

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
December 11, 2019**

**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-19-219

Change the Use from a General Retail store to a  
Cannabis Retail Sales use and to construct  
interior alterations

10020 - Jasper Avenue NW  
Project No.: 345820954-002

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***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-19-219

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 345820954-002

APPLICATION TO: Change the Use from a General Retail store to a Cannabis Retail Sales Use and to construct interior alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 28, 2019

DATE OF APPEAL: November 28, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10020 - Jasper Avenue NW

LEGAL DESCRIPTION: Condo Common Area (Plan 0425913,1123267,1621940,1922644)

ZONE: (CCA) Core Commercial Arts Zone

OVERLAY: Downtown Special Area

STATUTORY PLAN: Capital City Downtown Plan

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***Grounds for Appeal***

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

1) City wants Jasper Avenue to be Edmonton's Main Street. City wants downtown Edmonton to be Transit Oriented, to be the Primary Destination for Visitors and to be the Senior Friendly Downtown environment. Population has grown from 5,130 people in 1996 to 11,000 people in 2009 and forecasted to be 24,000 people by 2030.

2) Alberta government hopes to double provincial tourism revenue by 2030. Edmonton, the capital city and the primary destination for visitors, will participate and benefit from this increasing inflow of tourists.

3) Central LRT station / New Cambridge Loft entrance is one of the main entrances to connect commuters between buses and trains. The station has served on average 12,695 passengers a day in 2018.

4) New Cambridge Lofts is a commercial / residential condominium situated in the heart of downtown Edmonton on Jasper Avenue. It connects directly to the Central LRT pedway.

5) From public engagement feedback. Many stakeholders provided feedback that walkable commercial areas (main streets, downtown) are desirable locations for cannabis store locations.

6) Using alternative method to measure the distance from the library, the direct door-to-door distance is 205.31 meters and the walking door-to-door distance is 399.48 meters.

7) Using alternative method to measure the distance from the nearest cannabis store, the walking door-to-door distance via the Pedway is 202.86 meters and via the Street is 203.06 meters.

8) Black market cannabis still doing a smoking business and you can find them in every corner in downtown core.

9) Alberta Cannabis Framework sets the stage for responsible cannabis use in our province and outlines our four policy priorities:

1. keeping cannabis out of the hands of children and youth
2. protecting safety on roads, in workplaces and in public spaces
3. protecting public health
4. limiting the illegal market for cannabis

10) The proposed store will help limiting the illegal market for cannabis. Shrinking the black market also keeps cannabis out of the hands of children and youth.

11) The proposed site is surrounded by hair salon, breakfast and take/out restaurants, chiropractor clinic, lawyer office, nail spa, convenience store and liquor store. The businesses are well diversified and the proposed cannabis store will draw more foot traffic to the existing market.

12) AGLC is the sole operator of the online cannabis store. Private retail operators serves the local customers. The proposed site represents the hybrid solution to serve Transit Oriented commuters. When users are not comfortable with mail orders and do not want to make a separate trip to purchase cannabis products, visiting a store connected directly to a LRT station could be their preference, specially in the Winter time.

**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,

- (a) in the case of an appeal made by a person referred to in section 685(1)
  - (i) with respect to an application for a development permit,
    - (A) within 21 days after the date on which the written decision is given under section 642, [...]

**Hearing and Decision**

**687(3)** In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis

licence and distances between those premises and other premises;

...

(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 910.5(2)(e), **Cannabis Retail Sales** is a **Permitted Use** in the **(CCA) Core Commercial Arts Zone**.

Under section 7.4(9), **Cannabis Retail Sales** means:

development used for the retail sale of Cannabis that is authorized by provincial or federal legislation. This Use may include retail sales of Cannabis accessories. This Use does not include Cannabis Production and Distribution.

Under section 6.1, **Cannabis** means:

a cannabis plant and anything referred to in subsection (a) of this definition but does not include anything referred to in subsection (b) of this definition:

a. Cannabis includes:

i. any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a part of the plant referred to in subsection (b) of this definition.

