

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
October 26, 2016**

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

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

I	9:00 A.M.	SDAB-D-16-266	Construct exterior alterations (extend Accessory parking onto abutting Site) to an existing Hotel development; Hyatt Place Hotel (Amendment to DP #147008019-014 to add a Development Permit condition) 18004 - 100 Avenue NW Project No.: 147008019-018
---	-----------	---------------	--

II	1:30 P.M.	SDAB-D-16-267	Change the Use from Warehouse Sales to Restaurants (170 seats) and to construct interior alterations 11807 - 105 Avenue NW Project No.: 224601991-001
----	-----------	---------------	---

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-16-266

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 147008019-018

ADDRESS OF APPELLANT: 18004 - 100 Avenue NW

APPLICATION TO: Construct exterior alterations (extend Accessory parking onto abutting Site) to an existing Hotel development; Hyatt Place Hotel (Amendment to DP #147008019-014 to add a Development Permit condition)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: September 20, 2016

DATE OF APPEAL: September 29, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 18004 - 100 Avenue NW

LEGAL DESCRIPTION: Plan 0827777 Blk 1 Lot 26

ZONE: CHY Highway Corridor Zone

OVERLAY: Major Commercial Corridors Overlay

STATUTORY PLAN: Place LaRue West Neighbourhood Area Structure Plan

Grounds for Appeal

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

My client wishes to appeal Condition #3 of the approved DP for 147008019-014 which reads:

"3) The applicant shall pay Boundary Assessments owing for the construction of 182 Street which was constructed under Servicing Agreement C-318. The total Boundary Assessments owing are \$62,788.00."

The reasons for appeal are as follows:

1) The Boundary Assessment is established for Lot 9 Plan 4077KS which is adjacent to 182 Street along its western perimeter as shown in Attachment 1 (shown in red).

2) The Boundary Assessment was triggered by a Development Permit issued to part of Lot 9 along its eastern boundary to augment the development of Lot 26 Plan 082 7777 (Attachment 1 shown in green).

3) The subdivided parcel will be consolidated to Lot 26 and share access to 100 Avenue with Lot 26 (Attachment 1 shown in blue) and will not have access across the residual of Lot 9 to 182 Street (in part as developed or in whole in the future).

4) We believe that as the landowner cannot and will not benefit from the improvements installed by the adjacent owner to the west of 182 Street, there should be no applicable Boundary Assessment due to the City or the developer.

5) Servicing Agreement C-318 was signed by the City of Edmonton and the developer (Wingate Inn) and specifies a Boundary Assessment be paid if "all or any part of the land ... is developed or subdivided". This oversteps the concept behind Boundary Assessments which are based on the principle that the Assessments are paid only if the benefits are obtained by the other developer. We would argue that awarding assessments for partial development of Lot 9 without obtaining benefit from the improvements is not within the City's ability under their own program description (See Attachment 2, Web site reference). The drafting and acceptance of this wording in their Servicing Agreement is self serving to both signatories and does not involve any other parties who might rightly object that the City is over stepping its program objectives.

6) The Servicing Agreement C-318 does not have a time limitation on payment like more modern Servicing Agreements. When the residual of Lot 9 is developed, the Boundary Assessment will be due and payable. The owner of Lot 9 is not trying to escape payment for the improvements paid by his neighbour, he is asking for relief from early payment being demanded inappropriately by the City of Edmonton. [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 *Edmonton Zoning Bylaw 12800* provides as follows:

20. Notification of Issuance of Development Permits

20.1 Class B Development

- 1. Within seven days of the issuance of a Development Permit for Class B Development, the Development Officer shall dispatch a notice by ordinary mail to:
 - a. each assessed owner of the Site or a part of the Site of the development;
 - b. each assessed owner of land, wholly or partly within a distance of 60.0 m of the boundary of the Site;
 - c. the President of each Community League operating within the notification boundaries described in clause (b), above; and

- d. the President of each Business Revitalization Zone Association operating within the notification boundaries described in clause (b) above.
2. The notice shall describe the development and state the decision of the Development Officer, and the right of appeal therefrom.
3. Within 10 days of the issuance of a Development Permit for Class B Development, the Development Officer shall cause to be published in a daily newspaper circulating within the City, a notice describing the development and stating his decision, and the right to appeal therefrom.

The decision of the Development Officer is dated September 20, 2016. Notice of the development was published in the Edmonton Journal on September 27, 2016. The Notice of Appeal was filed on September 29, 2016.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 350.1 states that the **General Purpose** of the **CHY Highway Corridor Zone** is:

... to provide for high quality commercial development along those public roadways, which serve as entrance routes to the City or along limited access public roadways intended to provide a connection to entrance routes.

