

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Tuesday, 9:00 A.M.
April 11, 2017**

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

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

| | | | |
|---|-----------|---------------|--|
| I | 9:00 A.M. | SDAB-D-17-065 | Continue to operate a Major Home Based Business (Respite Programming – Alberta AdaptAbilities Association) 8721 - 163 Street NW Project No.: 068508208-006 |
|---|-----------|---------------|--|

| | | | |
|----|------------|---------------|---|
| II | 10:30 A.M. | SDAB-D-17-066 | Change the Use from a General Retail Store to Minor Alcohol Sales 3707 - 8 Avenue SW Project No.: 229909807-005 |
|----|------------|---------------|---|

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-17-065

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 068508208-006

APPLICATION TO: Continue to operate a Major Home Based Business (Respite Programming – Alberta AdaptAbilities Association)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 24, 2017

DATE OF APPEAL: March 15, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8721 - 163 STREET NW

LEGAL DESCRIPTION: Plan 6151KS Blk 8 Lot 80

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

Alberta AdaptAbilities Association (hereafter referred to as "AdaptAbilities") is appealing the rejected development application renewing our Home Based Business application, received Thursday, March 2, 2017. AdaptAbilities seeks to continue to operate a Major Home Based Business out of this location under a Discretionary Use permit.

AdaptAbilities is a nonprofit, CET (Creating Excellence Together) accredited organization and has been operating Meadowlark Respite Centre (hereafter referred to as "Meadowlark") at 8721163 Street for over ten years.

AdaptAbilities provides respite care services to children and youth with special needs, providing an opportunity for caregivers and families to take a break from the stresses of raising an individual with special needs, and to tend to life's necessities.

AdaptAbilities is appealing the rejected development permit on the following grounds:

1. Clause 1: The home based business would generate pedestrian or vehicular traffic or parking in excess of that which is characteristic of the RF1 Zone in which is located (Section 75.3), as the development on this block is primarily low-density single detached housing.

This Home Based business has been operational for over ten years. During this time, AdaptAbilities has appealed the decision to reject a major development permit at this location twice. Each time, we have been successful. Over the past ten years, AdaptAbilities has not been notified of any complaints from neighbors or community members on the traffic (vehicular or pedestrian) originating from the organization.

AdaptAbilities purchased Meadowlark Centre as it has a double parking pad, as well as a two car garage. Of the tenants that occupy the main floor of the residence, only one owns a vehicle. This is parked inside the two car garage, leaving ample parking for employees, four of which may be on site at any given time. Most staff utilize Edmonton City Transit and do not drive and although some participants are dropped off by school bus, AdaptAbilities believes that due to the concentration of schools in the area (Afton School, Jasper Place High, St. Francis Xavier, Annunciation Catholic, St. Thomas More & Westlawn to name a few), these drop-offs are not uncharacteristic of the community.

DATS drivers who provide transportation for our youth are cognizant of impeding neighborhood traffic flow, and often utilize the back alley as it is more accessible for both the driver and the participant. Participants are dropped off by parents in the morning, and picked up in the afternoon. Drop off times do not exceed five minutes in length & are staggered, which we do not believe adds to congestion within the service road.

AdaptAbilities strives to promote community inclusion for our participants. They are often in the neighborhood walking to the bus, or heading out to volunteer opportunities. As there are multiple schools in the neighborhood, this traffic should not be considered excessive.

2. Clause 2: The Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone, having regard for the overall compatibility of the Use with the residential character of the area (Section 75.9).

As previously stated, AdaptAbilities has been operating out of Meadowlark Centre for over ten years. In addition to this, AdaptAbilities operates a second location in the McKernan community which also operates out of a home. In fact, because of the success of the home based business in McKernan, AdaptAbilities partnered with McKernan Community League, contributed to the construction costs of facility erection, and operates another Respite Centre out of this location to meet the growing demand for services.

