

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
April 26, 2017**

**Hearing Room No. 2  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 2**

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I	9:00 A.M.	SDAB-D-17-073	Install a Freestanding Minor Digital On-Premises Sign (Top panel backlit static - Midnight Sun Restaurant & Digital Panel - Cheers and Beers)  11003 - 124 Street NW Project No.: 234073082-001
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II	11:00 A.M.	SDAB-D-17-074	Change the Use from Restaurant to Major Alcohol Sales Use and to construct interior alterations  2304 - 23 Avenue NW Project No.: 169004150-014
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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-17-073

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 234073082-001

APPLICATION TO: Install a Freestanding Minor Digital On-Premises Sign (Top panel backlit static - Midnight Sun Restaurant & Digital Panel - Cheers and Beers)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 22, 2017

DATE OF APPEAL: April 4, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11003 - 124 Street NW

LEGAL DESCRIPTION: Plan RN39B Blk 45 Lot 20

ZONE: CB1 Low Intensity Business Zone

OVERLAY: N/A

STATUTORY PLAN: West Ingle Area Redevelopment Plan

***Grounds for Appeal***

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

We believe that the reasons stated for the refusal of the permit are not a accurate representation of what the sign will actually be. The sign, while being a digital sign can have its brightness drastically reduced so it does not interfere with the surrounding area. We also believe that due to the size of the sing itself the light pollution will not be a issue in the first place. As for the setback requirement the sign that is there has been at that location for over 10 years with no issue or complaints and the city was not even aware that the sign did not have a valid permit associated with it until we went to apply for our current permit. Because of these reasons we believe that the sign we are applying for will not negatively impact the surrounding area to the degree that has been stated. [unedited]

***General Matters***

**Appeal Information:**

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

**Grounds for Appeal**

**685(1)** If a development authority

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

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

**Appeals**

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

- (a) in the case of an appeal made by a person referred to in section 685(1), after
  - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or
  - ...

The decision of the Development Officer is dated March 22, 2017. The Notice of Appeal was filed on April 4, 2017.

**Determining an Appeal**

**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 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.

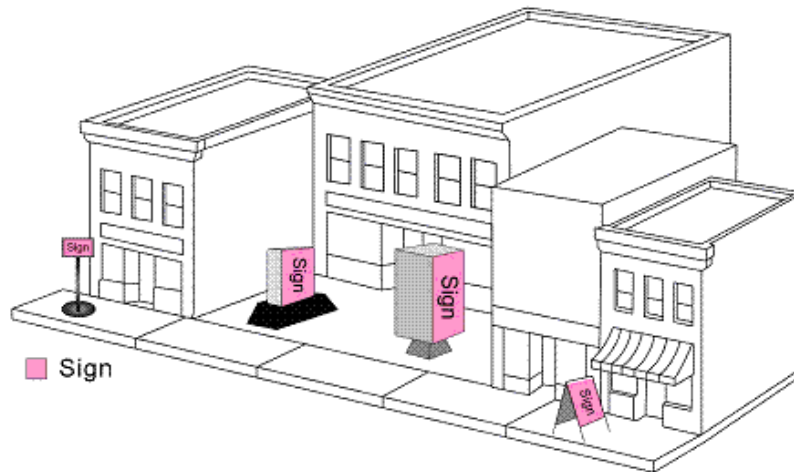
Under Section 330.3(42), **Minor Digital On-premises Signs** are a **Discretionary Use** in the CB1 Low Intensity Business Zone.

Section 7.9(8) states:

**Minor Digital On-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 On-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 identifies or advertises a business, activity, service or product located on the premises or Site where the Sign is displayed.

Section 6.2(8) provides as follows:

**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;



***Sign Location and Orientation***

Section 59.2(3) states:

Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located or constructed such that Sign illumination shall not project onto any surrounding residential premises, shall not face an abutting or adjacent Residential Use, shall not face an abutting or adjacent Residential-Related Use, and shall not face the Extended Medical Treatment Services Use to the satisfaction of the Development Officer.