Under Section 350.2, **Hotels** are a **Permitted Use** in the CHY Highway Corridor Zone.

Section 7.4(25) states:

Hotels means development used for the provision of rooms or suites for temporary sleeping accommodation where the rooms have access from a common interior corridor and are not equipped with individual kitchen facilities. Hotels may include Accessory food and beverage facilities, meeting rooms, and Personal Services Shops.

Section 813.1 states that the **General Purpose** of the **Major Commercial Corridors Overlay** is:

...to ensure that development along Major Commercial Corridors is visually attractive and that due consideration is given to pedestrian and traffic safety.


Condition of Permit - Boundary Assessments

The approved permit contains a condition which is the subject of this appeal. Condition 3 provides as follows:

- 3) The applicant shall pay Boundary Assessments owing for the construction of 182 Street which was constructed under Servicing Agreement C-318. The total Boundary Assessments owing are \$62,788.00. [unedited]

Notice to Applicant/Appellant

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

	<p>Project Number: 147008019-018 Application Date: SEP 19, 2016 Printed: October 20, 2016 at 2:58 PM Page: 1 of 4</p>		
<h2 style="margin: 0;">Major Development Permit</h2>			
<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>Applicant</p> <div style="background-color: black; width: 100%; height: 40px; margin-top: 10px;"></div>	<p>Property Address(es) and Legal Description(s)</p> <p>18104 - 100 AVENUE NW Plan 4077KS Blk 1 Lot 9</p> <p>18004 - 100 AVENUE NW Plan 0827777 Blk 1 Lot 26</p> <hr/> <p>Specific Address(es)</p> <p>Entryway: 18004 - 100 AVENUE NW Building: 18004 - 100 AVENUE NW</p>		
<p>Scope of Permit</p> <p>To construct exterior alterations (extend Accessory parking onto abutting Site) to an existing Hotel development; Hyatt Place Hotel (Amendment to DP #147008019-014 to add a Development Permit condition).</p>			
<p>Permit Details</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> <p>Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):</p> </td> <td style="width: 50%; border: none; vertical-align: top;"> <p>Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Major Commercial Corridor</p> </td> </tr> </table>		<p>Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):</p>	<p>Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Major Commercial Corridor</p>
<p>Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):</p>	<p>Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Major Commercial Corridor</p>		
<p>I/We certify that the above noted details are correct.</p> <p>Applicant signature: _____</p>			
<p>Development Permit Decision</p> <p>Appealed to SDAB</p>			
<p>The permit holder is advised to read the reverse for important information concerning this decision.</p>			



Project Number: **147008019-018**
 Application Date: SEP 19, 2016
 Printed: October 20, 2016 at 2:58 PM
 Page: 2 of 4

Major Development Permit

Subject to the Following Conditions

1) The applicant or property owner shall pay a Sanitary Sewer Trunk Fund fee of \$1,504.53. All assessments are based upon information currently available to the City. The SSTF charges are quoted for the calendar year in which the development permit is granted. The final applicable rate is subject to change based on the year in which the payment is collected by the City of Edmonton.

- Based on our record, this property Plan 0827777 Blk 1 Lot 26 was previously assessed for SSTC for 0.939 ha under DP#147008019-001. The SSTC is being assessed for the area for 0.1921 ha of Plan 4077KS Blk 1 Lot 9. The total area for Plan 4077KS, Blk 1 Lot 9 is 1.1937 ha and is obtained from the City's information program called POSSE. SSTC for the remaining 1.0018 ha (i.e. 1.1937 ha - 0.1921 ha) will be assessed at future application of subdivision, development permit, or servicing connection application.

- For information purposes, the year 2016 rate is \$7,832/ha. However, the final SSTC is based on the prevailing rate at the time the applicant/owner makes payment at the 5th Floor cashiers, Planning and Development Department, 10250 - 101 Street NW. The above assessment is made based on information currently available to our Department. Should such information changes in the future, a new assessment will have to be made.

- In addition to the above items, if required, the applicant/owner shall pay for the installation cost of sewer services to property line. For detail, please contact Derek Kucy of Public Services section at 780-496-5450.

- More information about PAC, EA, and SSTC assessments can be found on the City of Edmonton's website: www.edmonton.ca

2) The applicant/owner shall pay the following applicable drainage assessments:

- Place La Rue Offsite Storm Tank: \$ 24,942/ha

The PACs must be paid by entering into a servicing agreement, which will be prepared by the Sustainable Development. The applicant should immediately contact Dan-Christian Yeung at 780-496-4195 when he/she is ready to initiate the servicing agreement and make payment.

