

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
September 26, 2018**

**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-S-18-009

To create one (1) additional Single Detached Residential Lot

10711 - 130 Street NW
Project No.: 281348112-001

II 11:00 A.M. SDAB-D-18-155

To change the use from General Retail (India Bazaar) to Cannabis Retail Sales

4512 - 118 Avenue NW
Project No.: 286180748-001

III 2:00 P.M. SDAB-D-18-156

To convert a Single Detached House to a six-sleeping unit Lodging House

10509 - 32A Avenue NW
Project No.: 275811102-003

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-S-18-009

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 281348112-001

APPLICATION TO: Create one (1) additional Single Detached Residential Lot

DECISION OF THE SUBDIVISION AUTHORITY: Refused

DECISION DATE: August 16, 2018

DATE OF APPEAL: September 4, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10711 - 130 Street NW

LEGAL DESCRIPTION: Plan 4311HW Blk 27 Lot 18

ZONE: RF1-Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

I wish to appeal the decision to REFUSE subdivision at 10711 130 Street NW (Lot 18, Block 27, Plan 4311HW).

While I acknowledge that the minimum cut-off for subdivision is 15 metres, it has previously been established by the SDAB, that the subdivision of a lot in Westmount with width of 14.63m will not:

Impact the land owners ability to build a livable house within the development guidelines stated in the Edmonton Zoning Bylaw and Mature Neighbourhood Overlay.

Materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land

Unduly interfere with the amenities of the neighbourhood, or;

Violate the use prescribed for the land in the land use bylaw.

I am referring to the decision made by the SDAB on March 15, 2018 regarding the property located at 10719 130 Street NW (Lot 16, Block 27, Plan 4311HW). This property is 2 lots north of the lot currently under appeal and has identical dimensions. (Decision attached)

General Matters

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Appeals

678(1) The decision of a subdivision authority on an application for subdivision approval may be appealed

- (a) by the applicant for the approval,
- (b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- (c) by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the municipal planning commission of the municipality is not the subdivision authority, or
- (d) by a school board with respect to
 - (i) the allocation of municipal reserve and school reserve or money in place of the reserve,
 - (ii) the location of school reserve allocated to it, or
 - (iii) the amount of school reserve or money in place of the reserve.

(2) An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681

- (a) with the Municipal Government Board
 - (i) if the land that is the subject of the application is within the Green Area as classified by the Minister responsible for the Public Lands Act,

- (ii) if the land that is the subject of the application contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site, or
- (iii) in any other circumstances described in the regulations under section 694(1)(h.2),

or

- (b) in all other cases, with the subdivision and development appeal board.

(2.1) Despite subsection (2)(a), if the land that is the subject-matter of the appeal would have been in an area described in subsection (2)(a) except that the affected Government department agreed, in writing, to vary the distance under the subdivision and development regulations, the notice of appeal must be filed with the subdivision and development appeal board.

(3) For the purpose of subsection (2), the date of receipt of the decision is deemed to be 7 days from the date the decision is mailed.

(4) A notice of appeal under this section must contain

- (a) the legal description and municipal location, if applicable, of the land proposed to be subdivided, and
- (b) the reasons for appeal, including the issues in the decision or the conditions imposed in the approval that are the subject of the appeal.

(5) If the applicant files a notice of appeal within 14 days after receipt of the written decision or the deemed refusal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board.

Hearing and decision

680(1) The board hearing an appeal under section 678 is not required to hear from any person or entity other than

- (a) a person or entity that was notified pursuant to section 679(1), and
- (b) each owner of adjacent land to the land that is the subject of the appeal,

or a person acting on any of those persons' behalf.

(1.1) For the purposes of subsection (1), “adjacent land” and “owner” have the same meanings as in section 653.

