Landscaped boulevards help to demarcate the pedestrian realm from vehicular traffic;
- c. Decreasing public landscaping by removing mature trees, their root systems, and/or turf on boulevards;
- d. Limiting front yard landscaping opportunities for the proposed lots; and
- e. Reducing the availability of on-street parking in a mature neighbourhood since vehicles cannot park in front of driveways.

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

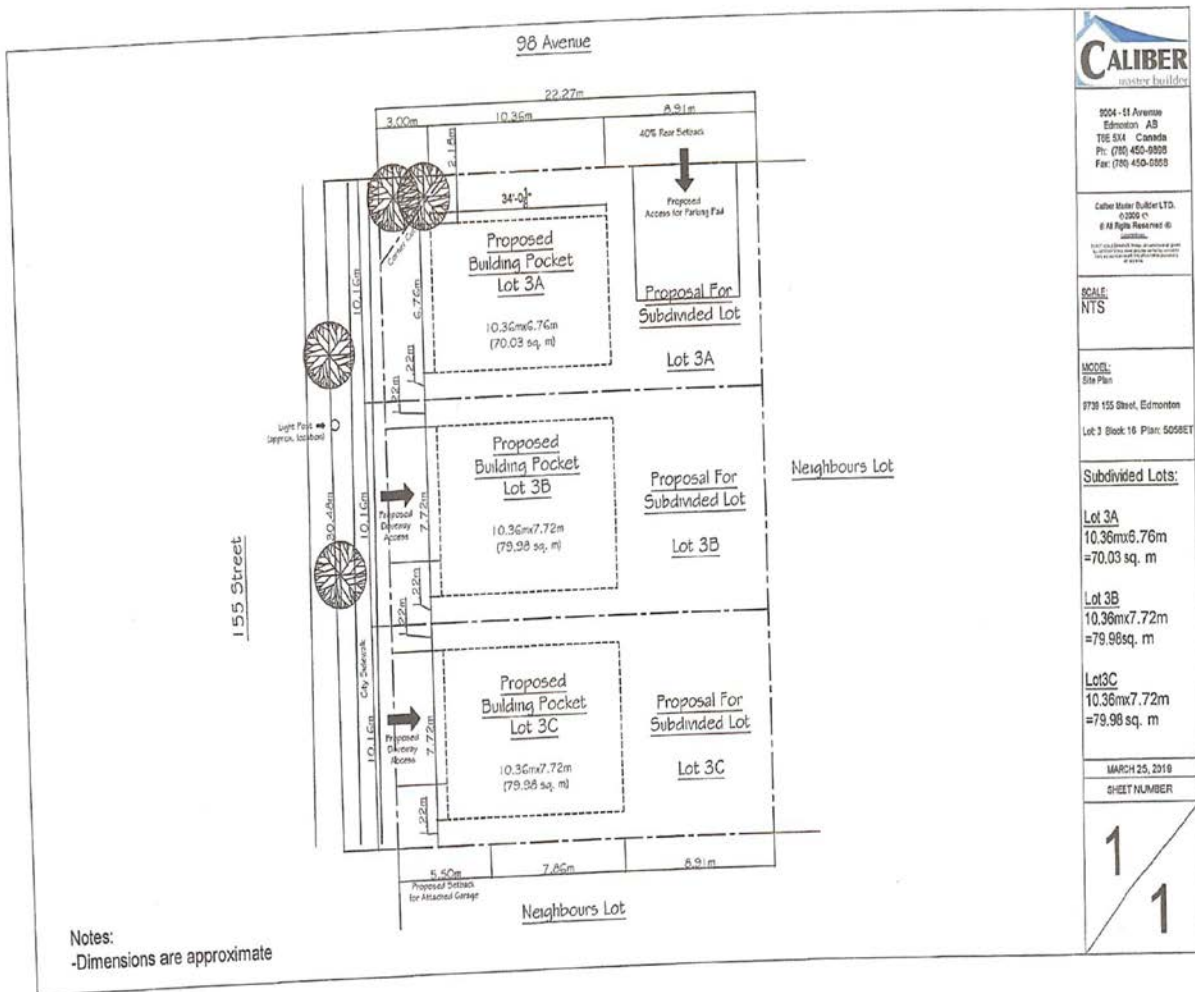
If you have further questions, please contact Gilbert Quashie-Sam at gilbert.quashie-sam@edmonton.ca or 780-496-6295.