AdaptAbilities believes that there are multiple benefits stemming from offering respite services in a home based environment. A home based environment allows participants to play and learn through structured activities in a comfortable and inviting atmosphere. Many participants state that the home based centres are a "home away from home." Most participants accessing Meadowlark Centre also live and play within the Meadowlark community. The majority of youth attend special needs programming at Jasper Place High School. The respite centre offers necessary support and a place to go after school when students are unable to be home alone, unlike their peers.

AdaptAbilities has submitted a Request for Expression of Interest for MacEwan West's redevelopment into a nonprofit hub. We would seek to expand programming into a commercialized space in 2019 if approved. Currently, to minimize traffic and disruption within the neighborhood, AdaptAbilities rents Hosanna Lutheran Church during peak times (summer & winter breaks) to manage increased program participation. Unfortunately, commercial and larger spaces are expensive. In light of the economic downturn, expansion is not feasible at this time.

3. Clause 3: The proposed development to be undertaken at the premises is considered a Health Services which is neither a Permitted nor Discretionary use in the RF7 Single Detached Residential Zone (Reference Section 770.2 and 170.3) The Proposed development would more appropriately be located in a Commercial Zone having regard for the overall compatibility of the use with the residential character of the area.

As defined in the rejection letter from the City, Health Services use is defined as "[property] used for the provision of physical and mental Health Services on an outpatient basis...Typical Uses include medical and dental offices, health clinics and counselling services." AdaptAbilities does not provide health services and we do not receive funding from the Health Ministry or Alberta Health Services. We provide support and structured programming through essential life skills, expressive arts, and recreation and motor skills. Respite Care is an anomaly, as it does not fit classification requirements within the Health Services or Childcare Acts. AdaptAbilities prides itself in a human rights approach to respite care that is non-clinical in nature. We believe in empowering individuals to make their own choices.

We have previously argued against the Health Services use classification, as none of the services provided by the organization are health related in nature and in previous appeals, we were successful in communicating why this classification is unsuitable for our services.

On the grounds listed above, AdaptAbilities seeks to formally appeal the City's decision, and continue to empower individuals with special needs to grow, succeed, and belong. We are hopeful that you would consider a 5 year Discretionary Use Permit. We look forward to the next stage in the appeal process.

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 Refused Development Permit was issued February 24, 2017. A Registered Mail Confirmation indicates that the refused Development Permit was delivered and signed March 2, 2017. The Notice of Appeal was filed March 15, 2017.

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 110.3(7), a **Major Home Based Business** is a **Discretionary Use** in the (RF1) Single Detached Residential Zone.

Health Services is **neither** a Permitted Use **nor** a Discretionary Use in the (RF1) Single Detached Residential Zone, sections 110.2 and 110.3 respectively.

Under section 7.3(7), **Major Home Based Business** means:

development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales.

Under section 7.4(24), **Health Services** means:

development used for the provision of physical and mental Health Services on an out-patient basis. Services may be of a preventive, diagnostic, treatment, therapeutic, rehabilitative, or counseling nature. Typical Uses include medical and dental offices, health clinics and counseling services.

Section 7 provides the following with respect to Use Definitions:

7.1 General

1. Uses, as set out in subsections 7.2 through 7.9 inclusive, are grouped according to common functional or physical impact characteristics.
2. Use definitions are used to define the range of Uses, which are Permitted Uses or Discretionary Uses, within the various Zones of this Bylaw.
3. The following guidelines shall be applied in interpreting the Use definitions:
 - a. the typical purposes or activities, which may be listed in the definitions, are not intended to be exclusive or restrictive;
 - b. where specific purposes or activities do not conform to any Use definition or generally conform to the wording of two or more Use definitions, the Development Officer may, at their discretion, deem that the purposes or activities conform to and are included in that Use which they consider to be the most appropriate. In such a case, the Use shall be considered a Discretionary Use, whether or not the Use is listed as a Permitted Use or Discretionary Use within the applicable Zone; and

- c. the headings such as Residential Uses or Commercial Uses do not mean that the Uses listed under these headings are permitted only in Residential or Commercial Zones of this Bylaw. Reference must be made to the lists of Permitted Uses and Discretionary Uses within each Zone.

