

Discretionary Use – 1130 15th Avenue (PL202300194)

Date	December 21, 2023
To	Deborah Bryden, Development Officer
From	Planning and Development Services
Item #	PL202300194

BACKGROUND

Section 1D.1.2(2) of the *Zoning Bylaw, 2019* (Zoning Bylaw) specifies that all applications for discretionary use are delegated to the Development Officer, except those which meet specified criteria. Since the proposed application does not meet the specified criteria, the application is delegated to the Development Officer.

APPLICATION

Malty National Brewing (the Applicant) is proposing to develop an outdoor patio (“Food & Beverage, Outdoor”) within the rear yard of their existing business (“Food & Beverage, Restaurant”) at 1130 15th Avenue (Subject Property).

Currently, the Applicant operates within the principal building and a front yard patio, and they intend to expand the operational space to the rear yard. The applicant proposes a 15.7m by 16.3m patio with a 1.8m perimeter fence. There are no proposed changes to the building on the Subject Property.

The Subject Property is zoned Mixed Low-Rise (ML). According to the Zoning Bylaw, the land use “Food & Beverage, Outdoor” is discretionary within ML zone where “operating entirely or partially between the building containing the principal use and the rear lot line, or the side lot line abutting a lot zoned Residential.” The Subject Property is situated near low to mid-density residential, and the rear property line directly abuts a residential property to the north.

In 2015, “micro-brewery and accessory uses” was approved through a Contract Zone. With the approval of *The Regina Zoning Bylaw, 2019*, the Contract Zone was replaced with ML zone. Since the original approval in 2015, operations have remained substantially unchanged.

REVIEW CRITERIA

The application is reviewed as per the criteria established in Section 1E3.5 of the Zoning Bylaw, as follows:

(a) consistency with the vision, goals and policies of the Official Community Plan

The proposed development supports objectives of the Official Community Plan (OCP – Part A) relating to “complete neighbourhoods” by offering an al fresco restaurant experience to augment the existing indoor restaurant/ lounge:

- Policy 7.1.4 requires that neighbourhoods include “opportunities for daily lifestyle needs, such as services, convenience shopping, and recreation.”

• Policy 7.16 states the City will “encourage local commercial within residential areas.”

(b) consistency with the objectives and policies of any applicable special study or policy document for the site, area or neighbourhood with an emphasis on:

- (i) land use**
- (ii) intensity of development; and**
- (iii) impact on public facilities, infrastructure or services;**

The proposed development conforms with the *Core Area Neighbourhood Plan*, which identifies the Subject Property as forming part of a “Neighbourhood Convenience” node.

(c) consistency with regulations of the Zoning Bylaw; and

The proposed development complies with the Zoning Bylaw relating to land-use, development standards, etc. - there are no criteria specific to the “Food & Beverage, Outdoor” land-use.

(d) potential adverse impacts or nuisances affecting:

- (i) nearby land, development, land uses, or properties;**
- (ii) neighbourhood character;**
- (iii) the environment;**
- (iv) traffic;**
- (v) a public right-of-way; and**
- (vi) any other matter(s) affecting public health and safety**

The proposed development abuts a residential property; therefore, may have the potential to have adverse impacts on adjacent landowners in the form of noise.

While the source of noise may not materially differ from patios associated with residential properties (e.g. music, conversations, etc.), the level/ volume of noise may differ. The Administration cannot anticipate noise level, as this would depend on the playing of music (live or recorded), customer numbers, etc. The City regulates unreasonably loud and excessive noise through *The Noise Abatement Bylaw No. 6980*.

The City does not regulate hours of operation; however, Saskatchewan Liquor and Gaming Authority (SLGA) confirmed that the controlled hours for the sale and service of alcoholic beverages are 9:30 am to 2:00 am.

There were no other adverse impacts identified through the review. The proposed development is deemed suitable from the perspective of neighbourhood character. Further, no traffic issues were identified and no environmental issues apply.

PUBLIC NOTICE

The public has been notified about the application as required by *The Public Notice Policy Bylaw* by way of:

- (a) sign posting on the subject property;
- (b) written notice sent to assessed property owners within 75m; and
- (c) website posting on regina.ca.

Following public notice, 18 comments have been submitted, which have been summarized below:

Response	Response #	Issues Identified
<i>Completely opposed</i>	4	<ul style="list-style-type: none"> Noise Nuisance: <ul style="list-style-type: none"> Concern the patio will create loud noise, play loud music, and operate late at night. Patrons may act loud and disruptive. The noise will disturb children and adults trying to fall asleep or stay asleep. Security <ul style="list-style-type: none"> Concern regarding children entering the lounge during business hours
<i>Accept if many features were different</i>	0	
<i>Accept if one or two features were different</i>	1	<ul style="list-style-type: none"> Noise Nuisance
<i>I support this proposal</i>	13	

SUMMARY

The proposed development conforms with all criteria in the Zoning Bylaw and is consistent with the Official Community Plan and Core Area Neighbourhood Plan. Public comments are mixed and include some opposition based on anticipated noise nuisance issues; however, the majority of submissions indicate support. The Administration, therefore, recommends approval.