- ii. any substance or mixture of substances that contains or has on it any part of such a plant;
  - iii. any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained.
- b. Notwithstanding subsection (a) of this definition, Cannabis does not include:
- i. a non-viable seed of a cannabis plant;
  - ii. a mature stalk, without any leaf, flower, seed or branch, of such plant;
  - iii. fibre derived from a stalk referred in subsection (b)(ii) of this definition; and
  - iv. the root or any part of the root of such a plant.

Section 910.5(1) states that the **General Purpose** of the **(CCA) Core Commercial Arts Zone** is:

to provide a Zone for a variety of high density and quality development that accommodates office, retail, service, institutional, residential, arts and entertainment Uses and meet the Use objectives for the Commercial Cultural Core. The intent is to further strengthen the Downtown's central area by providing continuous retail at ground level, enhancing arts and entertainment activities, accommodating Residential Uses and making the Core more pedestrian friendly.

Section 910.1 states that the **General Purpose** of the **Downtown Special Area Zoning Regulations** 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.

<b><i>Section 70 – Cannabis Retail Sales</i></b>
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1. **Any Cannabis Retail Sales shall not be located less than 200 m from any other Cannabis Retail Sales. For the purposes of this subsection only:**
  - a. **the 200 m separation distance shall be measured from the closest point of the Cannabis Retail Sales Use to the closest point of any other approved Cannabis Retail Sales Use;**

- b. A Development Officer shall not grant a variance to reduce the separation distance by more than 20 m in compliance with Section 11; and
- c. The issuance of a Development Permit which contains a variance to separation distance as described in 70(1)(b) shall be issued as a Class B Discretionary Development.

**2. Any Site containing Cannabis Retail Sales shall not be located less than:**

- a. **200 m from any Site being used for a public library, at the time of the application for the Development Permit for the Cannabis Retail Sales; and**
- b. 100 m from any Site being used for Community Recreation Services Use, a community recreation facility or as public lands at the time of application for the Development Permit for the Cannabis Retail Sales.

**3. For the purposes of subsection 2:**

- a. separation distances 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. the term “public library” is limited to the collection of literary, artistic, musical and similar reference materials and learning resources in the form of books, electronic files, computers, manuscripts, recordings and films for public use, and does not include private libraries, museums or art galleries.
- c. the term “community recreation facilities” means indoor municipal facilities used primarily by members of the public to participate in recreational activities conducted at the facilities, as per the Municipal Government Act; and
- d. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.

**4. Subsection 105(3) of the Gaming, Liquor and Cannabis Regulation, is expressly varied by the following:**

- a. any Site containing a Cannabis Retail Sales shall not be located less than:

***Public or private education***

- i. 200 m from a Site being used for public or private education, at the time of the application for the Development Permit for the Cannabis Retail Sales;



***Provincial health care facility***

- ii. 100 m from a Site being used for a provincial health care facility at the time of the application for the Development Permit for the Cannabis Retail Sales; and

***School reserve or municipal and school reserve***

- iii. 100 m from a Site designated as school reserve or municipal and school reserve at the time of the application for the Development Permit for the Cannabis Retail Sales.

***Measurement of Separation Distances***

- b. For the purposes of this subsection, separation distances 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.

***Sites Greater than Two Hectares***

- c. For Sites that are greater than 2.0 ha in size and zoned either CSC or DC2, that do not contain a public library at the time of application for the Development Permit for the Cannabis Retail Sales:
  - i. Subsection 70(2), and 70(4)(a) shall not apply; and
  - ii. the distances referred to in Subsection 105(3) of the *Gaming, Liquor and Cannabis Regulation* shall be expressly varied to 0 m.
- d. For the purposes of subsection 70(4)(a)(i), the term "public or private education" means a school as defined in subsection (1)(y)(i) and (1)(y)(ii) of the *School Act (as amended from time to time)*.