Under section 6.1(117), **Use** means:

the purposes or activities for which a piece of land or its buildings are designed, arranged, developed or intended, or for which it is occupied or maintained.

Section 110.1 states that the **General Purpose** of the **(RF1) Single Detached Residential Zone** is:

...to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

...to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

| |
|---|
| <i>Major Home Based Business regulations</i> |
|---|

Section 75.3 states:

the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located.

Section 75.9 states:

the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.

Development Officer's Determination:

1. The Major Home Based Business would generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the RF1 Zone in which it is located (Section 75.3), the development on this block is primarily low-density Single Detached Housing.

2. The Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area. (Section 75.9).

- The proposed development to be undertaken at the premises is considered as a Health Services Use, which is neither a Permitted nor Discretionary use in the RF1 Single Detached Residential Zone (Reference Section 110.2 and 110.3). The Proposed development would more appropriately be located in a Commercial Zone having regard for the overall compatibility of the use with the residential character of the area.

ADVISEMENTS

Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.

Health Services means development used for the provision of physical and mental Health Services on an out-patient basis. Services may be of a preventive, diagnostic, treatment, therapeutic, rehabilitative, or counseling nature. Typical Uses include medical and dental offices, health clinics and counseling services. (Section 7.4.24). [unedited].

Previous Subdivision and Development Appeal Board Decisions

| <u>Application Number</u> | <u>Description</u> | <u>Decision</u> |
|----------------------------------|---|--|
| <u>SDAB-D-10-315</u> | To continue to operate a Major Home Based Business (Alberta Adapt Abilities Association, program development for 6 special needs children). | October 15, 2010: that the appeal be ALLOWED and the DEVELOPMENT GRANTED and the excess of two non-resident employees in the maximum allowable number of non-resident employees working on site at any one time and the outdoor business activity associated with the business in the form of recreation in the Rear Yard by the children and youth of the respite program be permitted, subject to the following conditions: |

| | | |
|--|--|---|
| | | <p>1.the Major Home Based Business is approved for a period of two years and is valid until October 15, 2012;</p> <p>2.the Major Home Based Business shall provide respite programs and services for special needs children and youth and their parents to a maximum of 8 children at any one time;</p> <p>3.an employee of Alberta Adapt Abilities Association must be a full time resident on this site;</p> <p>4.the number of non-resident employees or business partners working on site shall not exceed four at any one time;</p> <p>5.the existing Detached Garage shall be used to provide the required on-site parking in accordance with Section 54.2, Schedule 1(5) of the Edmonton Zoning Bylaw;</p> <p>6.there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 8 inches by 12 inches in size located on the Dwelling;</p> <p>7.there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;</p> <p>8.the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;</p> <p>9.there shall be no outdoor storage of materials or equipment associated with the business on the subject site.</p> |
|--|--|---|

| | | |
|----------------------|--|---|
| | | <p>10.the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings.</p> <p>The Applicant should note that the Major Home Based Business (Alberta Adapt Abilities Association, program development for eight special needs children) has only been approved for the time set out in this decision and will expire on October 15, 2012. If the Applicant wishes to continue the use beyond the time permitted, a new application must be made to the Planning and Development Department. A business license DOES NOT extend the time for which this approval by the Board has been given.</p> |
| <p>SDAB-D-07-166</p> | <p>To operate a Major Home Based Business (Alberta Adapt Abilities Association, program development for special needs children).</p> | <p>August 3, 2007;</p> <p>that the appeal be ALLOWED and the DEVELOPMENT GRANTED subject to the following conditions:</p> <ol style="list-style-type: none"> 1.that the development is approved for a period of three years and is valid until August 10, 2010; 2.that the Major Home Based Business provide respite programs and services for special needs children and youth and their parents to a maximum of 6 children at any one time; 3.that an employee of Alberta Adapt Abilities Association shall be a full time resident on this site; 4.that the number of non-resident employees or business partners working on-site shall not exceed four at any one time; |

