

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
August 9, 2017**

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

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

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I	9:00 A.M.	SDAB-D-17-143	Change the Use of a Restaurant to a Bar and Neighbourhood Pub (100 occupants and 204 m <sup>2</sup> of Public Space). (XO Bistro and Bar) 10238C - 103 Street NW Project No.: 224991794-008
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**NOTE:** *Unless otherwise stated, all references to “section numbers” in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-17-143

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

APPELLANT:

APPLICATION NO.: 224991794-008

APPLICATION TO: Change the Use of a Restaurant to a Bar and Neighbourhood Pub (100 occupants and 204 m<sup>2</sup> of Public Space). (XO Bistro and Bar)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: June 28, 2017

NOTIFICATION PERIOD: July 4, 2017 through July 18, 2017

DATE OF APPEAL: July 17, 2017

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10238C - 103 Street NW

LEGAL DESCRIPTION: Condo Common Area (Plan 1622175)

ZONE: (HA) Heritage Area Zone

OVERLAY: Downtown Special Area

STATUTORY PLAN: Capital City Downtown Plan

***Grounds for Appeal***

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

The whole point of the Heritage Area Zone is to ensure that developments are pedestrian friendly and fit the urban village character of the area. I would strongly argue that putting up tinted windows (which has already been done) goes against that very point - as it takes away the transparency from street level. The windows, I suspect, are part of their transition to this bar / neighbourhood pub.

The area between 102 Ave and 103 Ave is already well serviced with pubs / nightclubs: Evolution, Denizen Hall, Bodega. There is no need, in our view, to add yet another.

***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 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

...

- (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.

**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 910.7(3)(b), **Bars and Neighbourhood Pubs**, for more than 100 occupants and 120 m<sup>2</sup> of Public Space, is a **Discretionary Use** in the (HA) Heritage Area Zone.

Under section 7.4(6), **Bars and Neighbourhood Pubs** means:

development where the primary purpose of the facility is the sale of alcoholic beverages to the public, for consumption within the premises or off the Site. This Use typically has a limited menu and minors are prohibited from patronizing the establishment during at least some portion of the hours of operation. Typical Uses include neighbourhood pubs, bars, beverage rooms, and cocktail lounges. This Use does not include Cannabis Lounges.

Under section 6.1(88), **Public Space** means:

means space that is part of an establishment, which is open to the public and not restricted to only employees. This definition does not include kitchens, administrative offices, food or drink preparation areas.

Section 910.1 states that the **General Purpose** of the **Downtown Special Area** is:

to designate the Downtown area as a Special Area and to adopt the following land use regulations to achieve the objectives of the Capital City Downtown Plan.

Section 910.7(1) states that the **General Purpose** of the **(HA) Heritage Area Zone** is:

to establish a special heritage character Zone, in which the existing concentration of historical resources shall be preserved, rehabilitated and reused, and to ensure new developments are pedestrian friendly and compatible in scale, function, built form and design continuity with the historical, architectural and urban village character of the area.

**Development Officer's Determination:**

**Bars and Neighbourhood Pub use for more than 120 sq m Public Space is a Discretionary Use. (Reference Edmonton Zoning Bylaw Section 910.7.3.b) [unedited]**

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Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

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Project Number: **224991794-008**  
 Application Date: APR 03, 2017  
 Printed: July 18, 2017 at 8:00 AM  
 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>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2"><b>Property Address(es) and Legal Description(s)</b></td> </tr> <tr> <td colspan="2" style="text-align: center;">10238C - 103 STREET NW Condo Common Area (Plan 1622175)</td> </tr> <tr> <td colspan="2"><b>Specific Address(es)</b></td> </tr> <tr> <td>Suite:</td> <td>10236 - 103 STREET NW</td> </tr> <tr> <td>Entryway:</td> <td>10236 - 103 STREET NW</td> </tr> <tr> <td>Building:</td> <td>10236 - 103 STREET NW</td> </tr> </table>	<b>Property Address(es) and Legal Description(s)</b>		10238C - 103 STREET NW Condo Common Area (Plan 1622175)		<b>Specific Address(es)</b>		Suite:	10236 - 103 STREET NW	Entryway:	10236 - 103 STREET NW	Building:	10236 - 103 STREET NW
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Entryway:	10236 - 103 STREET NW												
Building:	10236 - 103 STREET NW												

**Scope of Permit**  
 To change the use of a Restaurant to a Bar and Neighbourhood Pub (100 occupants and 204 m2 of Public Space). (XO Bistro and Bar)

<b>Permit Details</b>	
Class of Permit: Class B Gross Floor Area (sq.m.): 261 New Sewer Service Required: N Site Area (sq. m.): 1697.09	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Downtown

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: **224991794-008**  
 Application Date: APR 03, 2017  
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 Page: 2 of 2

## Major Development Permit

**Subject to the Following Conditions**

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1 of the Edmonton Zoning Bylaw 12800)

No outdoor speakers or amplification systems shall be allowed on the subject site. (Reference Section 90.2 of the Edmonton Zoning Bylaw 12800)

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 of the Edmonton Zoning Bylaw 12800.)