PAC's were previously paid for 0.939 ha of Plan 0827777 Blk 1 Lot 26 under the Servicing Agreement No. PAC-449, DP#147008019-014. The PAC's are being assessed for the area for 0.1921 ha of Plan 4077KS Blk 1 Lot 9. The total area for Plan 4077KS, Blk 1 Lot 9 is 1.1937 ha and is obtained from the City's information program called POSSE. PAC's for the remaining 1.0018 ha (i.e. 1.1937 ha - 0.1921 ha) will be assessed at future application of subdivision, development permit, or servicing connection application.

The following is for information purposes and the rates are in year 2016. The final PAC amounts will be based on the prevailing rates at the time the applicant/owner pays and enters into a servicing agreement with the City.

There may also be PAC over-expenditure boundary condition & oversizing payment which can only be determined at the time the applicant/owner is ready to enter into a servicing agreement.

3) The applicant shall pay Boundary Assessments owing for the construction of 182 Street which was constructed under Servicing Agreement C-318. The total Boundary Assessments owing are \$62,788.00.

4) The applicant or property owner shall provide a guaranteed security to ensure that landscaping is provided and maintained for two growing seasons. The Landscape Security may be held for two full years after the landscaping has been completed. This security may take the following forms:

- a) cash to a value equal to 100% of the established landscaping costs;
- or
- b) an irrevocable letter of credit having a value equivalent to 100% of the established landscaping costs.

Any letter of credit shall allow for partial draws. If the landscaping is not completed in accordance with the approved Landscape Plan(s) within one growing season after completion of the development or if the landscaping is not well maintained and in a healthy condition two growing seasons after completion of the landscaping, the City may draw on the security for its use absolutely. Reference Section 55.6.

5) The property owner must enter into a Municipal Improvement Agreement with the City for the following improvements:

- a) construction of 1.5 m boulevard concrete sidewalk with curb ramps along 100 Avenue adjacent to the property;
- b) removal of the existing 9 m temporary construction access to 180 Street located 5.5m from the north property line with reconstruction of curb and gutter and restoration of grassed boulevard.

Engineering Drawings are not required for this Agreement. However, construction must meet the City of Edmonton Design and Construction Standards. The Municipal Improvement Agreement must be signed PRIOR to the release of the drawings for Building Permit review. The Agreement must be signed by the property owner and returned to Transportation Planning and Engineering at the location of STAFF Room 102 (780-496-5693) including an irrevocable Letter of Credit in the amount of

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



Project Number: **147008019-018**
 Application Date: SEP 19, 2016
 Printed: October 20, 2016 at 2:58 PM
 Page: 3 of 4

Major Development Permit

Engineering to the attention of LOUI FERNANDEZ (780-944-7685) including an irrevocable Letter of Credit in the amount of \$20,000.00 to cover 100% of construction costs. The Agreement will be forwarded directly to the owner for his signature.

- 6) All access locations and curb crossings shall have the approval of the City Transportation and Streets Department prior to the start of construction. Reference Section 53(1).
- 7) Access from the site to 100 Avenue exists. Any modification to the existing access requires the review and approval of Transportation Planning and Engineering.
- 8) The owner must construct a 1.5 m boulevard concrete sidewalk with curb ramps along the north side of 100 Avenue adjacent to the property, as shown on Enclosure I.
- 9) The existing 9 m temporary construction access to 180 Street from Lot 25, located 5.5 m from the north property line of Lot 26 must be removed and filled in, as shown on Enclosure I. The owner must also reconstruct the curb and gutter and restore the boulevard to grass to the satisfaction of Transportation Planning and Engineering.
- 10) 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 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.
- 11) Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at:
http://www.edmonton.ca/bylaws_licences/licences_permits/oscam-permit-request.aspx
- 12) Any sidewalk or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Planning and Engineering, as per Section 15.5(f) of the Zoning Bylaw. The alley, sidewalks and boulevard will be inspected by Transportation Planning and Engineering prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.
- 13) The off-street parking, loading and unloading (including aisles or driveways) shall be hardsurfaced, curbed, drained and maintained in accordance to Section 54.6.
- 14) Landscaping shall be in accordance to the approved Landscape Plan, Section 55 and to the satisfaction of the Development Officer.
- 15) 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.
- 16) This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

Notes:

- i) Signs require separate Development Applications.