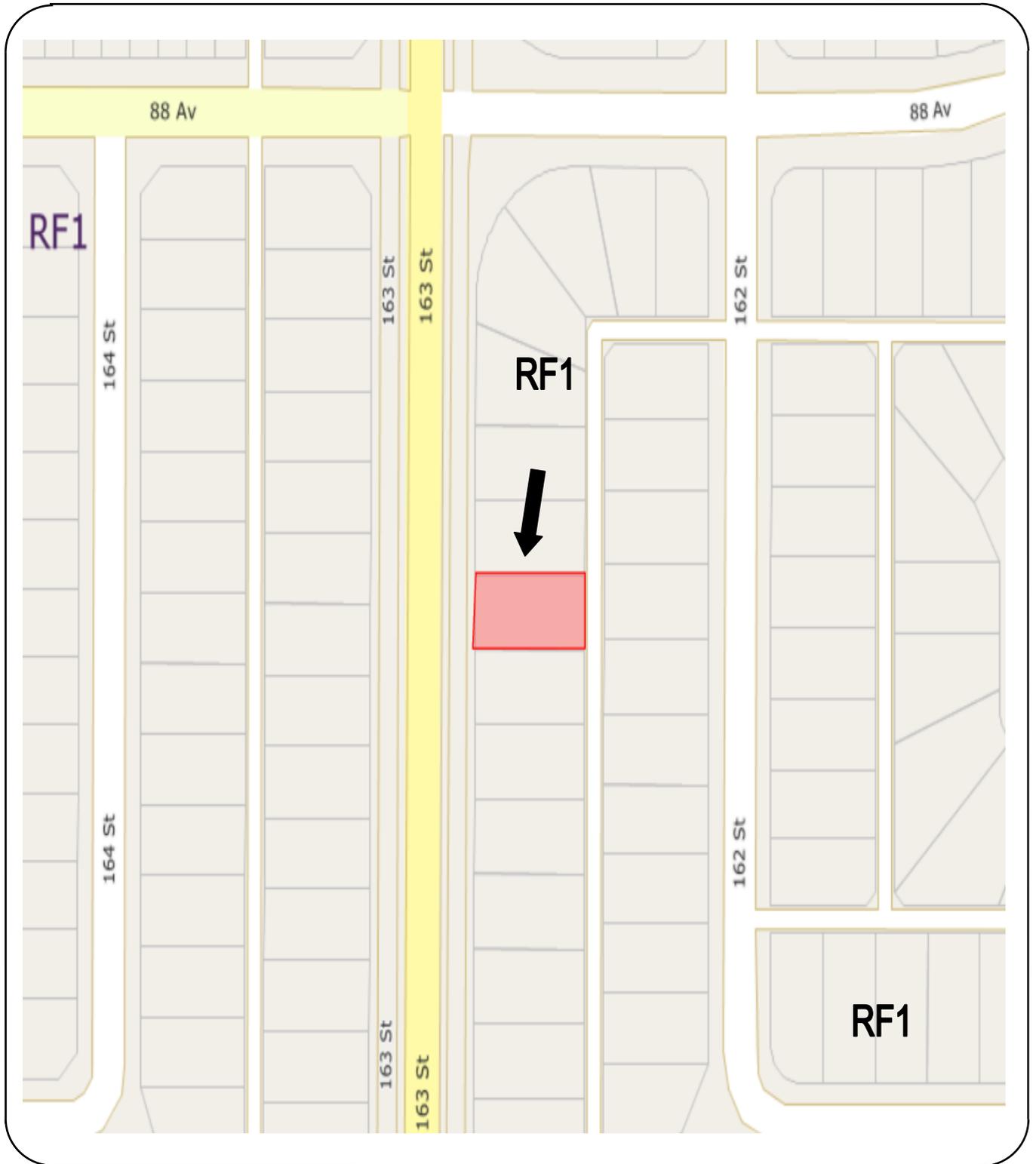
| | | |
|--|--|---|
| | | <p>5. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 8 inches by 12 inches in size located on the Dwelling;</p> <p>6. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;</p> <p>7. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;</p> <p>8. there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;</p> <p>9. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings.</p> <p>The Applicant should note that the Major Home Based Business (Alberta Adapt Abilities Association, program development for special needs children) Use has only been approved for the time set out in this decision. If the Applicant wishes to continue the use beyond the time permitted, a new application must be made to the Planning and Development Department. A business license DOES NOT extend the time for which this approval by the Board has been given.</p> |
|--|--|---|