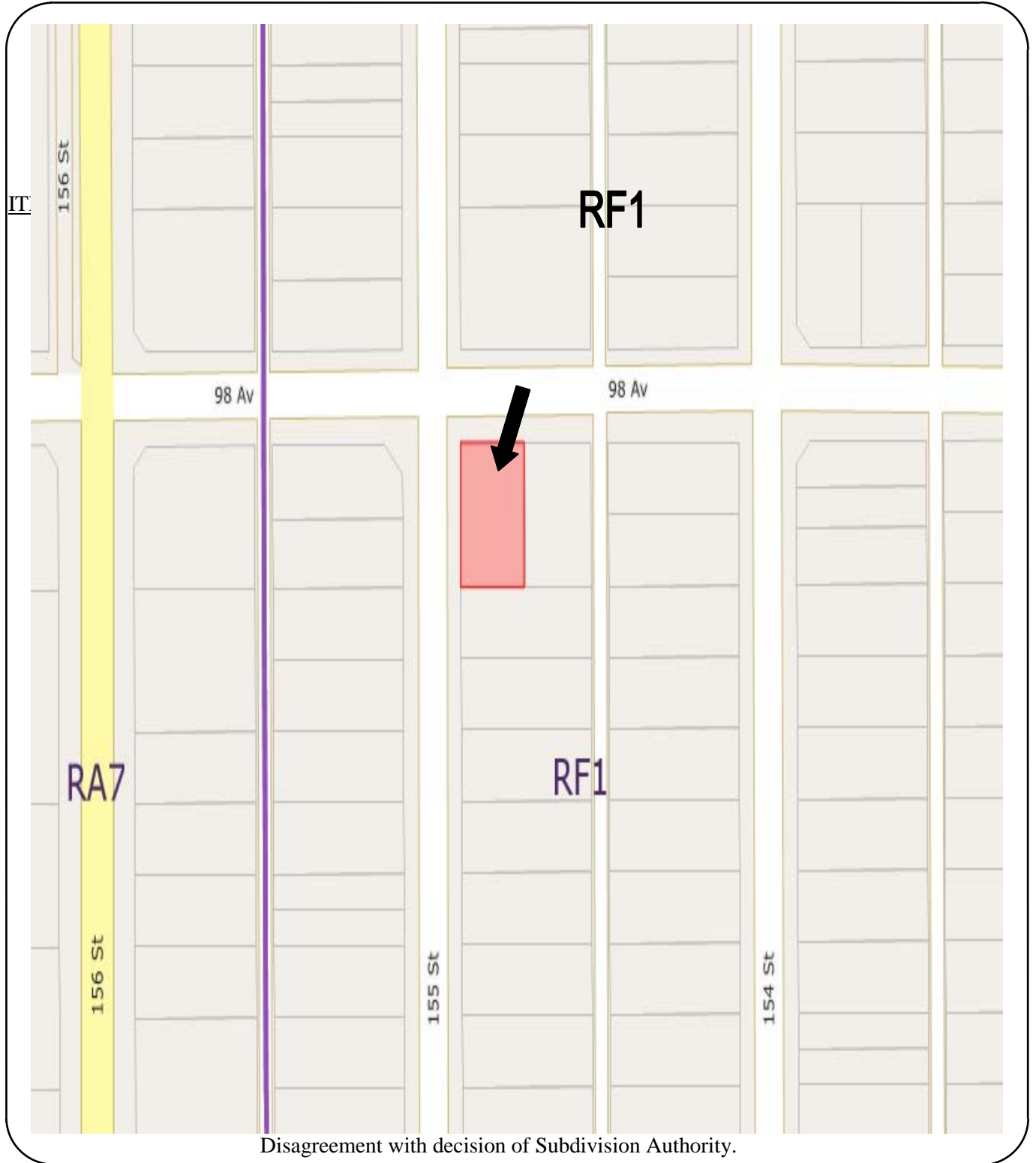
Regards,



Blair McDowell  
Subdivision Authority

BM/gq/Posse #301232305-001  
Enclosure





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-S-19-005



ITEM II: 1:30 P.M.

FILE: SDAB-D-19-139

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY A BUSINESS ASSOCIATION

APPELLANT:

APPLICATION NO.: 285187885-004

APPLICATION TO: Change the Use of a Bar and Neighbourhood Pub to a Restaurant

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: July 17, 2019

DATE OF APPEAL: August 8, 2019

NOTIFICATION PERIOD: July 23, 2019 through August 13, 2019

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12720 - Fort Road NW

LEGAL DESCRIPTION: Plan 2552S Blk 2 Lots 38-39

ZONE: DC1 - Direct Development Control Provision

OVERLAY: Major Commercial Corridors Overlay

STATUTORY PLAN: Belvedere Station Area Redevelopment Plan

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*Grounds for Appeal*

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

Community concerns regarding the usage, has been used as a soup kitchen without a permit.