**Development Officer’s Determination**

The Development Officer referenced section 59.2(3) and made the following determination:

The proposed Minor Digital On-premises Sign is oriented N/S, directly facing Single Family detached house 28 m to North and light illumination from the Digital sign negatively impacts the use, enjoyment and value of residential apartment unit towards NW 23.5 m from the sign, contrary to section 59.2(3).

***Sign Location and Orientation***

Section 330.4(3) states:

A minimum Setback of 3.0 m shall be required where a Site abuts a public roadway, other than a Lane except:

- a. where adjacent commercial buildings abut the property line to form a pedestrian-oriented shopping street, buildings shall be built at the property line of the Site;

**Development Officer's Determination**

The Development Officer referenced section 330.4(3) and made the following determination:



Required Setback: 3.0 m  
Proposed: 0.5 m  
Deficient by: 2.5 m

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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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	Project Number: <b>234073082-001</b> Application Date: NOV 01, 2016 Printed: April 19, 2017 at 4:01 PM 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.	
<b>Applicant</b>  	<b>Property Address(es) and Legal Description(s)</b> 11003 - 124 STREET NW Plan RN39B Blk 45 Lot 20
<b>Scope of Application</b> To install a Freestanding Minor Digital On-Premises Sign (Top panel backlit static - Midnight Sun Restaurant & Digital Panel - Cheers and Beers)	
<b>Permit Details</b>	
ASA Sticker No./Name of Engineer: Construction Value: 4000	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: 2 Minor Digital Off-premises Sign: 0 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: _____	
<b>Development Application Decision</b> Refused  <b>Reason for Refusal</b> 1) ) Minor Digital On-premises Signs shall be located or constructed such that Sign illumination shall not project onto any surrounding residential premises, shall not face an abutting or adjacent Residential Use Class, shall not face an abutting or adjacent Residential-Related Use Class, and shall not face the Extended Medical Treatment Services Use Class to the satisfaction of the Development Officer (Reference Section 59.2(3)).  The proposed Minor Digital On-premises Sign is oriented N/S, directly facing Single Family detached house 28 m to North and light illumination from the Digital sign negatively impacts the use, enjoyment and value of residential apartment unit towards NW 23.5 m from the sign, contrary to section 59.2(3).  2) A minimum Setback of 3.0 m shall be required where a Site abuts a public roadway (Reference Section 330.4(3)).  Required Setback: 3.0 m Proposed: 0.5 m Deficient by: 2.5 m	
<b>THIS IS NOT A PERMIT</b>	





Project Number: **234073082-001**  
Application Date: NOV 01, 2016  
Printed: April 19, 2017 at 4:01 PM  
Page: 2 of 2