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: 68508208-006 Application Date: DEC 19, 2016 Printed: February 24, 2017 at 2:59 PM Page: 1 of 2 |
| <h2 style="margin: 0;">Application for Home Occupation</h2> | |
| This document is a Development Permit Decision for the development application described below. | |
| Applicant | Property Address(es) and Legal Description(s) 8721 - 163 STREET NW Plan 6151KS Blk 8 Lot 80 |
| | Specific Address(es) Suite: 8721 - 163 STREET NW Entryway: 8721 - 163 STREET NW |
| Scope of Application To continue to operate a Major Home Based Business (Respite Programming - ALBERTA ADAPTABILITIES ASSOCIATION). | |
| Permit Details | |
| # of business related visits/day: 14 Administration Office Only?: N Class of Permit: Do you live at the property?: N Outdoor storage on site?: N | # of vehicles at one time: 2 Business has Trailers or Equipment?: N Description of Business: Home-Based Respite Programming for people with Special Needs, Enhancing Motor, Life & Expressive Arts Skills through a Human Rights Approach Expiry Date: |
| I/We certify that the above noted details are correct. Applicant signature: _____ | |
| Development Application Decision Refused | |
| THIS IS NOT A PERMIT | |

|  | Project Number: 68508208-006 Application Date: DEC 19, 2016 Printed: February 24, 2017 at 2:59 PM Page: 2 of 2 | | | | | | | | | | | | | | | | | | | | |
|--|--|-------------|------------|--------------|-----------|-----------|----------------------|----------|----------|----------|--------------|-------------------|--------|--|--|--|--------------------|----------|----------|--|--|
| <h2 style="margin: 0;">Application for Home Occupation</h2> | | | | | | | | | | | | | | | | | | | | | |
| <p>Reason for Refusal The proposed development is refused for the following reasons:</p> <ol style="list-style-type: none"> 1. The Major Home Based Business would generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the RF1 Zone in which it is located (Section 75.3), the development on this block is primarily low-density Single Detached Housing. 2. The Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area. (Section 75.9). <p style="margin-left: 40px;">- The proposed development to be undertaken at the premises is considered as a Health Services Use, which is neither a Permitted nor Discretionary use in the RF1 Single Detached Residential Zone (Reference Section 110.2 and 110.3). The Proposed development would more appropriately be located in a Commercial Zone having regard for the overall compatibility of the use with the residential character of the area.</p> <p>ADVISEMENTS</p> <p>Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.</p> <p>Health Services means development used for the provision of physical and mental Health Services on an out-patient basis. Services may be of a preventive, diagnostic, treatment, therapeutic, rehabilitative, or counseling nature. Typical Uses include medical and dental offices, health clinics and counseling services. (Section 7.4.24).</p> <p>Rights of Appeal The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.</p> | | | | | | | | | | | | | | | | | | | | | |
| <p>Issue Date: Feb 24, 2017 Development Authority: VANDERHOEK, HEATHER Signature: _____</p> | | | | | | | | | | | | | | | | | | | | | |
| <p>Fees</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 15%; text-align: right;">Fee Amount</th> <th style="width: 15%; text-align: right;">Amount Paid</th> <th style="width: 10%; text-align: right;">Receipt #</th> <th style="width: 10%; text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$297.00</td> <td style="text-align: right;">\$297.00</td> <td style="text-align: right;">03841677</td> <td style="text-align: right;">Jan 04, 2017</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$297.00</td> <td style="text-align: right; border-top: 1px solid black;">\$297.00</td> <td></td> <td></td> </tr> </tbody> </table> | | | Fee Amount | Amount Paid | Receipt # | Date Paid | Dev. Application Fee | \$297.00 | \$297.00 | 03841677 | Jan 04, 2017 | Total GST Amount: | \$0.00 | | | | Totals for Permit: | \$297.00 | \$297.00 | | |
| | Fee Amount | Amount Paid | Receipt # | Date Paid | | | | | | | | | | | | | | | | | |
| Dev. Application Fee | \$297.00 | \$297.00 | 03841677 | Jan 04, 2017 | | | | | | | | | | | | | | | | | |
| Total GST Amount: | \$0.00 | | | | | | | | | | | | | | | | | | | | |
| Totals for Permit: | \$297.00 | \$297.00 | | | | | | | | | | | | | | | | | | | |
| <p>THIS IS NOT A PERMIT</p> | | | | | | | | | | | | | | | | | | | | | |