Variations

Reduced Setback abutting 100 Avenue - The distance from the Accessory parking spaces to the property line along 100 Avenue is 6 m instead of 7.5 m [Section 813.4.6(a)].

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.

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



Project Number: **147008019-018**
Application Date: SEP 19, 2016
Printed: October 20, 2016 at 2:58 PM
Page: 4 of 4

Major Development Permit

Issue Date: Sep 20, 2016 Development Authority: KOWAL, PAUL

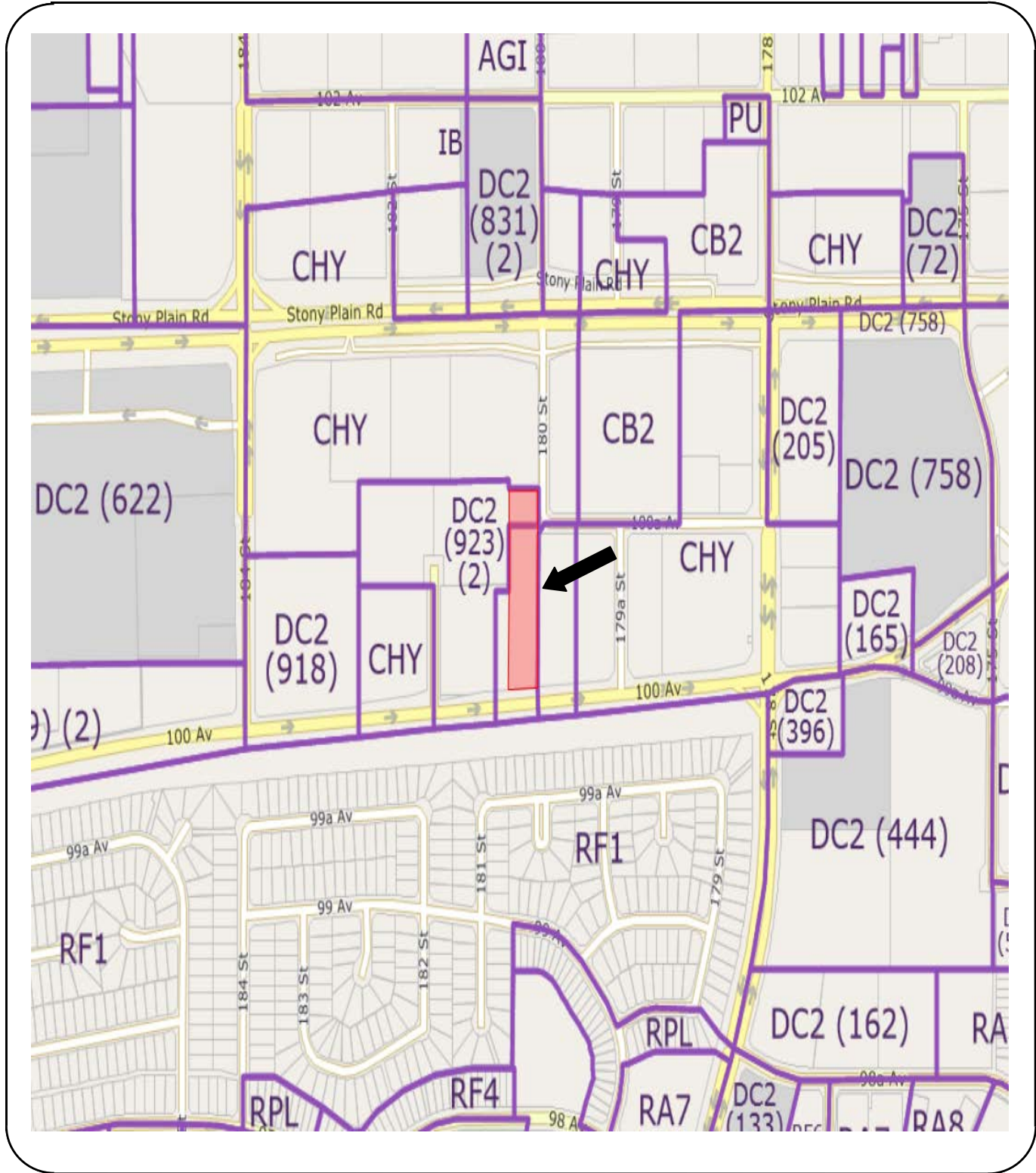
Signature: _____

Notice Period Begins: Sep 27, 2016 Ends: Oct 11, 2016

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$0.00			
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$0.00	\$0.00		

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-266



ITEM II: 1:30 P.M.