*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.

(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,

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

- (i) with respect to an application for a development permit,

- (A) within 21 days after the date on which the written decision is given under section 642, or

- (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

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

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

**685(4)** Despite subsections (1), (2) and (3), 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.

**General Provisions from the DCI (Bylaw 14653 – Area A) Direct Development Control Provision (“DCI”):**

Under Section 3(n) **Uses:**

Restaurants, for less than 200 occupants and 240 square metres of Public Space

Under Section 7.4(46) of the *Edmonton Zoning Bylaw*, **Restaurants** mean development where the primary purpose of the facility is the sale of prepared foods and beverages to the public, for consumption within the premises or off the Site. Minors are never prohibited from any portion of the establishment at any time during the hours of operation. This Use typically has a varied menu, with a fully equipped kitchen and preparation area, and includes fast food and family restaurants.

Under Section 6.1, **Use** means the purposes or activities for which a piece of land or its buildings are designed, arranged, developed or intended, or for which it is occupied or maintained;

Section 7.1(3) states the following guidelines shall be applied in interpreting the Use definitions:

- a. the typical purposes or activities, which may be listed in the definitions, are not intended to be exclusive or restrictive;
- b. where specific purposes or activities do not conform to any Use definition or generally conform to the wording of two or more Use definitions, the Development Officer may, at their discretion, deem that the purposes or activities conform to and are included in that Use which they consider to be the most appropriate. In such a case, the Use shall be considered a Discretionary Use, whether or not the Use is listed as a Permitted Use or Discretionary Use within the applicable Zone; and
- c. the headings such as Residential Uses or Commercial Uses do not mean that the Uses listed under these headings are permitted only in Residential or Commercial

Zones of this Bylaw. Reference must be made to the lists of Permitted Uses and Discretionary Uses within each Zone.

The **Rationale** of the **DC1** is “to accommodate a infill and intensification of the existing Fort Road commercial area as part of a transit-oriented, residential mixed use development that creates a liveable “urban village” environment through the retention of identified heritage structures, use of urban design regulations, and the introduction of a diversity of housing types within walking distance to the Belvedere LRT Station. Commercial uses will be developed on the ground floor of a number of the buildings as part of this development project”.

**Development Officer’s Determination**

You are receiving this notice because a Development Permit has been issued on a Direct Control Zone, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.


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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.

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	<p>Project Number: <b>285187885-004</b>                  Application Date: JUN 28, 2019                  Printed: July 17, 2019 at 2:04 PM                  Page: 1 of 2</p>		
<b>Major Development Permit</b>			
<p>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.</p>			
<p><b>Applicant</b></p> <p>NIGINAN HOUSING VENTURES                  Care of: SHAWNA PINDAR                  9629 - 106 AVENUE NW                  EDMONTON, ALBERTA CANADA T5H0N5</p>	<p><b>Property Address(es) and Legal Description(s)</b></p> <p>12720 - FORT ROAD NW                  Plan 2552S Blk 2 Lots 38-39</p> <p><b>Specific Address(es)</b></p> <p>Entryway: 12720 - FORT ROAD NW                  Building: 12720 - FORT ROAD NW</p>		
<p><b>Scope of Permit</b></p> <p>To change the Use of a Bar and Neighbourhood Pub to a Restaurant</p>			
<p><b>Permit Details</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">                 Class of Permit: Class B                  Gross Floor Area (sq.m.):                  New Sewer Service Required:                  Site Area (sq. m.): 996.37             </td> <td style="width: 50%; border: none;">                 Contact Person:                  Lot Grading Needed?: N                  NumberOfMainFloorDwellings:                  Stat. Plan Overlay/Annex Area: (none)             </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: Site Area (sq. m.): 996.37	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: Site Area (sq. m.): 996.37	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)		
<p>I/We certify that the above noted details are correct.</p> <p>Applicant signature: _____</p>			
<p><b>Development Permit Decision</b></p> <p>Approved</p> <p><b>Issue Date:</b> Jul 17, 2019    <b>Development Authority:</b> HARRISON, MARK</p> <p><b>Subject to the Following Conditions</b></p> <p>Zoning Conditions:                  Note: 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 for further information.</p> <p>NOTE: This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.</p> <p>This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)</p> <p>An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.</p> <p>NOTE: Signs require separate Development Applications.</p> <p><b>Variances</b></p> <p>You are receiving this notice because a Development Permit has been issued on a Direct Control Zone, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.</p>			