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-065



ITEM II: 10:30 A.M.

FILE: SDAB-D-17-066

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 229909807-005

APPLICATION TO: Change the Use from a General Retail Store to Minor Alcohol Sales

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 6, 2017

DATE OF APPEAL: March 15, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3707 - 8 Avenue SW

LEGAL DESCRIPTION: Plan 1623687 Blk 6 Lot 1

ZONE: DC1 (Bylaw 17351) Direct Development Control Provision

OVERLAY: N/A

STATUTORY PLAN(S): Charlesworth Neighbourhood Structure Plan
Southeast Area Structure Plan

Grounds for Appeal

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

The proposed change of use from general retail to liquor store (minor sales) was refused due to a conflicting AP zone on the south side of Ellerslie Road. The lot on which the AP zone is located has not undergone any development as a park. There is no current Area Structure Plan in place for the development of the Decoteau neighborhood south of Ellerslie Road. In our opinion the location of the park is likely to change with the implementation of the Decoteau Area Structure Plan, and the park will not be adjacent to Ellerslie Road or within 100 metres of the proposed liquor store.

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

...

Designation of direct control districts

641(4) Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

- (a) ...
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

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 3(1) of the DC1 (Bylaw 17351) Direct Development Control Provision, **Minor Alcohol Sales** is a **listed Use**.

Under section 7.4(32), **Minor Alcohol Sales** means:

development used for the retail sale of any and all types of alcoholic beverages to the public. This Use may include retail sales of related products such as soft drinks and snack foods. The maximum Floor Area for this Use shall be no more than 275 m² per individual business premises.

Section 4(1) of the DC1 (Bylaw 17351) Direct Development Control Provision states “Minor Alcohol Sales shall comply with Section 85 of the Zoning Bylaw.”

Section 1 of the **DC1 (Bylaw 17351) Direct Development Control Provision** states that the **General Purpose** is:

...To accommodate the development of medium density Residential with limited low-intensity Commercial Uses.

| |
|--|
| <i>Major Alcohol Sales and Minor Alcohol Sales regulations</i> |
|--|

Section 85.4 states:

Any Site containing a Major Alcohol Sales or Minor Alcohol Sales shall not be located less than 100 m from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Major Alcohol Sales or Minor Alcohol Sales. Sites that are greater than 2.0 ha in size and zoned either CSC or DC2, are exempt from this restriction. For the purposes of this subsection only:

- a. the 100 m separation distance shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;
- b. ...
- c. ...
- d. the term "public lands" is limited to Sites zoned AP, and active recreation areas in the North Saskatchewan River Valley and Ravine System, as shown in Appendix I of Section 811 of this Bylaw, that are zoned A; it does not include passive areas in the North Saskatchewan River Valley and Ravine System, as shown in Appendix I of Section 811 of this Bylaw and other areas zoned A.