RECOMMENDATION

The application for a proposed discretionary use for a “Food & Beverage, Outdoor” located at 1130 15th Avenue, being Lots 9 & 10, Block 420, Plan OLD33 Ext. 24, in the Heritage Neighbourhood, is APPROVED, subject to the following standards and conditions:

1. The development shall generally be consistent with the plans attached to this report as Appendix B-1.
2. The development shall include a 1.6 metre tall perimeter fence on all exposed sides, including a solid fence wall (no gaps, spacing, etc.) along north property line, as well as egress gates which conform to applicable standards and regulations.
3. Lighting associated with the development shall be directed to the Subject Property and light spillage, affecting adjacent residential properties, shall be avoided or minimized.

Respectfully Submitted,



Jeremy Fenton
Senior City Planner, City Planning Branch

DECISION OF DEVELOPMENT OFFICER

As recommended in this report, this application is:

☒ APPROVED, with the following additional conditions:

4. The land-use Food and Beverage, Outdoor shall be restricted as follows:
 - a. Hours of operation shall be limited to 10:00am – 10:00pm.
 - b. The broadcasting of music through electronic devices (i.e. outdoor speakers or amplifiers) and live music performances shall be limited to the following days/ hours: Thursday, Friday, and Saturday, 12:00pm – 9:00pm.

☐ DENIED

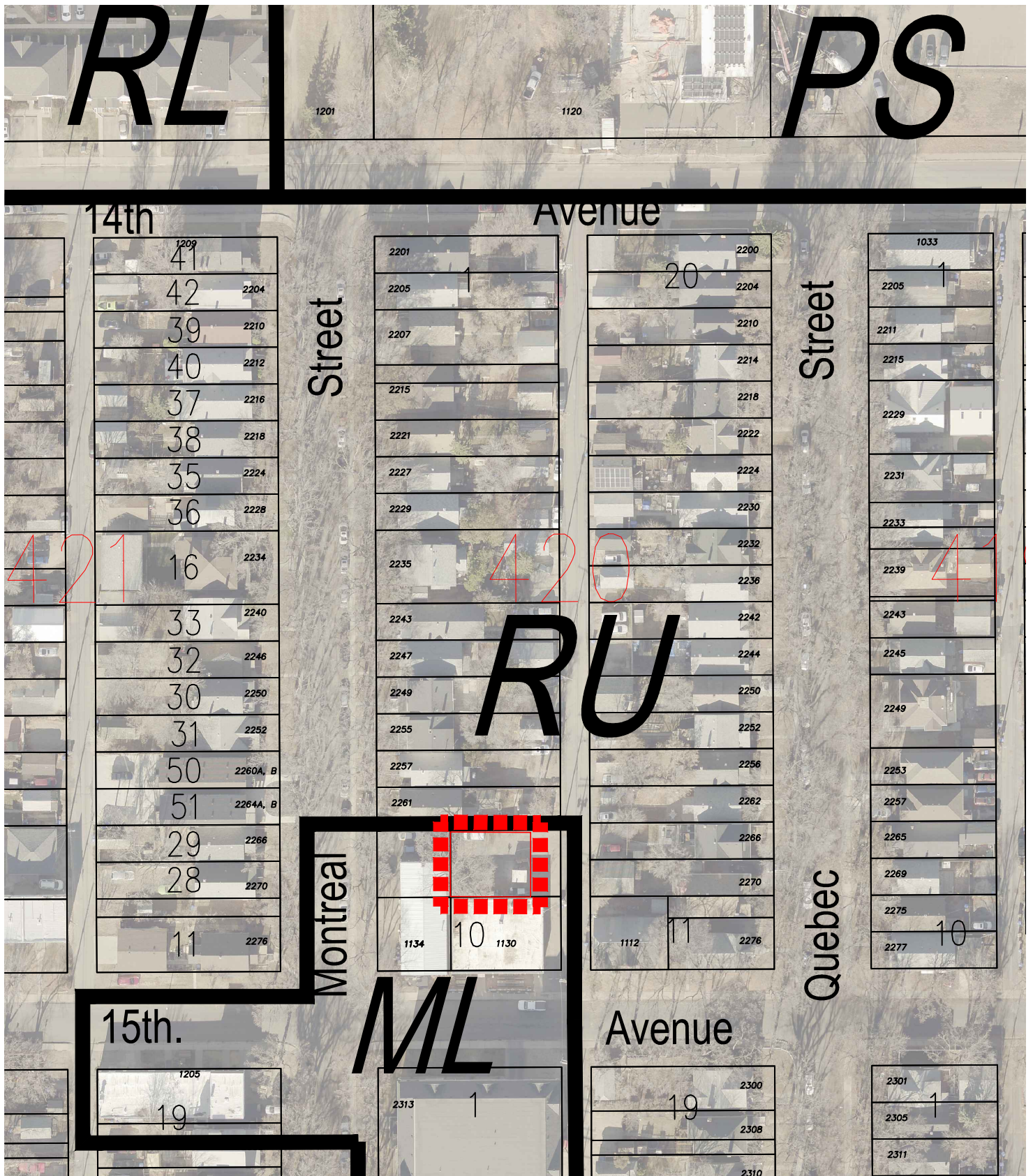


February 9, 2024

Deborah Bryden, Executive Director,
City Planning and Community Development
(Development Officer)