(2) In determining an appeal, the board hearing the appeal

- (a) must act in accordance with any applicable ALSA regional plan;
- (a.1) must have regard to any statutory plan;
- (b) must conform with the uses of land referred to in a land use bylaw;
- (c) must be consistent with the land use policies;
- (d) must have regard to but is not bound by the subdivision and development regulations;
- (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;
- (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

Approval of application

654(1) A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any growth plan under Part 17.1, any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,
- (c) the proposed subdivision complies with this Part and Part 17.1 and the regulations under those Parts, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.

(1.2) If the subdivision authority is of the opinion that there may be a conflict or inconsistency between statutory plans, section 638 applies in respect of the conflict or inconsistency.

(2) A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,

(a) the proposed subdivision would not

(i) unduly interfere with the amenities of the neighbourhood, or

(ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

(b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.

(3) A subdivision authority may approve or refuse an application for subdivision approval.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 110.4 states:

1. Site regulations for Single Detached Housing:
 - a. the minimum Site area shall be 250.8 square metres
 - b. the minimum Site Width shall be 7.5 metres; and
 - c. the minimum Site depth shall be 30.0 metres

Under section 6.1(105), **Site Width** means “the horizontal distance between the side boundaries of the Site measured at a distance from the Front Lot Line equal to the required Front Setback for the Zone.”

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, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

Section 11.4(1)(c) states in approving a Development Permit Application pursuant to Section 11.3, the Development Officer shall adhere to the following: on rectangular shaped Lots, there shall be no variance from the minimum Site Width, for new Single Detached Housing in the RF1, RF2, RF3, and RF4 Zones for all Sites which received subdivision approval after June 12, 2017.

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.

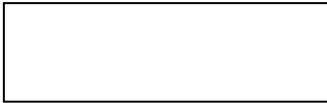


Subdivision Authority

7th Floor, Edmonton Tower
10111 – 104 Avenue NW
Edmonton, Alberta T5J 0J4

August 16, 2018

File No. LDA18-0366



ATTENTION: Zachary Holt

RE: Tentative plan of subdivision to create one (1) additional single detached residential lot from Lot 18, Block 27, Plan 4311 HW, located north of 107 Avenue NW and east of 130 Street NW;
WESTMOUNT

The Subdivision by Plan is REFUSED on August 16, 2018 for the following reasons:

1. The proposed subdivision does not comply with the minimum development regulations identified in Section 110.4(1)(b) of the City of Edmonton Zoning Bylaw 12800. The minimum site width identified in the (RF1) Single Detached Residential Zone for single detached housing is 7.5 metres. The site width of the proposed lots is 7.315 metres and is therefore deficient by 0.185 metres.
2. Bylaw 18050, which established a minimum site width of 7.5 metres for single detached housing in the RF1 Zone, was approved by City Council on June 12, 2017. At the same Public Hearing, City Council approved Bylaw 18058 which prevents site width measurements from being rounded up and limits a Development Officer's ability to vary site width for new single detached housing in the RF1 Zone.
3. Approval of the proposed subdivision would result in a non-standard lot incurring development hardship at the development permit application stage. Section 11.4(1)(c) of the City of Edmonton Zoning Bylaw 12800 prevents a Development Officer from granting variances for new single detached housing that is less than the RF1 Zone's minimum 7.5 metre width threshold. Future development permit applications would therefore be refused by the Development Officer.

Please be advised that an appeal may be lodged in accordance to Section 678 of the Municipal Government Act with the Subdivision and Development Appeal Board, 10019 – 103 Avenue NW, Edmonton Alberta, T5J 0G9, within 14 days from the date of the receipt of this decision. The date of receipt of the decision is deemed to be seven (7) days from the date the decision is mailed.

If you have further questions, please contact Kristen Rutherford at kristen.rutherford@edmonton.ca or 780-442-5047.

Regards,

A handwritten signature in blue ink, appearing to read "Blair McDowell".