Section 85.5 states:

Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 85(4).

Development Officer's Determination:

Minor Alcohol Sales shall comply with Section 85 of the Zoning Bylaw (Section 4.I).

Any Site containing a Major Alcohol Sales or Minor Alcohol Sales shall not be located less than 100 m from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Major Alcohol Sales or Minor Alcohol Sales. (Section 85.4)

- the term "public lands" is limited to Sites zoned AP, and active recreation areas in the North Saskatchewan River Valley and Ravine System, as shown in Appendix I of Section 811 of this Bylaw, that are zoned A; it does not include passive areas in the North Saskatchewan River Valley and Ravine System, as shown in Appendix I of Section 811 of this Bylaw and other areas zoned A. (Section 85.4.d)

Proposed:

The Site is located 39.3 m from the AP zoned Site to the south of the subject Site, located at 3703 Ellerslie Rd. SW.

Deficient by:

60.7 m

[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*.



Project Number: 229909807-005
 Application Date: JAN 13, 2017
 Printed: March 6, 2017 at 2:16 PM
 Page: 1 of 2

Application for Major Development Permit

This document is a Development Permit Decision for the development application described below.

| | |
|------------------|--|
| Applicant | Property Address(es) and Legal Description(s) 3707 - 8 AVENUE SW Plan 1623687 Blk 6 Lot 1 |
| | Specific Address(es) Entryway: 3751 - 8 AVENUE SW Building: 3707 - 8 AVENUE SW |

Scope of Application
 To change the Use from a General Retail Store to Minor Alcohol Sales.

| | |
|--|---|
| Permit Details Class of Permit: Class A Gross Floor Area (sq.m.): 269.2 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 Application Decision
 Refused

Reason for Refusal
 Minor Alcohol Sales shall comply with Section 85 of the Zoning Bylaw (Section 4.I).

Any Site containing a Major Alcohol Sales or Minor Alcohol Sales shall not be located less than 100 m from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Major Alcohol Sales or Minor Alcohol Sales. (Section 85.4)
 - the term "public lands" is limited to Sites zoned AP, and active recreation areas in the North Saskatchewan River Valley and Ravine System, as shown in Appendix I of Section 811 of this Bylaw, that are zoned A; it does not include passive areas in the North Saskatchewan River Valley and Ravine System, as shown in Appendix I of Section 811 of this Bylaw and other areas zoned A. (Section 85.4.d)

Proposed:
 The Site is located 39.3 m from the AP zoned Site to the south of the subject Site, located at 3703 Ellerslie Rd. SW.

Deficient by:
 60.7 m

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

Issue Date: Mar 06, 2017 **Development Authority:** KOWAL, PAUL **Signature:** _____