**5. Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 70(2), 70(3)(a) or 70(4).**

**Design Requirements**

- 6. Cannabis Retail Sales shall include design elements that readily allow for natural surveillance to promote a safe urban environment, where applicable and to the satisfaction of the Development Officer, including the following requirements:
  - a. customer access to the store is limited to a storefront that is visible from the street other than a Lane, or a shopping centre parking lot, or mall access that allows visibility from the interior of the mall into the store;

- b. the exterior of all stores shall have ample transparency from the street;
- c. Any outdoor lighting shall be designed to ensure a well-lit environment for pedestrians and illumination of the property; and
- d. Landscaping shall be low-growing shrubs or deciduous trees with a high canopy at maturity to maintain natural surveillance.

**Development Officer’s Determination**

**The proposed Cannabis Retail Store does not comply with the minimum setback requirement from a Cannabis Retail Sales location and a Public Library (Stanley A Milner Library) (Section 70.1 & 70.2):**

**Section 70.1 (Separation from another Cannabis Retail Sales)  
 Required Setback: 200 m  
 Proposed Setback: 40 m  
 Deficient by 160 m**

**Section 70.2 (Separation from a Public Library)  
 Required Setback: 200 m  
 Proposed Setback: 110 m  
 Deficient by 90 m**

**Under Sections 70.1(b) and 70.5 of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Cannabis Retail Store.  
 [unedited]**

***Previous Subdivision and Development Appeal Board Decision***

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
SDAB-D-17-051	To change the Use from General Retail Stores Use and to Major Alcohol Sales Building □	<p>April 13, 2017; The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The development is GRANTED as applied for to the Development Authority.</p> <p>In granting the development the following variance to the Edmonton Zoning Bylaw is allowed:</p> <p>1. Section 85.1, which states</p>


		that any Major Alcohol Sales or Minor Alcohol Sales shall not be located less than 500 metres from any other Major Alcohol Sales or Minor Alcohol Sales, is waived.
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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.

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	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: <b>345820954-002</b> Application Date: NOV 04, 2019 Printed: November 29, 2019 at 8:31 AM Page: 1 of 2					
This document is a Development Permit Decision for the development application described below.							
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 10020 - JASPER AVENUE NW Condo Common Area (Plan 0425913,1123267,1621940,1922644)						
	<b>Specific Address(es)</b> Suite: 1B, 10020 - JASPER AVENUE NW Entryway: 10020 - JASPER AVENUE NW Building: 10024 - JASPER AVENUE NW						
<b>Scope of Application</b> To Change the Use from a General Retail store to a Cannabis Retail Sales use and to construct interior alterations.							
<b>Permit Details</b>							
Class of Permit: Gross Floor Area (sq.m.): 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: _____							
<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Nov 28, 2019 <b>Development Authority:</b> CHOW, STEPHEN  <b>Reason for Refusal</b> The proposed Cannabis Retail Store does not comply with the minimum setback requirement from a Cannabis Retail Sales location and a Public Library (Stanley A Milner Library) (Section 70.1 & 70.2):  Section 70.1 (Separation from another Cannabis Retail Sales) Required Setback: 200 m Proposed Setback: 40 m Deficient by 160 m  Section 70.2 (Separation from a Public Library) Required Setback: 200 m Proposed Setback: 110 m Deficient by 90 m  Under Sections 70.1(b) and 70.5 of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Cannabis Retail Store.							
<b>Rights of Appeal</b> The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.							
<table style="width: 100%; border: none;"> <tr> <td style="border: none;">Major Dev Application Fee</td> <td style="border: none;">\$5 600 00</td> <td style="border: none;">\$5 600 00</td> <td style="border: none;">06261592</td> <td style="border: none;">Nov 04 2019</td> </tr> </table>			Major Dev Application Fee	\$5 600 00	\$5 600 00	06261592	Nov 04 2019
Major Dev Application Fee	\$5 600 00	\$5 600 00	06261592	Nov 04 2019			
<b>THIS IS NOT A PERMIT</b>							