## Application for Sign Combo Permit

### Rights of Appeal

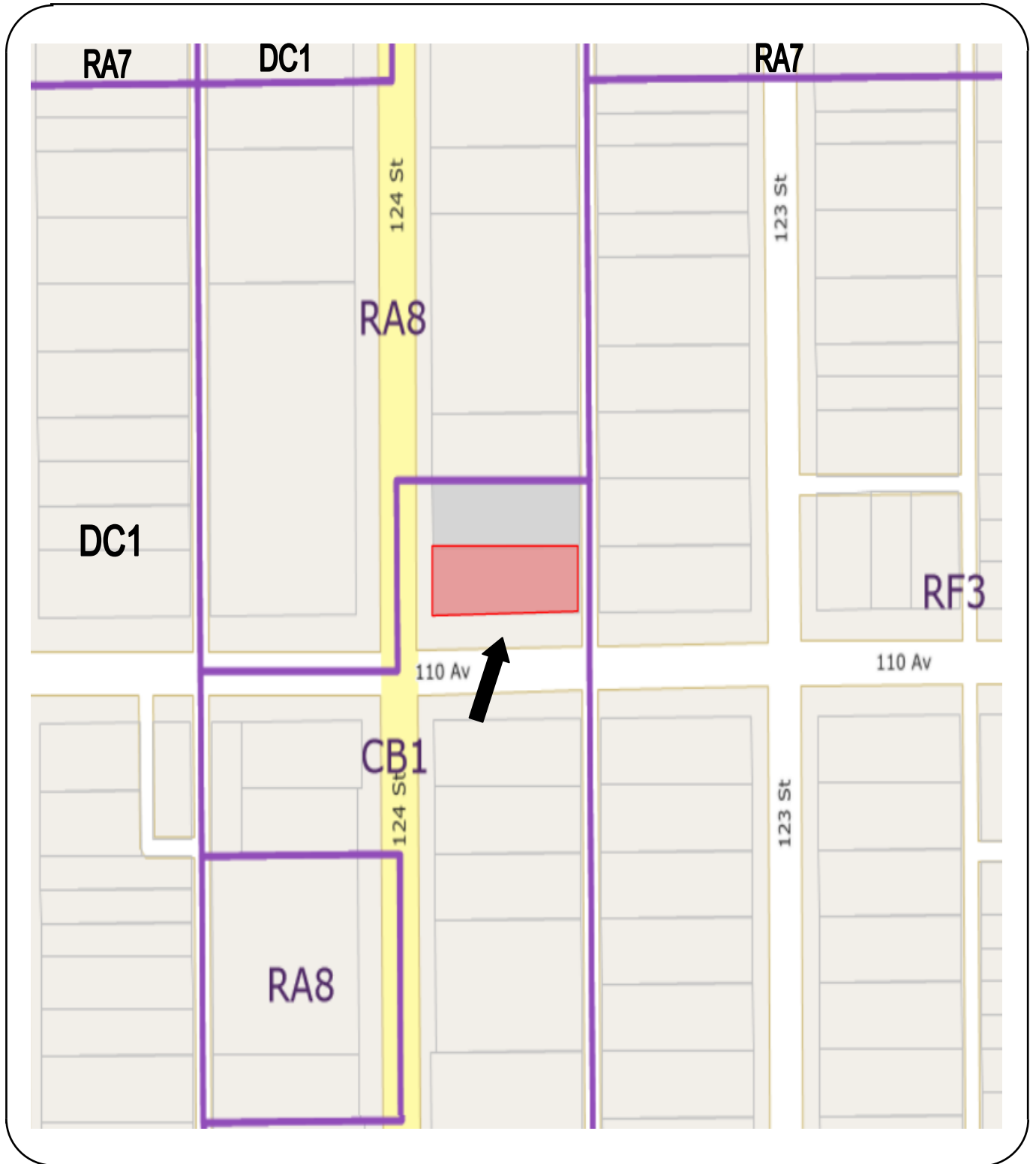
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

**Issue Date:** Mar 22, 2017    **Development Authority:** AHUJA, SACHIN    **Signature:** \_\_\_\_\_

### Fees

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Sign Building Permit Fee	\$149.00	\$149.00	03717860	Nov 01, 2016
Sign Dev Appl Fee - Digital Signs	\$850.00	\$850.00	03717860	Nov 01, 2016
Safety Codes Fee	\$5.96	\$5.96	03717860	Nov 01, 2016
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$1,004.96	<u>\$1,004.96</u>		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-17-073



ITEM II: 11:00 A.M.