Project Number: **285187885-004**  
Application Date: JUN 28, 2019  
Printed: July 17, 2019 at 2:04 PM  
Page: 2 of 2

## Major Development Permit

### Rights of Appeal

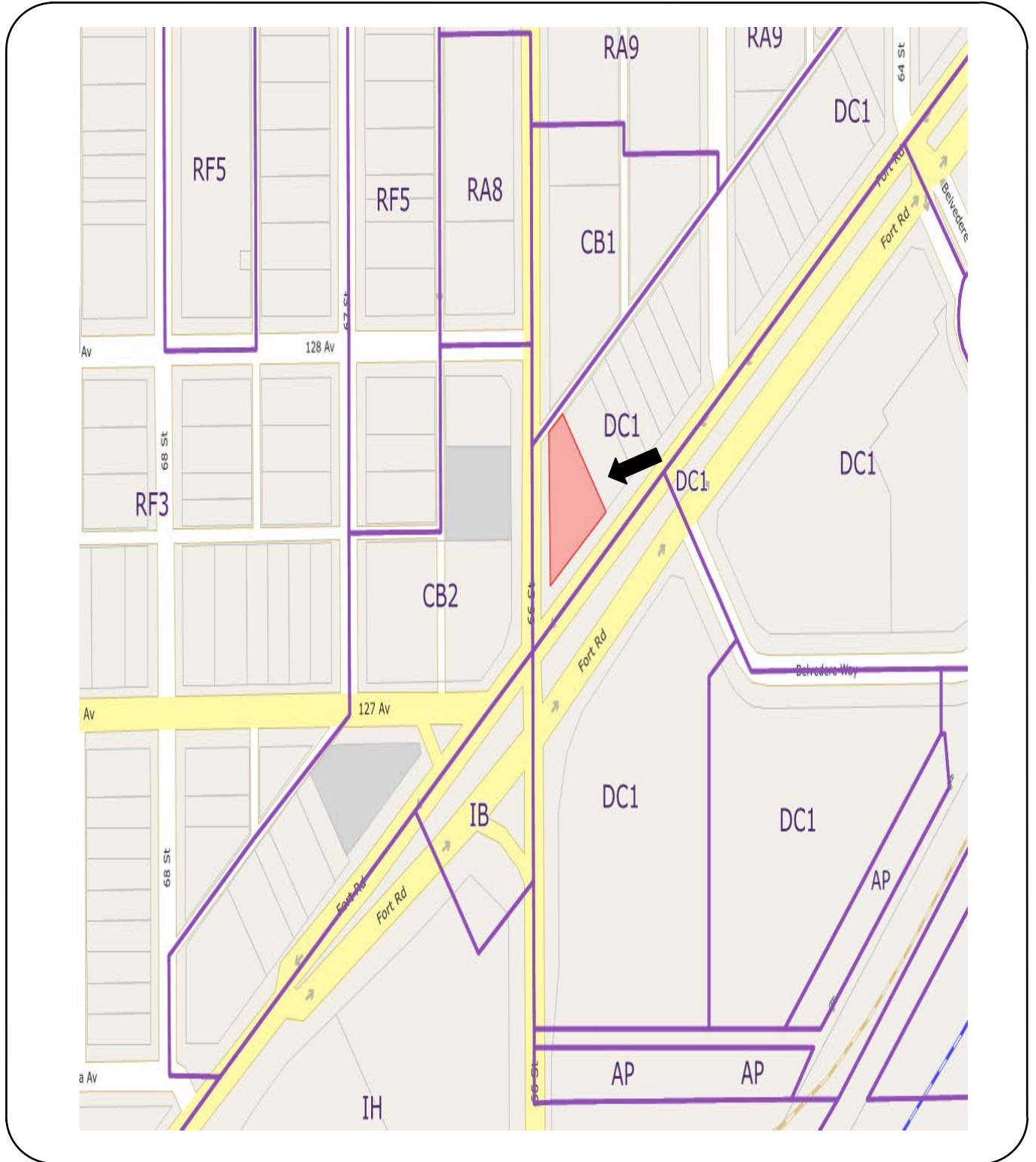
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

**Notice Period Begins:** Jul 23, 2019

**Ends:** Aug 13, 2019

### Fees

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Major Dev. Application Fee	\$281.00	\$281.00	05951827	Jun 28, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$281.00</u>	<u>\$281.00</u>		



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-139