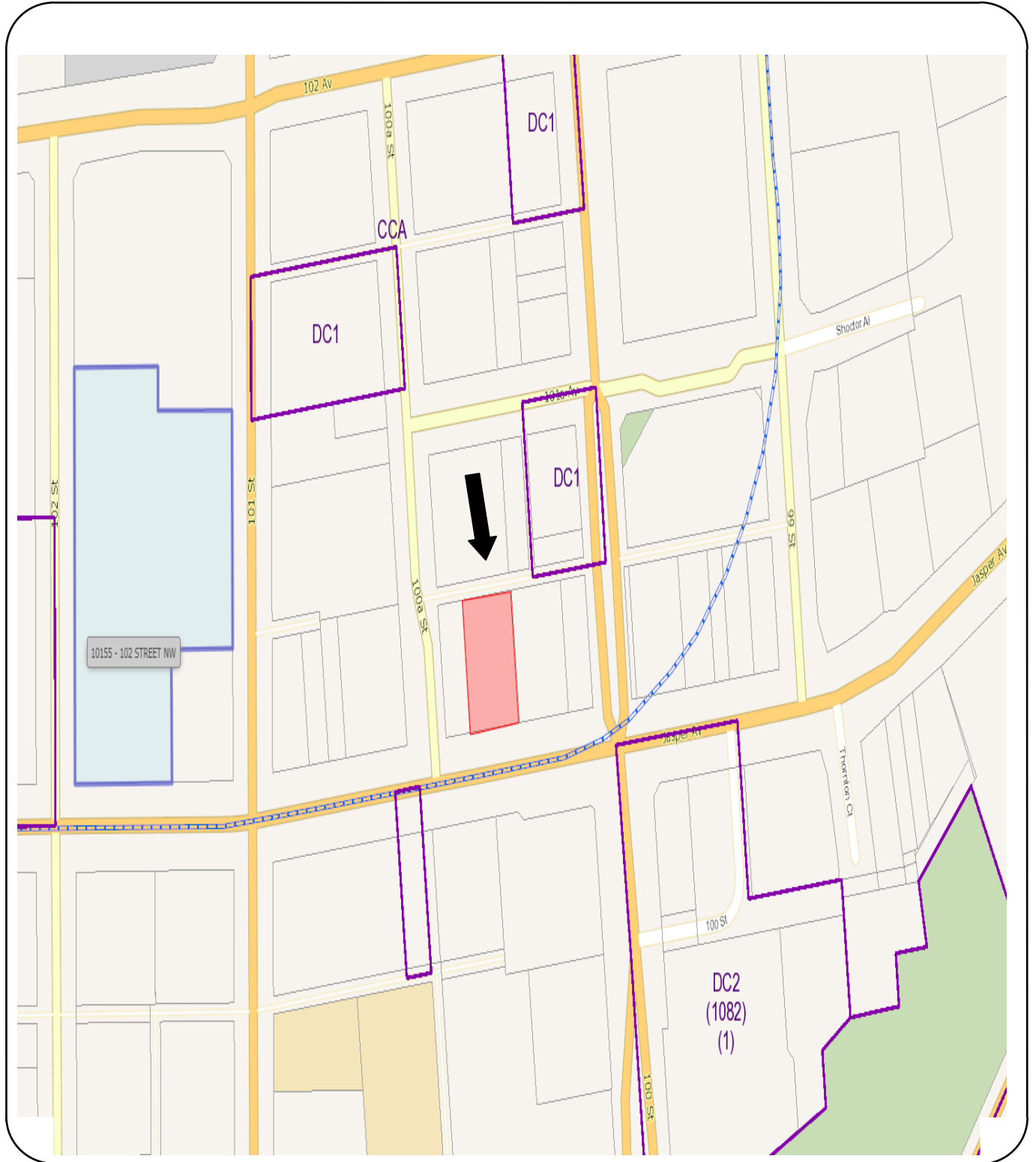
Project Number: **345820954-002**  
Application Date: NOV 04, 2019  
Printed: November 29, 2019 at 8:31 AM  
Page: 2 of 2

## Application for Major Development Permit

### Fees

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Major Dev. Application Fee	\$5,600.00	\$5,600.00		
Total GST Amount:	\$0.00			
Totals for Permit:	\$5,600.00	\$5,600.00		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-219