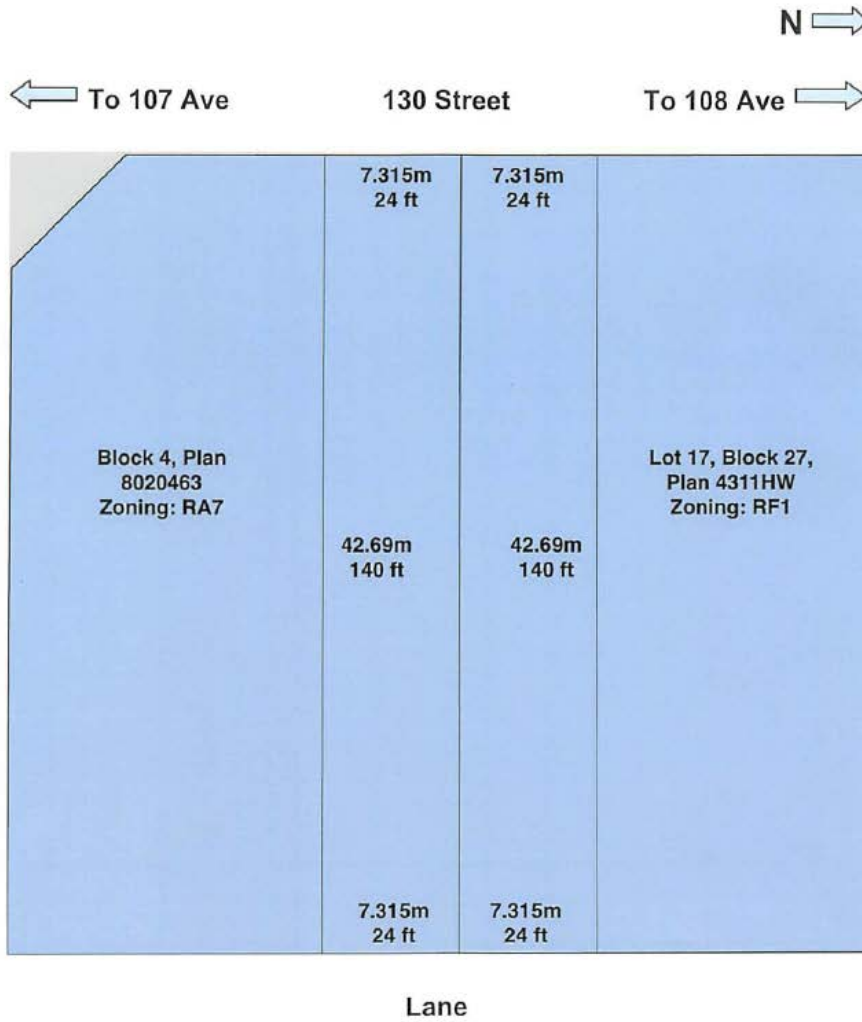
for Blair McDowell
Subdivision Authority