FILE: SDAB-D-17-074

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

APPELLANT:

APPLICATION NO.: 169004150-014

APPLICATION TO: Change the Use from Restaurant to Major Alcohol Sales Use and to construct interior alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Approved

DECISION DATE: March 29, 2017

DATE OF APPEAL: April 3, 2017

RESPONDENT:

ADDRESS OF RESPONDENT: 2304 - 23 Avenue NW

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2304 - 23 Avenue NW

LEGAL DESCRIPTION: Plan 0424871 Blk 23 Lot 105

ZONE: CSC Shopping Centre Zone

OVERLAY: N/A

STATUTORY PLAN: - Silver Berry Neighbourhood Structure Plan  
- The Meadows Area Structure Plan

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***Grounds for Appeal***

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

The Appellant respectfully appeals the decision of the Development Officer approving the development permit at 2304 - 23 Avenue NW (Plan 0424871, Blk 23, Lot 105) on the following grounds:

- (a) The Development Officer failed to consider or properly interpret s. 85 of the Edmonton Zoning Bylaw, and other related planning documents.
- (b) The Development Officer failed to properly consider the relevant facts and apply them to the consideration and interpretation of both the Municipal Government Act and the Edmonton Zoning Bylaw (and other related planning documents).
- (c) Such further and other reasons as may be presented at the hearing of this matter.

<i>General Matters</i>
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**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.

**685(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,

...

- (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*. [emphasis added]

**Determining an Appeal**

The *Municipal Government Act* states the following:

**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 320.1 states that the **General Purpose** of the **CSC Shopping Centre Zone** is:

... to provide for larger shopping centre developments intended to serve a community or regional trade area. Residential, office, entertainment and cultural uses may also be included within such shopping complexes.

Under Section 320.2(28), **Major Alcohol Sales, on a Site of 2 ha or larger** is a **Permitted Use** in the CSC Shopping Centre Zone.

Section 7.4(28) states:

**Major Alcohol Sales**, means development used for the retail sales of any and all types of alcoholic beverages to the public where the Floor Area for the individual business premises is greater than 275 m<sup>2</sup>. This Use may include retail sales of related products such as soft drinks and snack foods.

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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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Project Number: **169004150-014**  
Application Date: MAR 10, 2017  
Printed: April 19, 2017 at 4:28 PM  
Page: 1 of 2

### 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.

<b>Applicant</b>  	<b>Property Address(es) and Legal Description(s)</b> 2304 - 23 AVENUE NW Plan 0424871 Blk 23 Lot 105  <b>Specific Address(es)</b> Suite: 2330 - 23 AVENUE NW Entryway: 2330 - 23 AVENUE NW Building: 2330 - 23 AVENUE NW
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**Scope of Permit**  
To change the Use from Restaurant to Major Alcohol Sales Use and to construct interior alterations

<b>Permit Details</b>  Class of Permit: Class A Gross Floor Area (sq.m.): 330.5 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 Permit Decision**  
Approved

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



Project Number: **169004150-014**  
 Application Date: MAR 10, 2017  
 Printed: April 19, 2017 at 4:28 PM  
 Page: 2 of 2

## Major Development Permit

**Subject to the Following Conditions**

- 1) 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)
- 2) The exterior of all stores have ample transparency from the street to allow natural surveillance (Reference Section 85.12)
- 3) Exterior lighting should be in accordance with the minimum safety standards prescribed by the Illuminating Engineers Society of North America (Reference Section 85.12)
- 4) Landscaping be low-growing shrubs or deciduous trees with a high canopy at maturity and that all foliage be kept trimmed back to prevent loss of natural surveillance (Reference Section 85.12)
- 5) No customer parking is located behind a building and that all Parking Areas in front of the building be well-lit (Reference Section 85.12)
- 6) Customer access to the store is limited to a store front that is visible from the street, other than a Lane, shopping centre parking lot or a mall access that allows visibility from the interior (Reference Section 85.12)

**DEVELOPMENT SERVICES ADVISEMENTS:**

- 1) This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.
- 2) Signs require separate Development Applications.
- 3) 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.
- 4) 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.
- 5) 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