The maximum occupancy based on the proposed Public Space is 100 persons. Any increase in Public Space or occupancy shall require separate development approval.

**NOTES:**

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.

This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.

Signs require separate Development Applications.

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.

**Variances**

Bars and Neighbourhood Pub use for more than 120 sq m Public Space is a Discretionary Use. ( Reference Edmonton Zoning Bylaw Section 910.7.3.b)

**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:** Jun 28, 2017    **Development Authority:** YEUNG, CARMAN

**Signature:** \_\_\_\_\_

**Notice Period Begins:** Jul 04, 2017

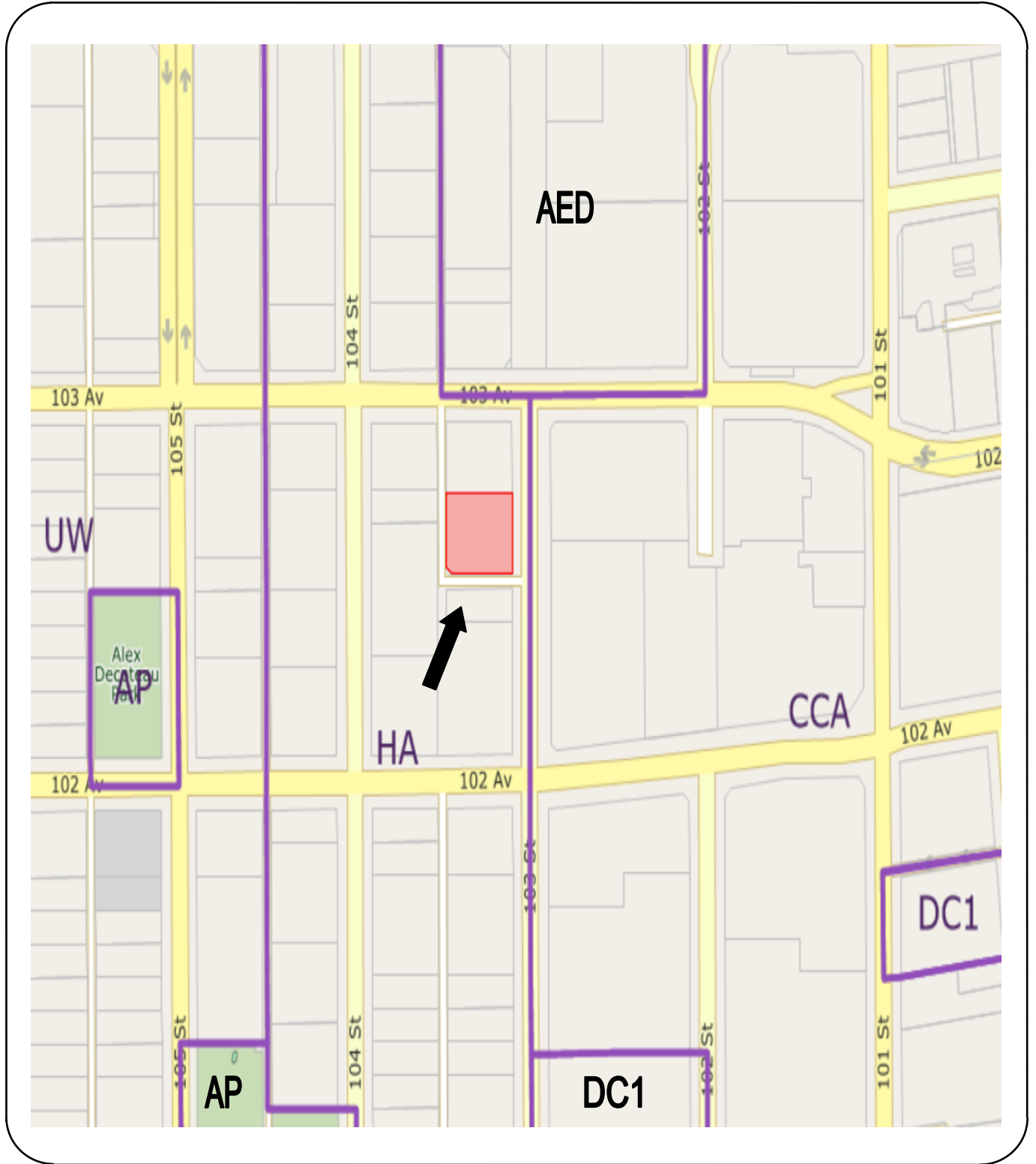
**Ends:** Jul 18, 2017

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$500.00	\$500.00	04028935	Apr 04, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$500.00	\$500.00		

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





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-17-143