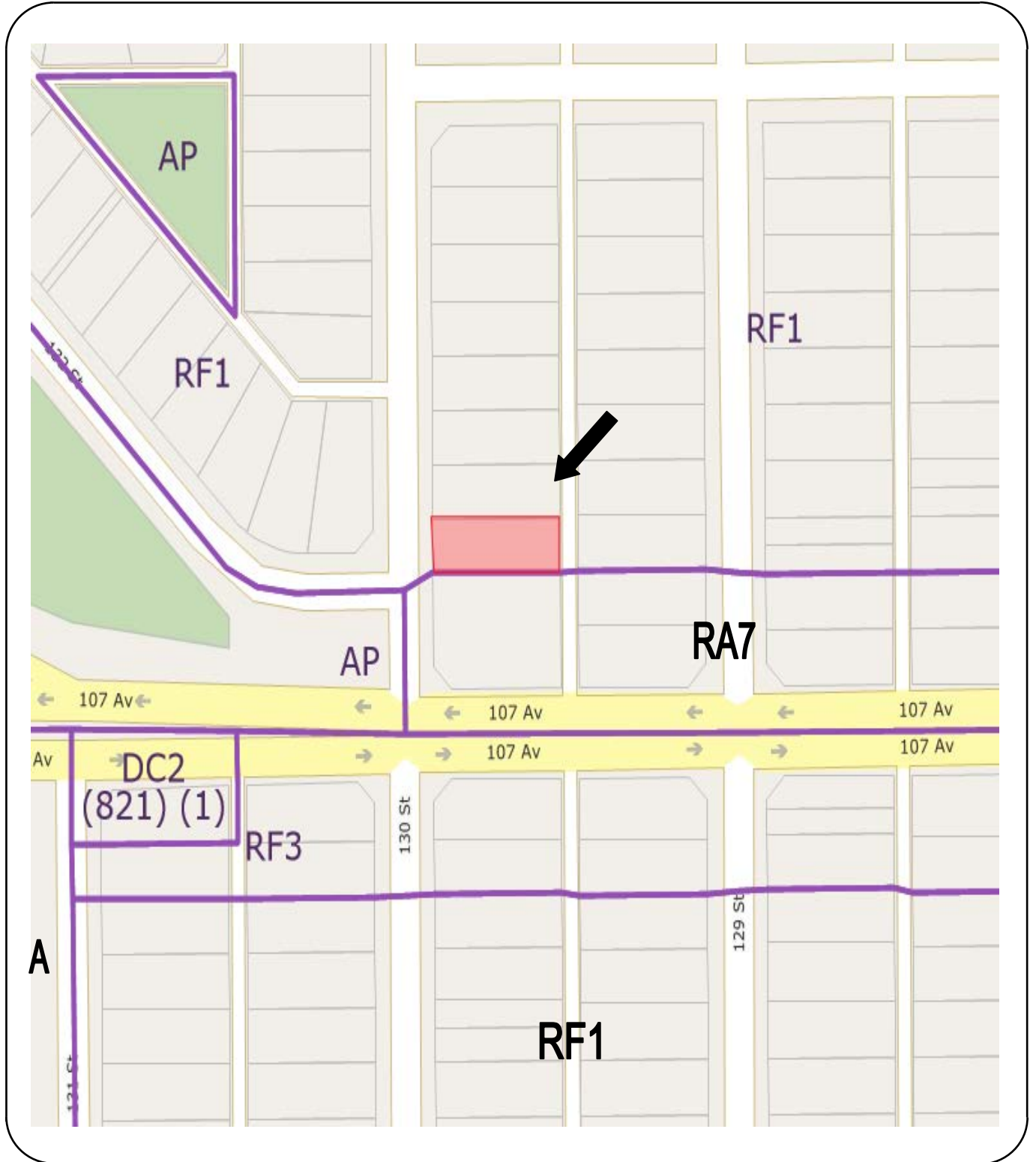
BM/kr/Posse #281348112-001
Enclosure

Tentative Plan of Proposed Subdivision

Legal Description: Lot 18, Block 27, Plan 4311HW

Address: 10711 130 St NW, Edmonton, AB T5M 0Z1





SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-S-18-009



ITEM II: 11:00 A.M.

FILE: SDAB-D-18-155

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 286180748-001

APPLICATION TO: Change the use from General Retail (India Bazaar) to Cannabis Retail Sales

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 24, 2018

DATE OF APPEAL: September 4, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4512 - 118 Avenue NW

LEGAL DESCRIPTION: Condo Common Area (Plan 1025138)

ZONE: CB1-Low Intensity Business Zone

OVERLAY: Mains Streets Overlay
Secondhand Stores And Pawn Stores Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

We act on behalf of Urban Sparq Hospitality. Urban Sparq Hospitality is appealing the development permit refusal in relation to this mater on the following grounds:

1. The application is for Cannabis Retail Sales, which is a permitted use in the CB1 Low Intensity Business Zone. The Development Officer refused the application based on the 200 metre setback in Section 70 of the Zoning Bylaw.
2. The Development Officer erred in applying the setback in Section 70 of the Zoning Bylaw as Fresh Start Partners is not “public or private education”. Fresh Start Partners is located in the CB2 General Business Zone, which does not allow for any uses that could constitute “public or private education”, other than a Commercial School use, which is specifically exclude from

Section 70 of the Zoning Bylaw. Therefore, as the City has already classified Fresh Start Partners as a use that is not “public or private education”, for the purposes of issuing a development permit, it cannot now classify Fresh Start Partners as “public or private education” for the purposes of applying Section 70 of the Zoning Bylaw.

