

SUBDIVISION

AND

DEVELOPMENT APPEAL BOARD

AGENDA

Meeting No. 26HR3/13

Thursday, 9:00 A.M.
July 4, 2013

Hearing Room No. 3
Main Floor, Churchill Building

Meeting No.: 26HR3/13

Thursday, July 4, 2013

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

Page 1 of 2

| | | | |
|----------------------------|---------------|---|---|
| 9:00 A.M. 139288008-001 | SDAB-D-13-149 | Construct exterior alterations to a Single Detached House (add 3.81 metres by 15.24 metres of hardsurfacing to the North side of the property). 2844 – 123 Street NW | I |
|----------------------------|---------------|---|---|

BREAK: 10:15 A.M. TO 10:30 A.M.

| | | | |
|-----------------------------|---------------|---|----|
| 10:30 A.M. 138051779-001 | SDAB-D-13-150 | Develop a Secondary Suite to a Single Detached House (existing prior to December 31, 2006). 10928 – 68 Avenue NW | II |
|-----------------------------|---------------|---|----|

TABLED TO AUGUST 15, 2013

LUNCH BREAK: NOON TO 12:30 P.M.

| | | | |
|-----------------------------|---------------|--|-----|
| 12:30 P.M. 135830848-001 | SDAB-D-13-151 | Convert a Single Detached House to a Professional, Financial, and Office Support Use building and to construct an addition (office addition - 4.0 metres by 4.15 metres) and exterior and interior alterations (roof restructure for Second Floor expansion, tenant renovations). 10712 – 103 Street NW | III |
|-----------------------------|---------------|--|-----|

BREAK: 2:45 P.M. TO 3:00 P.M.

Continued

Meeting No.: 26HR3/13

Thursday, July 4, 2013

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

Page 2 of 2

| | | | |
|----------------------------|---------------|--|----|
| 3:00 P.M. 134939784-001 | SDAB-D-13-152 | Change the Use of the second Floor from a General Retail Store into a Specialty Food Services having 114.5 square metres of Public Space with a maximum of 86 seats (Casablanca). 10762 – 82 Avenue NW | IV |
|----------------------------|---------------|--|----|

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

Meeting No. 26HR3/13

Thursday, July 4, 2013

I

ITEM I: 9:00 A.M.

FILE: SDAB-D-13-149

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT: Application No.: 139288008-001.

DEVELOPMENT OFFICER'S DECISION DATE: June 4, 2013.

ADDRESS OF APPELLANT: 2844 – 123 Street NW, Edmonton AB T6J 4H5.

DATE OF APPEAL: June 10, 2013.

APPLICATION FOR PERMISSION TO: Construct exterior alterations to a Single Detached House (add 3.81 metres by 15.24 metres of hardsurfacing to the North side of the property).

ZONE: RF1 Single Detached Residential Zone.

LEGAL DESCRIPTION: Lot 42, Block 31, Plan 8022116.

MUNICIPAL DESCRIPTION: 2844 – 123 Street NW.

DEVELOPMENT OFFICER'S DECISION

“REFUSED - The proposed development is refused for the following reasons:

- 1) The Front Yard of any at-grade Dwelling unit in any Residential Zone, or in the case of a corner Site, the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The area hardsurfaced for a Driveway, not including the area used as a walkway, shall have:

a minimum width of 3.1 metres; and a maximum width that shall be calculated as the product of 3.1 metres multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage.

The Driveway shall lead directly from the roadway to the required Garage or Parking Area. (Reference Section 54.1(4)(a) and (b) of the Edmonton Zoning Bylaw)

cont'd....

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-149

9:00 A.M

DEVELOPMENT OFFICER'S DECISION (CONTINUED)

- 2) No person shall construct an access or egress for vehicles from a Site to a public roadway, if the public roadway, in the opinion of Transportation Services, carries or shall carry a heavy traffic volume or such access or egress would create an unnecessary traffic hazard, unless there is no other practical method of vehicular access to the Site and a turning space is provided on the Site connected to the access or egress, so that every vehicle leaving the Site by the egress shall face the public roadway which the access or egress enters. (Reference Section 53.2 of the Edmonton Zoning Bylaw).

- 3) The following features may project into a required Setback or Separation Space as provided for below:

A Parking Area when comprised of parking spaces required under this Bylaw, provided that no Parking Area in any Zone shall be located within the Front Yard. This shall not prohibit the use of a Front Yard for Driveways (Reference Section 44.6 of the Edmonton Zoning Bylaw).

- 4) In the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:

vehicles shall not be located on the landscaped portion of the Yard; and

vehicles shall only be allowed on a Driveway or within an attached or detached Garage. (Reference Section 45.7 (a) and (b) of the Edmonton Zoning Bylaw).

- 5) All Yards, visible from a public roadway, other than a Lane, on a Site developed with Single Detached, Semi-detached, Duplex or Secondary Suite or, in the RF5 or UCRH Zone, Row Housing or Stacked Row Housing, shall be seeded or sodded within 18 consecutive months of the occupancy of the development. Alternate forms of Landscaping, including hard decorative pavers, washed gravel, shale or similar treatments,

cont'd....

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-149

9:00 A.M

DEVELOPMENT OFFICER'S DECISION (CONTINUED)

flower beds or cultivated gardens, may be substituted for

seeding or sodding, provided that all areas of exposed earth are designed as either flower beds or cultivated gardens. (Reference Section 55.2(4)(b) of the Edmonton Zoning Bylaw).

- 6) In the opinion of the Development Authority the vehicular parking space is in the required front.”

APPELLANT'S SUBMISSION

“It is characteristic of the neighbourhood (Blue Quill Estates).”

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This application is to construct exterior alterations to a single detached house (add 3.81 metres by 15.24 metres of hardsurfacing to the North side of property).

The site is located on the west side of 123 Street north of 28 Avenue and is zoned RF1 Single Detached Residential Zone, Section 110 of Single Detached Residential Zone.