THIS IS NOT A PERMIT



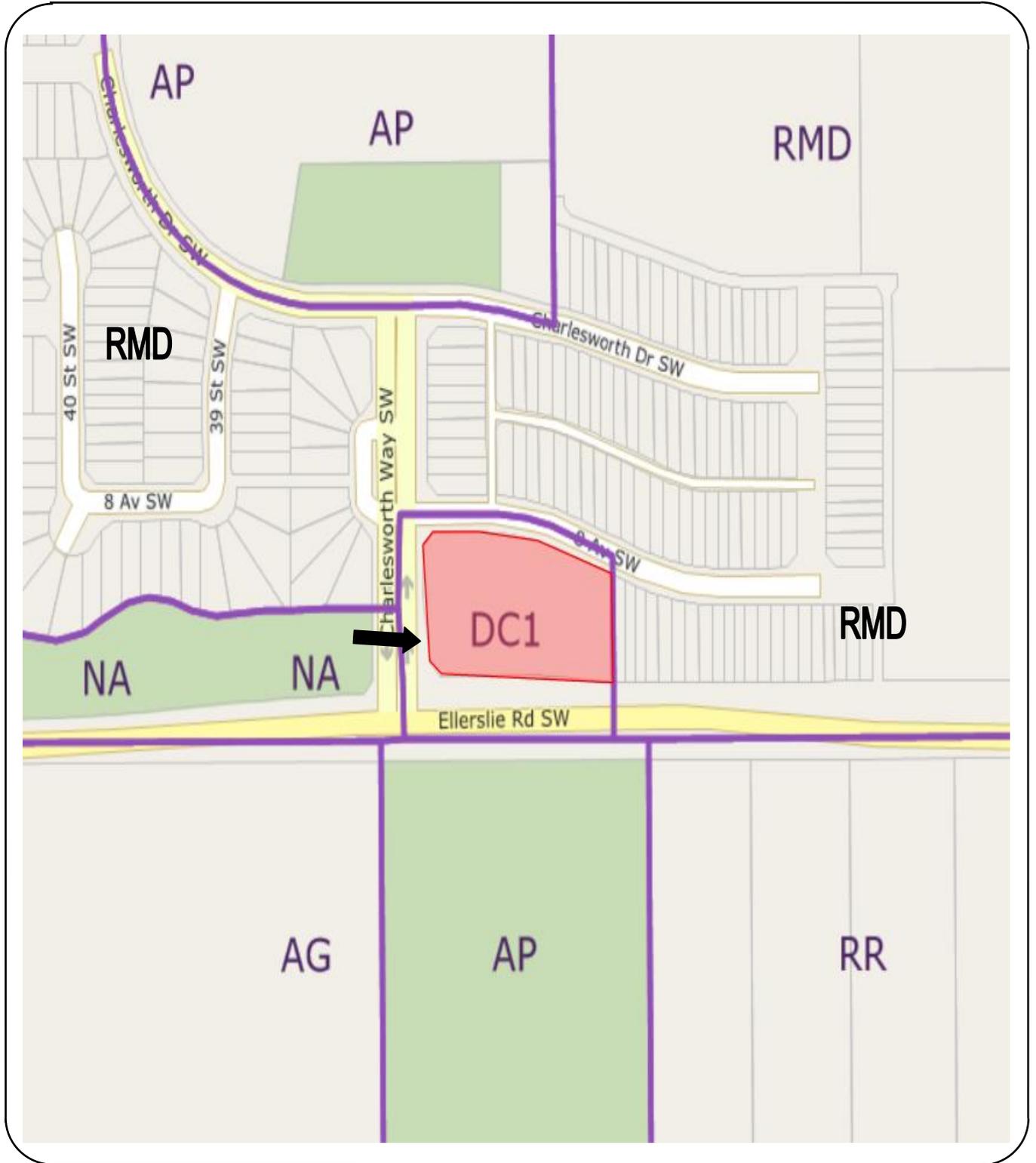
Project Number: **229909807-005**
Application Date: JAN 13, 2017
Printed: March 6, 2017 at 2:16 PM
Page: 2 of 2

Application for Major Development Permit

Fees

| | Fee Amount | Amount Paid | Receipt # | Date Paid |
|----------------------------|-------------------|--------------------|------------------|------------------|
| Major Dev. Application Fee | \$271.00 | \$271.00 | 03860929 | Jan 13, 2017 |
| Total GST Amount: | <u>\$0.00</u> | | | |
| Totals for Permit: | \$271.00 | \$271.00 | | |

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-066