FILE: SDAB-D-16-267

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

APPELLANT:

APPLICATION NO.: 224601991-001

ADDRESS OF APPELLANT: 219, 11915 - 106 Avenue NW

APPLICATION TO: Change the Use from Warehouse Sales to Restaurants (170 seats) and to construct interior alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: September 26, 2016

DATE OF APPEAL: October 3, 2016

RESPONDENT: Eden Tesfastion

ADDRESS OF RESPONDENT: 11807 - 105 Avenue NW

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11807 - 105 Avenue NW

LEGAL DESCRIPTION: Plan 9220996 Blk B Lot 9C

ZONE: DC2 (743) Site Specific Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Central McDougall/Queen Mary Park Area Redevelopment Plan

Grounds for Appeal

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

Parking -- The permit notice states 103 stalls are required and according to the permit only 34 are onsite. I have examined the site. At this business address there is no off street parking and 4 on street spaces in front of the address. Adjacent addresses (4 in total share approximately

34 stalls). It is my position this business has minimal or no off street parking and does not comply with the zoning bylaw. This avenue is in a high density area with more than 200 residents facing onto 104 Ave. Each of these people have vehicles and guests. Parking is already pressed. Adding an expected 85 vehicles to accommodate 170 diners at a restaurant is not practical. [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.

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]

The *Edmonton Zoning Bylaw 12800* provides as follows:

20. Notification of Issuance of Development Permits

20.1 Class B Development

1. Within seven days of the issuance of a Development Permit for Class B Development, the Development Officer shall dispatch a notice by ordinary mail to:
 - a. each assessed owner of the Site or a part of the Site of the development;
 - b. each assessed owner of land, wholly or partly within a distance of 60.0 m of the boundary of the Site;
 - c. the President of each Community League operating within the notification boundaries described in clause (b), above; and
 - d. the President of each Business Revitalization Zone Association operating within the notification boundaries described in clause (b) above.
2. The notice shall describe the development and state the decision of the Development Officer, and the right of appeal therefrom.
3. Within 10 days of the issuance of a Development Permit for Class B Development, the Development Officer shall cause to be published in a daily newspaper circulating within the City, a notice describing the development and stating his decision, and the right to appeal therefrom.

The decision of the Development Officer is dated September 26, 2016. Notice of the development was published in the *Edmonton Journal* on October 4, 2016. The Notice of Appeal was filed on October 3, 2016.

Direct Control Districts

The *Municipal Government Act* states:

Designation of direct control districts

641(1) The council of a municipality that has adopted a municipal development plan, if it wishes to exercise particular control over the use and development of land or buildings within an area of the municipality, may in its land use bylaw designate that area as a direct control district.

(2) If a direct control district is designated in a land use bylaw, the council may, subject to any applicable statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary.

(3) In respect of a direct control district, the council may decide on a development permit application or may delegate the decision to a development authority with directions that it considers appropriate.

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

(a) is made by a council, there is no appeal to the subdivision and development appeal board, or

(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 *Edmonton Zoning Bylaw*:

Section DC2.743.1 states that the **General Purpose** of this Site Specific Direct Control District is:

To establish a district that will allow for the continuation and upgrading of general industrial uses while allowing for conversion and redevelopment of obsolete industrial uses to commercial office and general business uses.

Under Section DC2.743.3(bb), **Restaurants** are a **Listed Use** in this Direct Control District.

Section 7.4(45) states:

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 Class typically has a varied menu, with a fully equipped kitchen and preparation area, and includes fast food and family restaurants.

Parking

Section DC2.743.4(j) states: "Developments in this district shall be evaluated with respect to compliance with the General Development Regulations of Sections 50 to 79, inclusive, of the Land Use Bylaw."

Under the current *Edmonton Zoning Bylaw 12800*, the General Development Regulations are contained in Sections 40 to 61. Schedule 1 of Section 54.2 deals with vehicular parking requirements as follows:

Schedule 1(A) Areas outside of the Downtown Special Area	
Use of Building or Site	Minimum Number of Parking Spaces or Garage Spaces Required
Non-residential Use Classes	
Commercial Use Classes	
24. Restaurants	<p>Bylaw 17600 April 4, 2016</p> <p>1 parking space per 3.6 m² of Public Space except where the proposed development is on a Lot within the boundaries described in Section 54.2 Appendix II - Boundaries for Reduced Parking Requirement:</p> <ul style="list-style-type: none"> a) 1 parking space per 24.0 m² of Public Space in the 124 Street and Area boundary; b) 1 parking space per 28.0 m² of Public Space in the Jasper Avenue and Area boundary; c) 1 parking space per 33.0 m² of Public Space in the Whyte Avenue and Area boundary. <p>Notwithstanding the above, if the development permit application is for up to 50 occupants or 60.0 m² of Public Space and is located within one of the Boundaries for Reduced Parking Requirement, no parking is required.</p>