**Rights of Appeal**

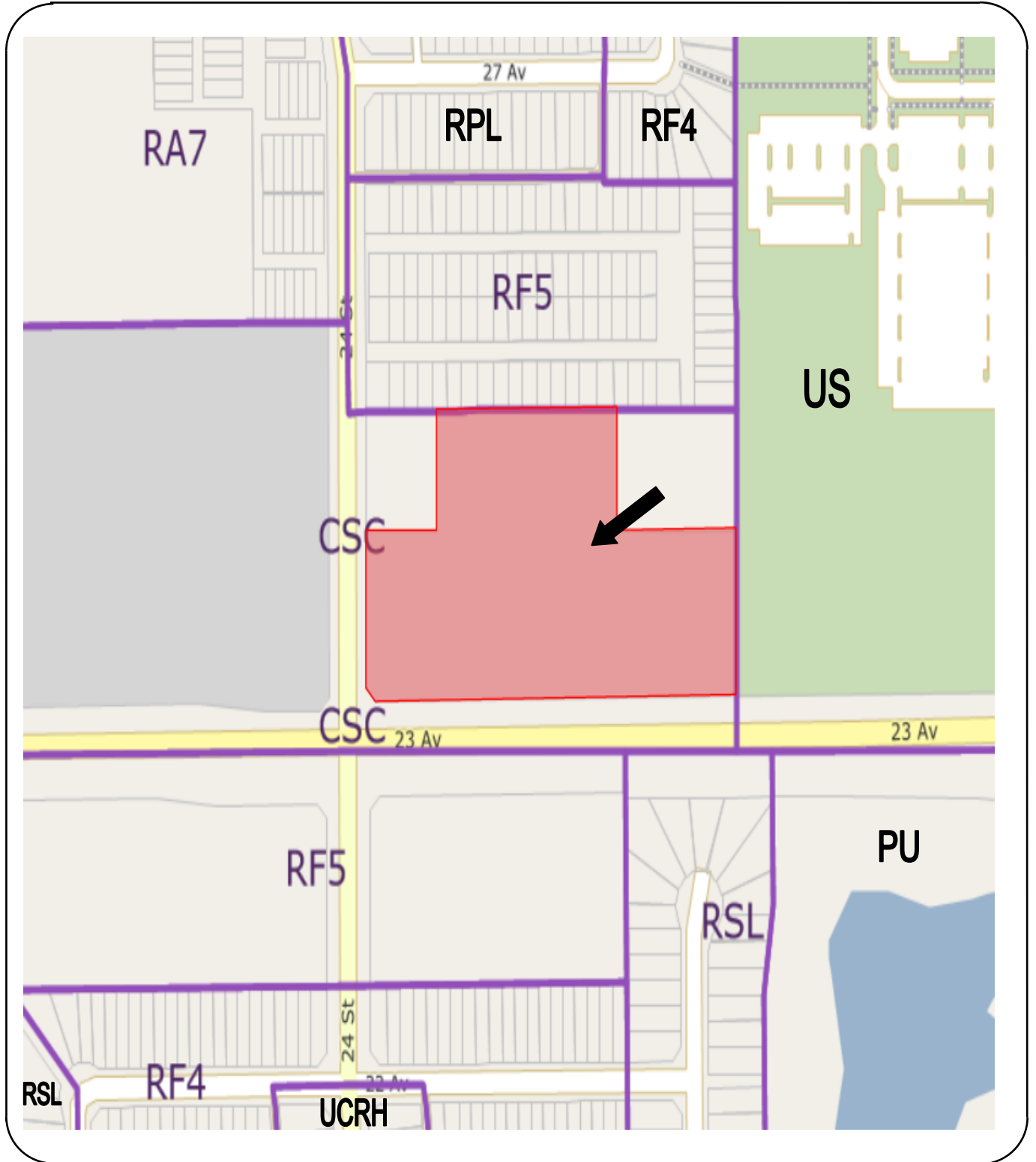
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

**Issue Date:** Mar 29, 2017    **Development Authority:** CHAN, CALVIN    **Signature:** \_\_\_\_\_

Fees				
	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$271.00	\$271.00	03972208	Mar 10, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$271.00	\$271.00		

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





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-17-074