Dated

Report prepared by: Tyson Selinger
Attachments: Appendix A-1 – Aerial Photograph;
Appendix A-2- Aerial Photograph;
Appendix B-1 – Site Plan

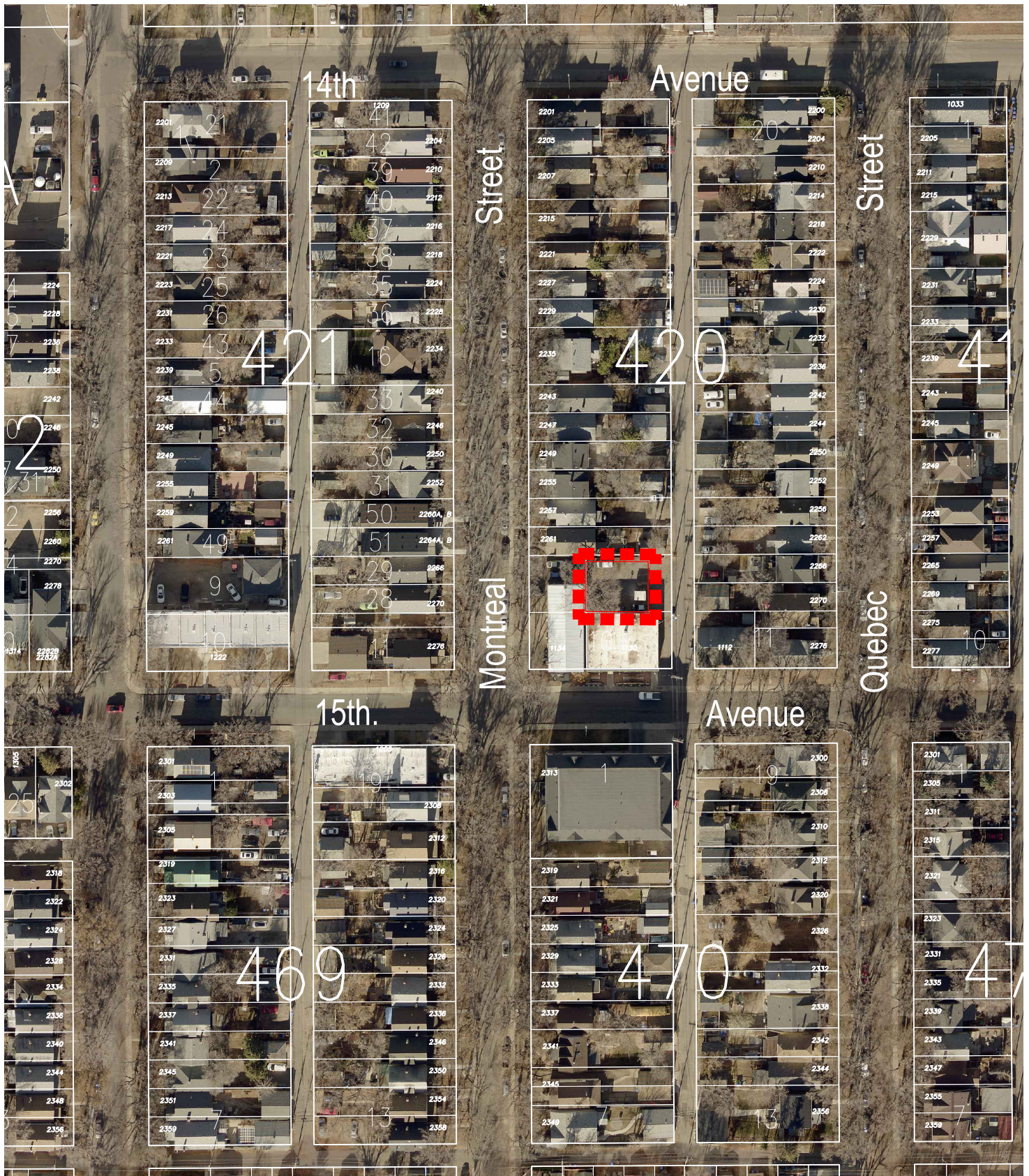


Date of Photography : 2020



Subject Property





Subject Property

Date of Photography: 2020



MALTY NATIONAL BREWING 1130 15TH AVE

SITE PLAN

**PROPOSED
BACK PATIO
IS MARKED
IN RED**

**PERIMETER IS
ENTIRELY FENCE
(6')**