Under the old *Land Use Bylaw 5996*, the General Development Regulations are contained in Sections 50 to 79. Schedule 66A deals with vehicular parking requirements as follows:

Schedule 66A Vehicular Parking Spaces	
USE OF BUILDING OR SITE	MINIMUM NUMBER OF PARKING SPACES OR GARAGE SPACES REQUIRED
Non-residential Use Classes (Outside the Boundaries of the Downtown Area Redevelopment Plan)	
10) Eating and Drinking Establishments	1 per 4 seats.

Development Officer's Determination

1. Parking - The Site has 34 parking spaces, instead of 103 (Schedule 66A, City of Edmonton Land Use Bylaw 5996)

Board Officer's Comments

DC2 (743) was passed by City Council on February 23, 2009, under Bylaw 15126. At that time, the old Land Use Bylaw 5996 was no longer in effect.

Section 2.7 of the *Edmonton Zoning Bylaw* states:

Unless there is an explicit statement to the contrary in a Direct Control District or Provision, any reference in a Direct Control District or Direct Control Provision to a land use bylaw shall be deemed to be a reference to the land use bylaw that was in effect at the time of the creation of the Direct Control District or Provision.

In *Parkdale-Cromdale Community League Association v Edmonton (City)*, 2007 ABCA 309, the Court of Appeal of Alberta held that section 2.7 of the *Edmonton Zoning Bylaw* applies only if there is an express cross-reference in a Direct Control Bylaw passed before 2001 to a provision of the old Land Use Bylaw 5996. In the absence of an express reference in the Direct Control Bylaw to the old Land Use Bylaw 5996, section 2.7 does not prevail over section 2.4 of the *Edmonton Zoning Bylaw*.

Section 2.4 of the *Edmonton Zoning Bylaw* states:

Subject only to the provisions in the Municipal Government Act respecting legal non-conforming Uses and notwithstanding the effect it may have on rights, vested or otherwise, the provisions of this Bylaw govern from the Effective Date onward. In particular, no application for a Development Permit shall be evaluated under the procedural or substantive provisions of the previous Land Use Bylaw after the Effective Date, even if the application was received before the Effective Date.

Notice to Applicant/Appellant


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



Project Number: **224601991-001**
Application Date: JUN 24, 2016
Printed: September 26, 2016 at 11:03 AM
Page: 1 of 4

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.

Applicant 	Property Address(es) and Legal Description(s) 11807 - 105 AVENUE NW Plan 9220996 Blk B Lot 9C Specific Address(es) Entryway: 11817 - 105 AVENUE NW Building: 11807 - 105 AVENUE NW
---	---

Scope of Permit
To change the Use from Warehouse Sales to Restaurants (170 seats) and to construct interior alterations

Permit Details Class of Permit: Class B Gross Floor Area (sq.m.): 431.12 New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
---	---

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: **224601991-001**
 Application Date: JUN 24, 2016
 Printed: September 26, 2016 at 11:03 AM
 Page: 2 of 4

Major Development Permit

Subject to the Following Conditions

Urban Transportation Conditions:

1. Accesses from the site to 105 Avenue exist. Any modification to the existing accesses requires the review and approval of Urban Transportation.
2. 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 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.
3. Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. OSCAM permit applications require Transportation Management Plan (TMP) information. The TMP must include:
 - the start/finish date of project;
 - accommodation of pedestrians and vehicles during construction;
 - confirmation of lay down area within legal road right of way if required;
 - and to confirm if crossing the sidewalk and/or boulevard is required to temporarily access the site.
 It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at http://www.edmonton.ca/transportation/on_your_streets/on-street-construction-maintenance-permit.aspx
4. Any sidewalk, shared use path or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Planning and Engineering, as per Section 15.5(f) of the Zoning Bylaw. The alley, sidewalks and boulevard will be inspected by Transportation Planning and Engineering prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.

Urban Transportation Advisements:

- Bicycle parking should meet the requirements of the Zoning Bylaw.