NOTE: The submitted plans shows that the subject site is irregular shaped. The proposed Driveway extends into the required (north) Side Yard and into the required (east) Front Yard and connects to the existing Driveway to the south. Access to the proposed extension is from 123 Street to the east.

Section 54.1(4)(a)(b) states the Front Yard of any at-grade Dwelling unit in any Residential Zone, or in the case of a corner Site, the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The area hardsurfaced for a Driveway, not including the area used as a walkway, shall have a minimum width of 3.1 metres and a maximum width that shall be calculated as the product of 3.1 metres multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage.

cont'd....

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-149

9:00 A.M

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED):

The Driveway shall lead directly from the roadway to the required Garage or Parking Area.

The Development Officer determined that the proposed development does not meet this requirement.

Section 53.2 states no person shall construct an access or egress for vehicles from a Site to a public roadway, if the public roadway, in the opinion of Transportation Services, carries or shall carry a heavy traffic volume or such access or egress would create an unnecessary traffic hazard, unless there is no other practical method of vehicular access to the Site and a turning space is provided on the Site connected to the access or egress, so that every vehicle leaving the Site by the egress shall face the public roadway which the access or egress enters.

The Development Officer determined that the proposed development does not meet this requirement.

Section 44.6 states a Parking Area, when comprised of parking spaces required under this Bylaw, may project into a required Setback or Separation Space provided that no Parking Area in any Zone shall be located within the Front Yard. This shall not prohibit the use of a Front Yard for Driveways.

The Development Officer determined that the proposed development does not meet this requirement.

Section 45.7 states in the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:

- a. vehicles shall not be located on the landscaped portion of the Yard; and
- b. vehicles shall only be allowed on a Driveway or within an attached or detached Garage.

The Development Officer determined that the proposed development does not meet this requirement.

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Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-149

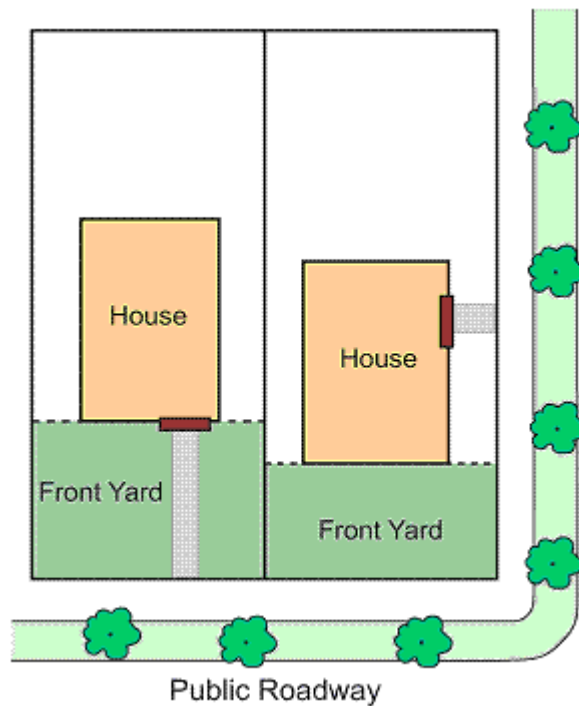
9:00 A.M.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED):

Section 55.2(4)(b) states except in the case that Dwellings are part of a Multi-unit Project Development, all Yards, visible from a public roadway, other than a Lane, on a Site developed with Single Detached, Semi-detached, Duplex or Secondary Suite or, in the RF5 or UCRH Zone, Row Housing or Stacked Row Housing, shall be seeded or sodded within 18 consecutive months of the occupancy of the development. Alternate forms of Landscaping, including hard decorative pavers, washed gravel, shale or similar treatments, flower beds or cultivated gardens, may be substituted for seeding or sodding, provided that all areas of exposed earth are designed as either flower beds or cultivated gardens.

The Development Officer determined that the proposed development does not meet this requirement.

Under Section 6.1(40), **Front Yard** means the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



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Meeting No. 26HR3/13

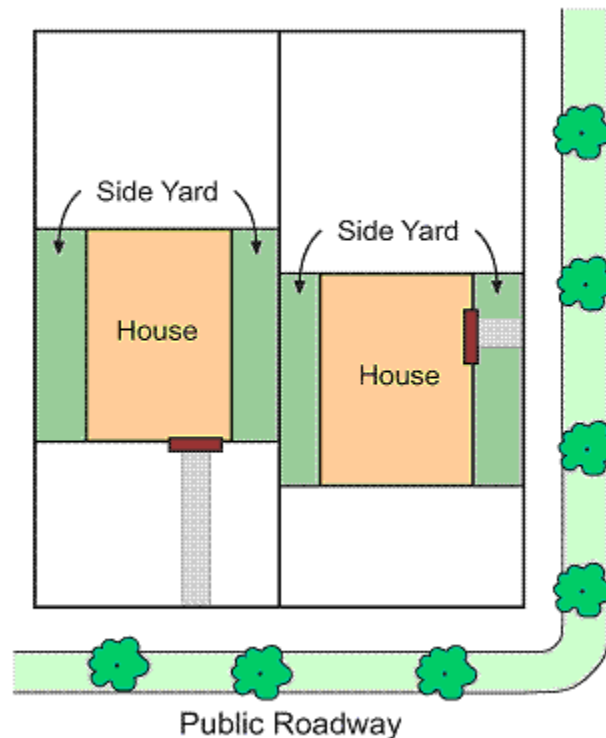
Thursday, July 4, 2013

FILE: SDAB-D-13-149

9:00 A.M.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED):

Under Section 6.1(91), **Side Yard** means that portion of a Site abutting a Side Lot Line extending from the Front Yard to the Rear Yard. The Side Yard is situated between the Side Lot Line and the nearest wall of principal building, not including projections.



Under Section 6.1(69), **Parking Area** means an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.

Under Section 6.1(26), **Driveway** means an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area.