CONDITIONS:

1. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)
2. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Notification Fee of \$102.00.
3. The Restaurant shall not prohibit minors from any portion of the establishment at any time during the hours of operation. (Reference Section 7.4(46))
4. The seven angled parking spaces to be a minimum of 2.6 m (8.5 ft.) in width, and a minimum of 5.5 m (18.0 ft.) in length. A 3.6 m (11.8 ft.) wide access aisle shall be provided for 45 degree parking and a minimum yard with an average depth of not less than 3.0 m shall be required where a site abuts a public roadway, other than a lane. Reference Sections DC2.743.4(c) Edmonton Zoning Bylaw 12800 & Section 66.3, City of Edmonton Land Use Bylaw 5996
5. No parking, loading, trash collection, outdoor service or display area shall be permitted within a required yard. Loading, storage, and trash collection areas shall be located to the rear or sides of the principal building and shall be screened from the view of adjacent sites, public roadways or light rail transit lines in accordance with the provisions of Section 69.3 of the Land Use Bylaw. If the rear or sides of a site are used for parking and/or an outdoor service or display area, and abuts a Residential District or a lane serving a Residential District, it shall be screened in accordance with the provisions of Section 69.3 of the Land Use Bylaw. Reference Section DC2.743.4(e)
6. Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any

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



Project Number: **224601991-001**
 Application Date: JUN 24, 2016
 Printed: September 26, 2016 at 11:03 AM
 Page: 3 of 4

Major Development Permit

adjoining properties, or interfere with the effectiveness of any traffic control devices. Reference Section 62, City of Edmonton Land Use Bylaw 5996

7. Parking spaces for the disabled shall be provided in accordance with the Alberta Building Code in effect at the time of the Development Permit application. Because the Alberta Building Code is within the legislative jurisdiction of the Province. Reference Section 66.1(3), City of Edmonton Land Use Bylaw 5996

8. All outdoor trash collection areas shall be located and screened to the satisfaction of the Development Officer in accordance with Section 69.4. Reference City of Edmonton Land Use Bylaw 5996

9. Bicycle parking shall be provided in accordance to Section 66 and to the satisfaction of the Development Officer. Reference City of Edmonton Land Use Bylaw 5996

NOTES:

- a. Signs require separate Development Applications.
- b. 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.
- c. The Development Permit shall not be valid unless and until the conditions of approval, save those of a continuing nature, have been fulfilled; and no notice of appeal from such approval has been served on the Subdivision and Development Appeal Board within the time period specified in subsection 21.1 (Ref. Section 17.1).
- d. 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.
- e. 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.

Variances

- 1. Parking - The Site has 34 parking spaces, instead of 103 (Schedule 66A, City of Edmonton Land Use Bylaw 5996)

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: Sep 26, 2016 **Development Authority:** PEACOCK, ERICA **Signature:** _____

Notice Period Begins: Oct 04, 2016 **Ends:** Oct 18, 2016

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$260.00	\$260.00	03398673	Jun 29, 2016