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Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-149

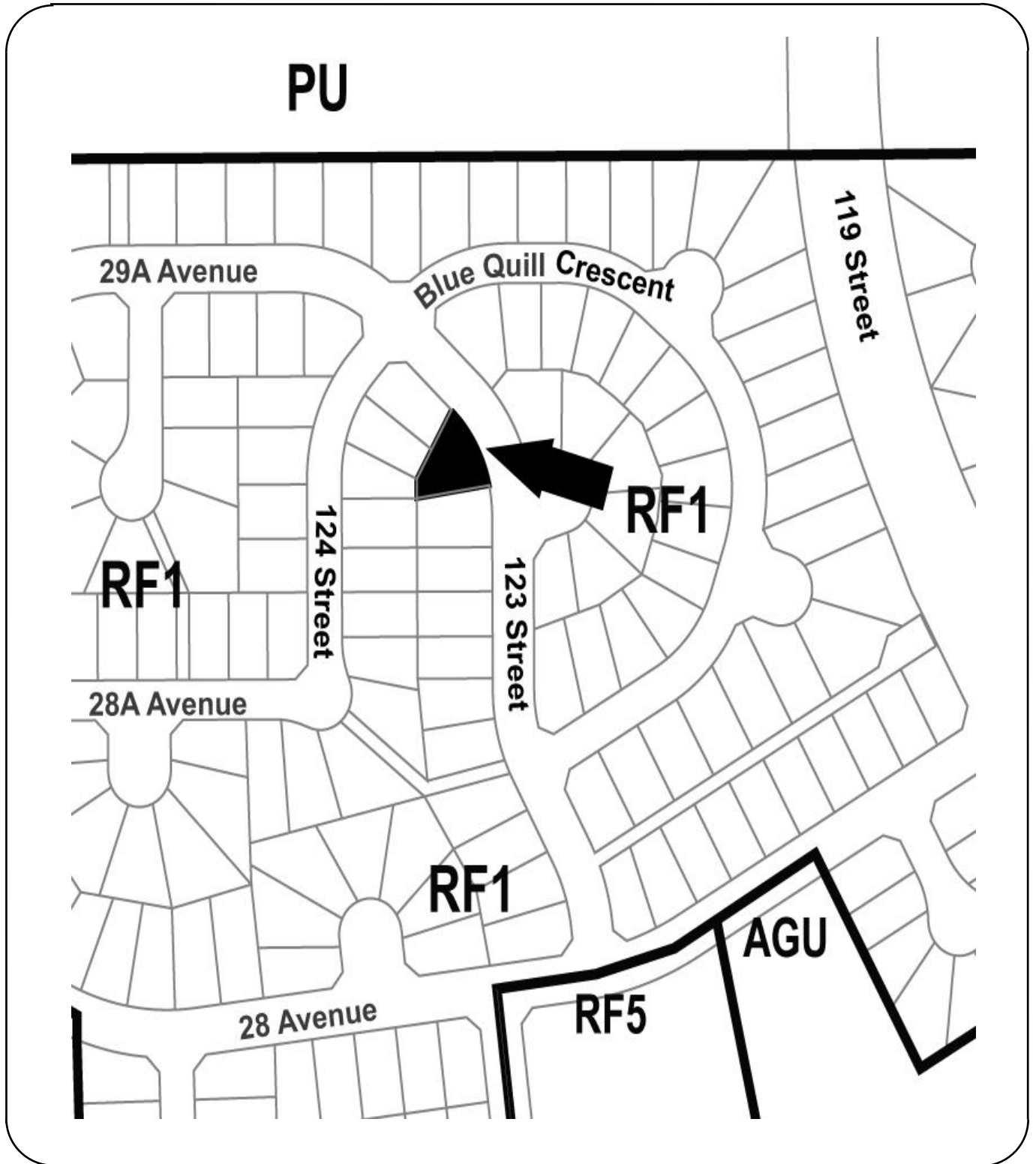
9:00 A.MSUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED):

The following permit applications are listed in the Sustainable Development Department POSSE system:

| Application Number | Description | Decision |
|---------------------------|--|--|
| 84875079-001 | To operate a Minor Home Based Business (General subcontracting for trades workers. Administrative home office only). | March 5, 2009; Approved with conditions |
| 48950312-001 | To operate a Minor Home Based Business. (Auction to Auction Car Dealer) | July 26, 2005; Approved with conditions |
| 39463-001 | To construct a single detached house with front access garage and fireplace. | February 5, 1988; Approved with conditions |

NOTICE TO APPLICANT/APELLANT

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.



SURROUNDING LAND USE DISTRICTS

 Site Location

File: SDAB-D-13-149



SUBDIVISION AND DEVELOPMENT APPEAL BOARD

Meeting No. 26HR3/13

Thursday, July 4, 2013

II

ITEM II: 10:30 A.M.

FILE: SDAB-D-13-150

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT: Application No.: 138051779-001

DEVELOPMENT OFFICER'S DECISION DATE: May 24, 2013

ADDRESS OF APPELLANT: 152 County Hills Close, Calgary, AB, T3K 3Z3.

DATE OF APPEAL: June 11, 2013

APPLICATION FOR PERMISSION TO: Develop a Secondary Suite to a Single Detached House (existing prior to December 31, 2006).

ZONE: RF1 Single Detached Residential Zone.

LEGAL DESCRIPTION: Lot 31, Block 25, Plan 2041HW.

MUNICIPAL DESCRIPTION: 10928 – 68 Avenue NW.

Meeting No. 26HR3/13

Thursday, July 4, 2013

III

ITEM III: 12:30 P.M.

FILE: SDAB-D-13-151

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

APPELLANT: Application No. 135830848-001.

DEVELOPMENT OFFICER'S DECISION DATE: May 6, 2013.

NOTICE OF APPEAL PERIOD: May 9, 2013 through May 22, 2013.

ADDRESS OF APPELLANT: 15615 – 90 Street NW, Edmonton AB T5Z 3E5.

DATE OF APPEAL: May 22, 2013.

RESPONDENT: Sarah Fassman.

ADDRESS OF RESPONDENT: 407 Richfield Road NW, Edmonton AB
T6K 0A7.

APPLICATION FOR PERMISSION TO: Convert a Single Detached House to a Professional, Financial, and Office Support Use building and to construct an addition (office addition - 4.0 metres by 4.15 metres) and exterior and interior alterations (roof restructure for Second Floor expansion, tenant renovations).

ZONE: CB1 Low Intensity Business Zone.

LEGAL DESCRIPTION: Lot 282, Block 3, Plan B4.

MUNICIPAL DESCRIPTION: 10712 – 103 Street NW.

DEVELOPMENT OFFICER'S DECISION

“APPROVED – The proposed development is approved subject to the following variances and conditions:

Variances:

Relaxed required Parking Stalls from 6 to 4. (Reference Section 54.2)

Restriction on Tandem Parking relaxed from 0 stalls allowed to 2 stalls allowed in tandem (Reference Section 54.1(2)(f)).

cont'd...

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-151
12:30 P.M.

DEVELOPMENT OFFICER'S DECISION (CONTINUED)

Conditions:

1. In situations where lighting of off-street parking and loading facilities is to be provided, the lighting shall be arranged, installed and maintained to deflect, shade and focus light away from any adjacent land Uses.
2. In parking areas and similarly congested locations, curbs and other protective measures shall be used to protect adjacent fences, walls, boulevards, landscaped areas or buildings on the Site or an adjacent Site;
3. All required parking and loading facilities shall be clearly demarcated, have adequate storm water drainage and storage facilities, and be hardsurfaced.
4. Exterior lighting shall be provided in a manner that provides safety for pedestrians on the Site and adjacent to it, and in accordance with Section 51 of this Bylaw.
5. Bicycle Parking Spaces shall be provided for the Development (Reference Section 54.3).
6. Transportation Services will not permit a gravelled yard/access to a paved roadway. The access must be hard surfaced from the alley hard surfacing into the site for a minimum distance of 10 m. A portion of the hard-surfacing will occur on road right-of-way and the remaining portion on private property, as shown on Enclosure I. The pavement will limit loose gravel from carrying onto the paved surface of the adjacent roadway, from the gravelled yard.
7. Garbage enclosures must be located entirely within private property and gates and/or doors of the garbage enclosure must not open or encroach into road right-of-way, as shown on Enclosure I.
8. There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two
cont'd...

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-151
12:30 P.M.

DEVELOPMENT OFFICER'S DECISION (CONTINUED)

weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.

9. Any hoarding or construction taking place on road right-of-way requires an OSCAM permit. It should be noted that the hoarding must not damage boulevard trees. The owner must call Transportation Operations at 780-442-6458 to arrange for the permit.
10. Any alley, sidewalk, or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Services, as per Section 15.5(f) of the Zoning Bylaw. The alley, sidewalks and boulevard will be inspected by Transportation Services prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.

ADVISEMENTS

Transportation Services does not object to the proposed parking deficiency of 2 stalls (required 6 stalls; provided 4 stalls).

Bicycle parking has not been identified on site. Bicycle parking should meet the requirements of the Zoning Bylaw.”

APPELLANT'S SUBMISSION

“Issue with parking. Parking on the street is already overcrowded so that people are constantly illegally parking on my property.

The proposed development building encroaches onto my property at 10710 – 103 Street.

The Development Officer required the Applicant to obtain my approval, in writing, for the proposed development. I denied this request.

cont'd...

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-151
12:30 P.M.

APPELLANT'S SUBMISSION (CONTINUED)

The proposed development does not meet the Alberta Building Code. It is too close to my building and on my land which poses a serious risk of fire to my building. The building on the subject site already had a major fire in the past year. Violation of Alberta Building Code Section 9.10.14.5"

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This application is to convert a Single-Detached House to a Professional, Financial, and Office Support Use building and to construct an Addition (Office addition - 4.0 metres by 4.15 metres) and Exterior and Interior Alterations (Roof restructure for Second Floor expansion, tenant renovations).

The site is located on the west side of 103 Street, north of 107 Avenue and is zoned CB1 Low Intensity Business Zone, Section 330 of the Edmonton Zoning Bylaw 12800. The site is within (Medium Rise Apartments) Precinct B of the Central McDougall / Queen Mary Park Area Redevelopment Plan, under Bylaw 11648, adopted by City Council on March 5, 1998.

NOTE: Section 330.2(11) states a Professional, Financial and Office Support Services is a Permitted Use in the CB1 Zone.

Professional, Financial and Office Support Services means development primarily used for the provision of professional, management, administrative, consulting, and financial services, but does not include Health Services or Government Services. Typical Uses include: the offices of lawyers, accountants, engineers, and architects; offices for real estate and insurance firms; clerical, secretarial, employment, telephone answering, and similar office support services; and banks, credit unions, loan offices and similar financial Uses.

Under Section 685(3) of the *Municipal Government Act*, "no appeal lies in respect of the issuance of a development permit for a Permitted Use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted."

cont'd....

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-151
12:30 P.M.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
 (CONTINUED):

This application was approved by the Development Officer subject to conditions.

Pursuant to Section 11.3 and 11.4 and subject to the right of appeal to the Subdivision and Development Appeal Board, Section 21.1, the Development Officer granted the following variances:

1. Section 54.2, Schedule 1(A)(23), states a Professional, Financial and Office Support Services requires 3.4 parking space per 100 square metres of Floor Area.

The Development Officer has indicated the proposed development has 167.75 square metres of Floor Area and requires 6.0 parking spaces, proposed is 4 parking spaces, and a relaxation of 2 parking spaces was granted.

2. Section 54.1(2)(f) states that unless otherwise specified in this Bylaw, no required parking spaces shall be provided as Tandem Parking. Allowed is 0 Tandem parking spaces, proposed is 2 Tandem parking spaces.

The decision of approval by the Development Officer has been appealed by an adjacent property owner at 10710 – 103 Street.