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



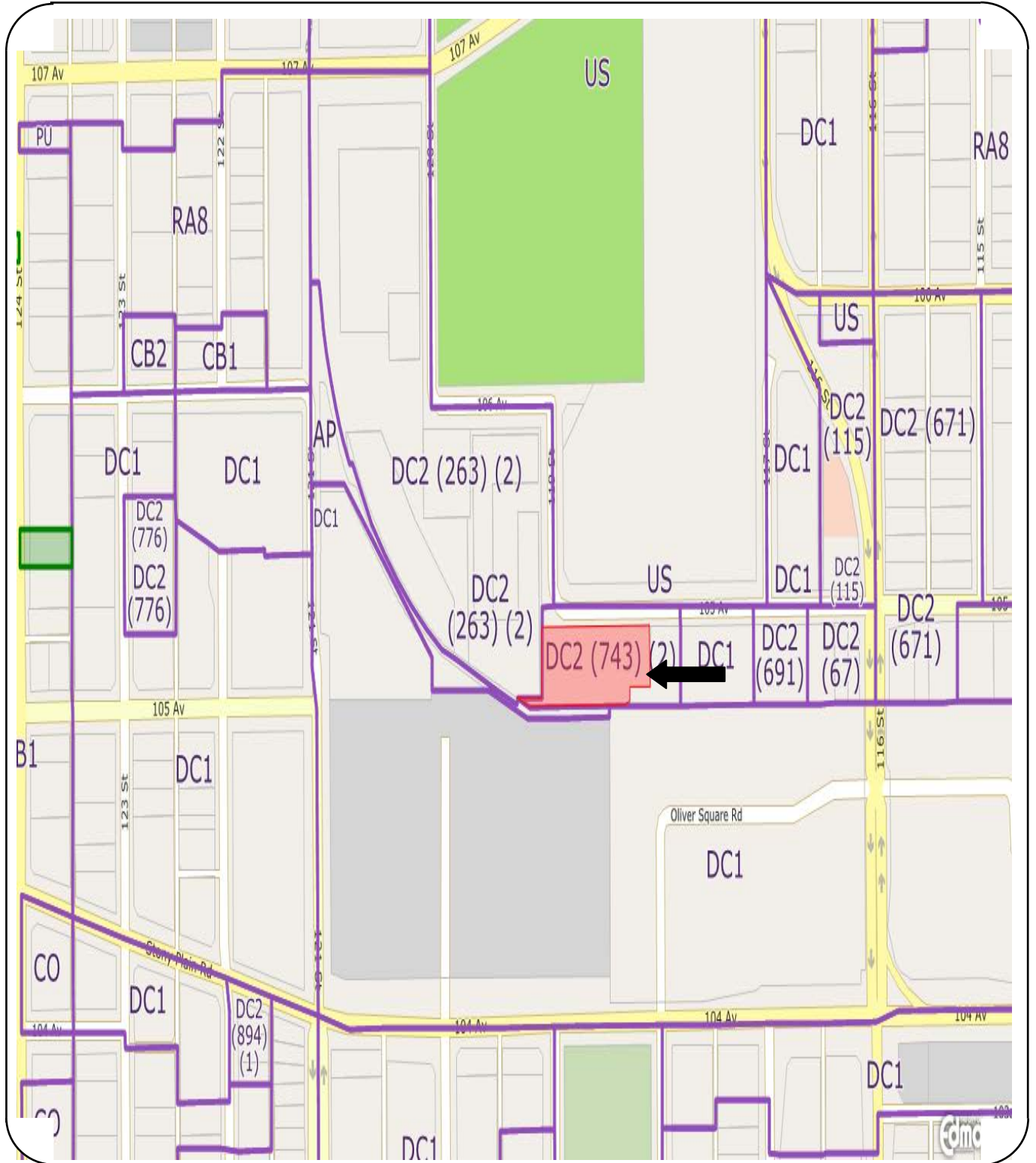
Project Number: **224601991-001**
Application Date: JUN 24, 2016
Printed: September 26, 2016 at 11:03 AM
Page: 4 of 4

Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$102.00			
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$362.00	\$260.00		
(\$102.00 outstanding)				

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-267



BUSINESS LAID OVER

SDAB-D-16-237	An appeal by <u>Pattison Outdoor Advertising</u> to install (1) Freestanding Minor Digital Off-premises Sign (6.1 m x 3 m facing E/W) <i>November 3, 2016</i>
SDAB-D-16-252	An appeal by <u>Tahir Jutt</u> t to operate a Major Home Based Business (Filling Sandbags – Sandbags.ca) <i>November 23 or 24, 2016</i>
SDAB-D-16-144	An appeal by <u>Kiewit Energy Canada Corp</u> construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>November 30 or December 1, 2016</i>
SDAB-S-14-001	An appeal by Stantec Consulting Ltd. to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 <i>January 25, 2017</i>

APPEAL HEARINGS TO BE SCHEDULED

188282372-001	An appeal by <u>Kennedy Agrios</u> to change the use from general Retail to a Bar and Neighbourhood Pub (maximum of 400 occupants and 691 square metres of Public Space) <i>November 2 or 3, 2016</i>
000413016-003	An appeal by <u>Wigalo Holding Ltd. / Kennedy Agrios</u> to Comply with a Stop Order to Cease the Non-Accessory Parking, REMOVE all meters, signage and material related to parking and REFRAIN from allowing Non-Accessory Parking. <i>November 17, 2016</i>
000413016-004	An appeal by <u>Wigalo Holding Ltd. / Kennedy Agrios</u> to Comply with a Stop Order to Cease the Non-Accessory Parking, REMOVE all meters, signage and material related to parking and REFRAIN from allowing Non-Accessory Parking. <i>November 17, 2016</i>
188283359-001	An appeal by <u>Kennedy Agrios</u> to change the use from a Flea Market Use to a Night Club and Major Amusement Establishment (1757 square metres of Public space) <i>November 23 or 24, 2016</i>
182548244-007	An appeal by <u>Stephanie Chan VS Deborah & Terence Nikolaichuk</u> to construct an Accessory Building (Shed, 3.20 metres by 3.12 metres), existing without permits <i>December 7 or 8, 2016</i>
128010578-001	An appeal by <u>Jeffrey Jirsch VS Anna Bashir</u> to erect a Privacy Screen 8ft in height along the Southwest portion of the property, along a Required Side Yard <i>December 7 or 8, 2016</i>