Included in the Sustainable Development Department's POSSE system, under "Docs", is a Development Technical Review prepared by the Development Officer dated March 22, 2013. **A copy of the Review is on file.**

Included in the Sustainable Development Department's POSSE system, under "Docs", is a Memorandum dated March 20, 2013 from Darryl Mullen, General Supervisor, Sustainable Transportation, Transportation Planning Branch, which indicates that Transportation Services has reviewed the noted development application and does not object to the proposed development, subject to conditions. **A copy of the Memorandum from Transportation Services is on file.**

cont'd....

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-151
12:30 P.M.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED):

Included under "Justification" in the Sustainable Development Department POSSE System dated May 3, 2013, the Development Officer has provided the following information:

Transportation Services does not object to the deficiency in parking stalls.

The width of the lot creates a practical hardship for any commercial business trying to provide parking. This property is zoned CB1 and is expected to provide commercial business, yet the lot width is not conducive to this.

Parking in tandem creates a solution to the lot width deficiency.

Section 330.4(5) states that no parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback. Vehicular parking, loading, storage and trash collection areas shall be located to the rear or sides of the principal building and shall be screened from view from any adjacent Sites, public roadways or Light Rail Transit lines in accordance with the provisions of subsection 55.4 of this Bylaw. If the rear or sides of a Site are used for parking, an outdoor service or display area or both, and abut a Residential Zone or a Lane serving a Residential Zone, such areas shall be screened in accordance with the provisions of subsection 55.4 of this Bylaw.

Floor Area means 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 (Section 6.1(34)).

Section 330.1 states the General purpose of 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.

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Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-151
12:30 P.M.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
 (CONTINUED):

The following permit applications are listed in the Sustainable Development Department POSSE system:

| Application Number | Description | Decision |
|---------------------------------------|---|---|
| 133845846-003 SDAB-D-13-050 | Appeal of Stop Order | March 28, 2013; "that the Board does not assume jurisdiction" |
| 133845846-002 | Stop Order | January 18, 2013; The Order is discontinue the Use of the building as a Single Detached House; remove the second floor addition that has been constructed without an approved development permit and convert the building back to the state of construction that existed prior to the non-permitted construction; or obtain a Development Permit for the second floor addition, interior alterations, exterior alterations and any proposed future Use of the building. This Order is to be complied with on or before February 28, 2013. |
| 133845846-001 | To Construct an Addition to Single Family House (second storey) | February 26, 2013; Cancelled |
| ... | ... | ... |
| 86-02400-2 DAB/86-119 | To construct exterior alterations to a Single Detached House (enclose front portion of veranda) | May 28, 1986; "that the appeal be ALLOWED and the DEVELOPMENT Granted and the deficiency in side yard be waived." |

cont'd....

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-151
12:30 P.M.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
 (CONTINUED):

| Application Number | Description | Decision |
|------------------------------|---|--|
| 86-02400-1 | To construct exterior alterations to a Single Detached House (enclose front portion of veranda) | April 4, 1986; Refused |
| 74-6356 DAB/74-465 | To make exterior alterations and make interior alterations in a Single Family Dwelling | November 14, 1974; "that the appeal be ALLOWED and the DEVELOPMENT Granted and the deficiency in side yard be waived subject to the Applicant entering into an agreement with the City to be protected by Caveat, restricting the use of the dwelling to one family only." |
| 74-6356 | To make exterior alterations and make interior alterations in a Single Family Dwelling | October 11, 1974; Refused |
| 73-5317 DAB/73-499 | To make interior alterations to a Single Family Dwelling | October 2, 1973; "that the Appeal be Refused and the Development Granted, subject to the submission of adequate drawings to the satisfaction of the Board." |
| 73-5317 | To make interior alterations to a Single Family Dwelling | August 28, 1973; Approved |

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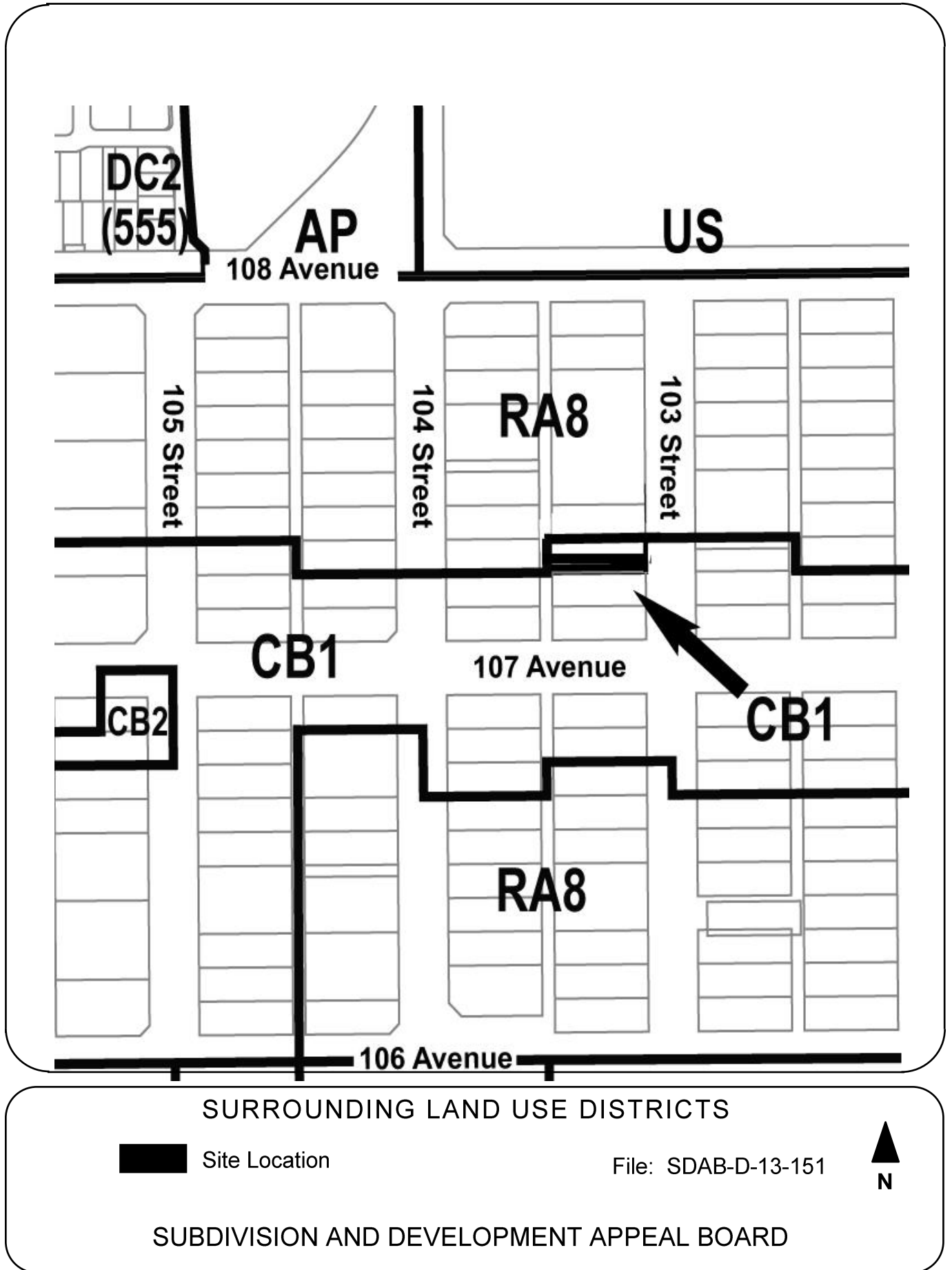
Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-151
12:30 P.M.

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.



Meeting No. 26HR3/13

Thursday, July 4, 2013

IV

ITEM IV: 3:00 P.M.

FILE: SDAB-D-13-152

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

APPELLANT: Application No. 134939784-001.

DEVELOPMENT OFFICER'S DECISION DATE: May 22, 2013.

NOTICE OF APPEAL PERIOD: May 28, 2013 through June 10, 2013.

ADDRESS OF APPELLANT: 112 Bridgeport Wynd, Leduc AB T9E 8B2.

DATE OF APPEAL: June 10, 2013.

RESPONDENT:

ADDRESS OF RESPONDENT: 110, 8920 – 118 Avenue NW, Edmonton AB
T5B 0T6.

APPLICATION FOR PERMISSION TO: Change the Use of the second Floor
from a General Retail Store into a
Specialty Food Services having 114.5
square metres of Public Space with a
maximum of 86 seats (Casablanca).

ZONE: CB2 General Business Zone.

LEGAL DESCRIPTION: Lot 16, Block 132, Plan RN4.

MUNICIPAL DESCRIPTION: 10762 – 82 Avenue NW.

DEVELOPMENT OFFICER'S DECISION

“APPROVED – The proposed development is approved subject to the following
variance and conditions:

Variance:

Section 54.1.1.b(ii) relaxed - the requirement to provide
additional onsite vehicular parking stalls to accommodate the
proposed change of Use is waived.

Conditions:

This approval is for a Specialty Food Service. Specialty Food
Service means development where limited types of prepared
foods and beverages, excluding alcoholic beverages, are offered
for sale to the public, for consumption within the premises or off
the Site. Reference Section 7.4(47).

cont'd....

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-152
3:00 P.M.

DEVELOPMENT OFFICER'S DECISION (CONTINUED)

NOTES:

- 1) Signs require separate Development Applications.
- 2) 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.
- 3) This approval does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site."

APPELLANT'S SUBMISSION

- "All the media attention
- Smoking establishment
- 95 percent of shisha they smoke contains tobacco. Verified by RCMP.
- Close to liquor store
- Bar Hours (not normal café hours) 7 – 2 a.m.
- More of an after-hours club
- Primary business not Specialty Foods
- This place is now being watched by police
- Climbing on my roof
- Open now for 1 year – any violations or a retail license why?
- Property values down
- Surrounding businesses retail
- Parking
- Fire hazard
- Fights outside
- More \$/manpower
- Etc., etc, etc."

cont'd....

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-152
3:00 P.M.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This application is to change the Use of the 2nd Floor from a General Retail Store into a Specialty Food Services having 114.5 square metres of Public Space with a maximum of 86 seats (Casablanca).

The site is located on the north side of 82 Avenue, west of 107 Street and is zoned CB2 General Business Zone, Section 340 of the Edmonton Zoning Bylaw. The site is within the Whyte Avenue Commercial Overlay, Section 820 and within the Pedestrian Commercial Shopping Street Overlay, Section 819 of the Edmonton Zoning Bylaw. The subject site is also within the Strathcona Area Redevelopment Plan, Bylaw 11890 adopted by City Council on December 15, 1998.

NOTE: Section 340.2(25) states **Specialty Food Services**, for less than 100 occupants and 120 square metres of Public Space, are a Permitted Use in the CB2 Zone.

Specialty Food Services means development where limited types of prepared foods and beverages, excluding alcoholic beverages, are offered for sale to the public, for consumption within the premises or off the Site. This Use Class typically relies primarily on walk-in clientele, and includes coffee, donut, bagel or sandwich shops, ice cream parlours, and dessert shops (Section 7.4(47)).

Under Section 685(3) of the *Municipal Government Act*, “no appeal lies in respect of the issuance of a development permit for a Permitted Use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.”

This application was approved by the Development Officer subject to conditions.

Pursuant to Section 11.3 and 11.4 and subject to the right of appeal to the Subdivision and Development Appeal Board, Section 21.1, the Development Officer granted the following variance:

1. Section 54.1(1)(b)(ii) states where any building or Use undergoes a change of Use, intensity of Use or capacity and the change results in an increase in the parking requirements, the off-street parking, including parking for the disabled and visitors, shall be increased to equal or

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-152

3:00 P.M.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED):

exceed the off-street parking requirements resulting from application of the provisions of this Bylaw to the entire building, structure or Use as modified in use.

Section 819.3(8) of the Pedestrian Commercial Shopping Street Overlay states the minimum number of off-street parking spaces required shall be in accordance with the provisions of Section 54, Schedule 1 of this Bylaw, except that:

- a. for Professional, Financial and Office Support Services at grade, parking shall be provided on the basis of 1.1 parking spaces per 100 square metres of Floor Area and no parking spaces shall be required for this Use on upper floors;
- b. for Specialty Food Services, Restaurants, Bars and Neighbourhood Pubs, and Nightclubs, parking shall be provided on the basis of one parking space per 4.8 square metres of Public Space;
- c. for all other Commercial Use Classes, parking shall be provided on the basis of 1.1 parking spaces per 100 square metres of Floor Area; and
- d. Accessory vehicular parking shall be located at the rear of the building.

The Development Officer has determined that the Public Space of the proposed Speciality Food Services is 114.5 square metres and requires 23.8 parking spaces. Further, the commercial use existing in the basement requires 2.03 parking spaces and the commercial use existing on the main floor requires 2.03 parking spaces. The Development Officer has determined that the total required number of parking spaces is 28, proposed is 4, and a relaxation of 24 parking spaces was granted.

The decision of approval by the Development Officer has been appealed by an adjacent property owner at 10760-82 Avenue.

cont'd....

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-152

3:00 P.M.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED):

Section 819.3(15) states where an application for a Development Permit does not comply with the regulations contained in this Overlay:

- a. the applicant shall contact the affected parties, being each assessed owner of land wholly or partly located within a distance of 60.0 metres of the Site of the proposed development and the President of each affected Community League and the President of each Business Revitalization Zone Association operating within the distance described above, at least 21 days prior to submission of a Development Application;
- b. the applicant shall outline to the affected parties, any requested variances to the Overlay and solicit their comments on the application;
- c. the applicant shall document any opinions or concerns, expressed by the affected parties, and what modifications were made to address their concerns; and
- d. the applicant shall submit this documentation as part of the Development Application.

Included under "Comments" in the Sustainable Development Department POSSE System dated March 5, 2013, the Development Officer has provided the following information:

Parking requirement:

****NOTE:** Parking requirement based on Pedestrian Commercial Shopping Street Overlay******

EXISTING:

1) Basement

Use: Minor Secondhand Store/Personal Service Shop = Commercial
Uses - DP#905880-001

cont'd....

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-152

3:00 P.M.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED):

Floor Area = 184.8 square metres / 100 square metres * 1.1 = 2.03
spaces required

2) Main Floor

Business name: Rowena

Use: General Retail Store = Commercial Use (based on business
licence issued renewal BL#7266549-002)

Floor Area = 184.8 square metres / 100 square metres * 1.1 = 2.03
spaces required

PROPOSED:

1) Second Floor

Use: Specialty Food Services

Public Space = 114.5 square metres

114.5 square metres / 4.8 square metres = 23.8 stalls required

TOTAL PARKING REQUIREMENT = 27.9 ~ 28 stalls

TOTAL PARKING PROVIDED = 4 stalls

DEFICIENCY = 24

Included under "Justification" in the Sustainable Development Department
POSSE System dated May 22, 2013, the Development Officer has provided
the following information:

Approval:

1) A Specialty Food Service is a Permitted Use within the CB2
Zone.

2) Parking:

- there is no opportunity to provide additional onsite parking
- Transportation has reviewed the application and parking variance
and has no objections.
- the applicant has consulted with his neighbours and the Business
Association and has not recorded any objections. The Old
Strathcona Association has submitted a letter of support for the
parking variance.

cont'd....

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-152

3:00 P.M.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED):

Included in the Sustainable Development Department's POSSE system, under "Docs", is a Memorandum dated March 20, 2013 from Darryl Mullen, General Supervisor, Sustainable Transportation, Transportation Planning Branch, which indicates that Transportation Services has reviewed the noted development application and does not object to the proposed development. **A copy of the Memorandum from Transportation Services is on file.**

Section 340.1 states 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 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.

Section 54.1(2)(h) states that 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.

Section 54.2(4)(a)(i) states all required parking spaces shall be clear of any access driveways, aisles, ramps, columns, Signs or other similar obstructions, and except as provided below, each required off-street parking space shall be a minimum of 2.6 metres width with a minimum clear length of 5.5 metres exclusive of access drives or aisles, ramps, columns. Parking spaces shall have a vertical clearance of at least 2.0 metres. For parallel parking, the length of the parking spaces shall be increased to 7.0 metres, except that an end space with an open end shall be a minimum length of 5.5 metres.

cont'd....

Meeting No. 26HR3/13

Thursday, July 4, 2013

FILE: SDAB-D-13-152

3:00 P.M.SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED):

Occupants means, when referring to Specialty Food Services, Restaurants, Bars and Neighbourhood Pubs and Nightclubs, people that may occupy Public Space within any of these Uses, to be calculated at 1 Occupant per 1.2 square metres of Public Space (Section 6.1(67)).

Public Space means space within an establishment, which is open to the kitchens, administrative offices, food or drink preparation area (Section 6.1(80)).

The following permit applications are listed in the Sustainable Development Department POSSE system:

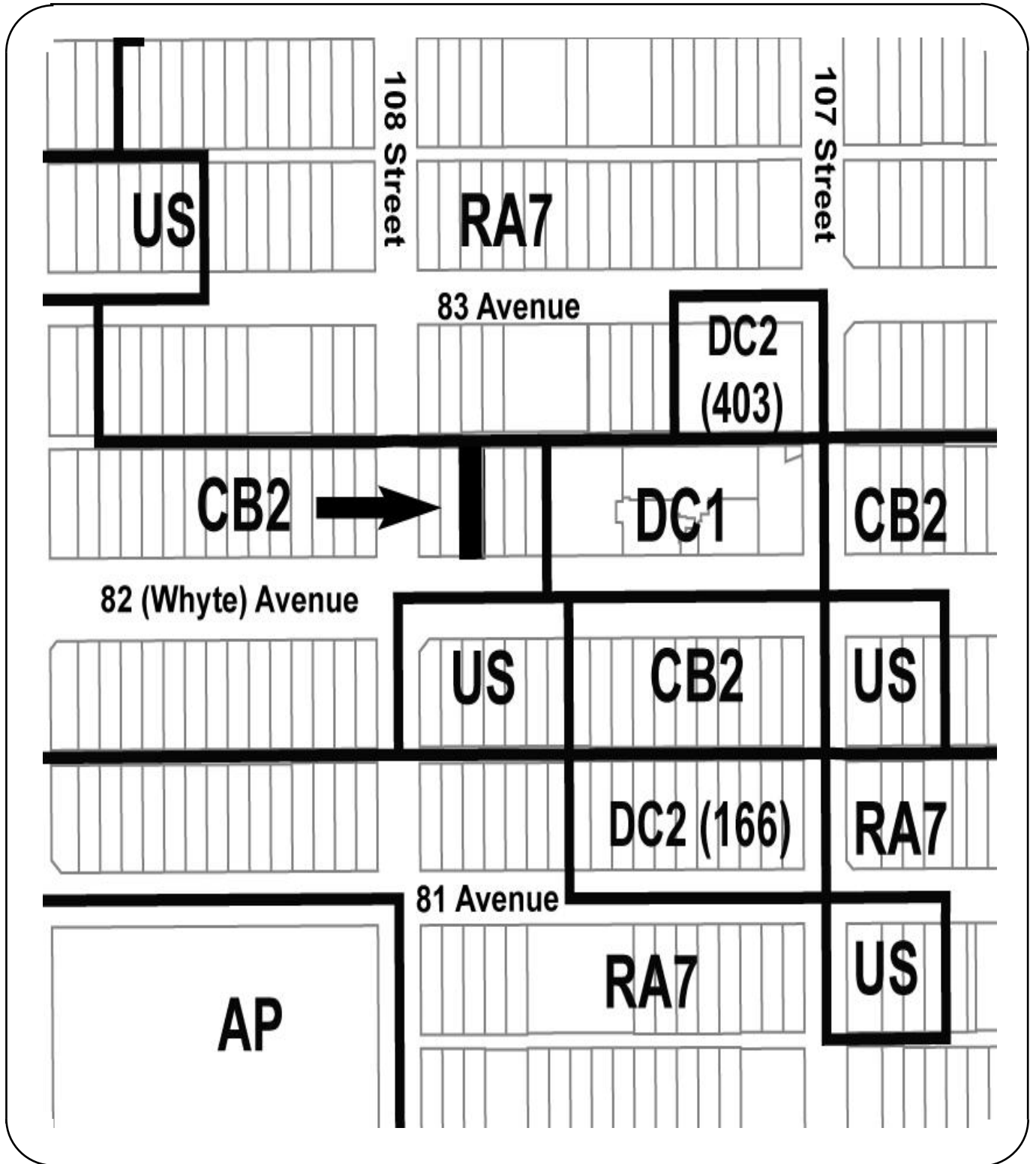
| Application Number | Description | Decision |
|---------------------------|---|--|
| 100576180-001 | To change a portion of the 2nd floor from a commercial school to a General Retail Store, and to construct interior alterations. | July 28, 2010; Approved with conditions |
| 905880-001 | To operate a Minor Secondhand Store (used clothing) and a Personal Service Establishment (hair salon) from the basement of a commercial building. | June 5, 2000; Approved |
| 706217-001 | Compliance Certificate | November 3, 2005; In response to your letter dated April 26, 1999, this is to advise you that the building (2 Storey Commercial) indicated on the Real Property Report dated April 26, 1999 complies with the yard regulations governing Section 820 C (Whyte Avenue |

| | | |
|---------------------------|--|---|
| 706217-001 (Continued) | | Commercial District of the Statutory Plan Overlay Schedule For The Strathcona Area Redevelopment Plan). - You are also advised that the BUILDING EAVE and TWO PROJECTING SIGNS encroach onto 82 AVENUE. Encroachments onto City of Edmonton property or easements require an encroachment agreement. |
| 444561-001 | To operate a Personal Service Shop (Tattooing and Piercing Studio). | April 9, 1996; Approved |
| 82065-001 | To operate a General Retail Store. (Sales and manufacturing of handmade lamps and lampshades) | November 28, 1991; Approved |

Further Development Permit Applications from the Sustainable Development Department POSSE system pertaining to the subject site are listed in the SDAB file.

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.



SURROUNDING LAND USE DISTRICTS

 Site Location

File: SDAB-D-13-152



SUBDIVISION AND DEVELOPMENT APPEAL BOARD

Meeting No. 26/13

Thursday, July 4, 2013

BUSINESS LAID OVER

-
- SDAB-D-13-141 An appeal by GMH Architects to increase the amount of Commercial Space from 10,347 square feet to 19,773 square feet on the main floor of a Mixed Use Building by reducing the available amount of parking stalls and construct exterior alterations (minor façade changes to ground level retail area)
July 11, 2013
-
- SDAB-D-13-084 An appeal by Bateman Property Management Ltd. comply with an Order to cease the operation of Non-Accessory Parking / Accessory Parking and completely prohibit vehicular access to the site with barricades on or before April 22, 2013.
August 28/29, 2013
-
- SDAB-D-13-085 An appeal by Bateman Property Management Ltd. comply with an Order to cease the operation of Non-Accessory Parking / Accessory Parking and completely prohibit vehicular access to the site with barricades on or before April 22, 2013.
August 28/29, 2013
-
- SDAB-D-13-113 An appeal by Integrated Protective Coatings/Dentons Canada LLP to comply with an Order to dismantle, demolish and clear from the Site all structures on the Site without development permit approval
September 4, 2013
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