3. The application fully complies with all requirements of the Zoning Bylaw. Therefore pursuant to Section 642(1) of the *Municipal Government Act* (“MGA”), the development authority is required to issue a development permit.
4. If the setback in Section 70 of the Zoning Bylaw is applicable (which is not acknowledged), then it is appropriate for the SDAB to vary the setback for the following reasons:
 - a) the setback is 173 metres, meaning that the variance sought is only 27 metres;
 - b) Fresh Start Partners is already in a commercial area with a variety of general commercial uses, including a number of other establishments that sell liquor. In particular, there is already a liquor store in closer proximity to Fresh Start Partners;
 - c) the variance will not negatively impact the amenities of the neighbourhood or the use, value and enjoyment of neighbouring properties.
5. Such further and other grounds of appeal as may be presented at the hearing of the within appeal.

<i>General Matters</i>

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 330.2(3), **Cannabis Retail Stores** is a **Permitted Use** in the **(CB1) Low Intensity Business Zone**.

Under section 7.4(9), **Cannabis Retail Stores** 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.

Under section 7.8(9), **Private Education Services** means:

development for instruction and education which is not maintained at public expense and which may or may not offer courses of study equivalent to those offered in a public school or private instruction as a Home Based Business. This Use includes dormitory and Accessory buildings. This Use does not include Commercial Schools.

Under section 7.8(11), **Public Education Services** means:

development which is publicly supported or subsidized involving public assembly for educational, training or instruction purposes, and includes the administration offices required for the provision of such services on the same Site. This Use includes public and separate schools, community colleges, universities, and technical and vocational schools, and their administrative offices. This Use does not include Private Education Services and Commercial Schools.

Under section 6.1, **Site** means “an area of land consisting of one or more abutting Lots.”

Section 330.1 states that the **General Purpose** of the **(CB1) Low Intensity Business Zone** is to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

Section 819.1 states that the **General Purpose** of the **Main Streets Overlay** is:

to encourage and strengthen the pedestrian-oriented character of Edmonton’s main street commercial areas that are located in proximity to residential and transit-oriented areas, by providing visual interest, transparent storefront displays, and amenities for pedestrians.

Section 70 - Cannabis Retail Sales regulations

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 a Cannabis Retail Sales shall not be located less than 200 m from any Site being used for a public library, or for public or private education at the time of the application for the Development Permit for the 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 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 in the form of books, manuscripts, recordings and films for public use, and does not include private libraries, museums or art galleries; and
 - c. the term "public or private education" is limited to elementary through to high schools inclusive only, and does not include dance schools, driving schools or other Commercial Schools.
 3. Any Site containing a Cannabis Retail Sales shall not be located less than 100 m from any Site being used for Community Recreation Services Use, a community recreation facility, a provincial health care facility, as public lands, or any Site that is designated as school reserve or municipal and school reserve at the time of the application for the Development Permit for the Cannabis Retail Sales. 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. 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
 - c. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.
 4. **Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 70(2) or 70(3).**

5. 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 store front that is visible from the street other than a Lane, or a shopping centre parking lot, or a 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.
6. The Development Officer shall impose a condition on any Development Permit issued for Cannabis Retail Sales requiring that the development:
 - a. shall not commence until authorized by and compliant with superior legislation; and
 - b. must commence within nine (9) months of the date of approval of the Development Permit.
7. For the purposes of Section 70(6), development commences when the Cannabis Retail Sales Use is established or begins operation.

Development Officer's Determination


The proposed Cannabis Retail Store does not comply with the minimum setback requirement from a (insert prohibited use such as park, school, etc.) (Section 70.2):

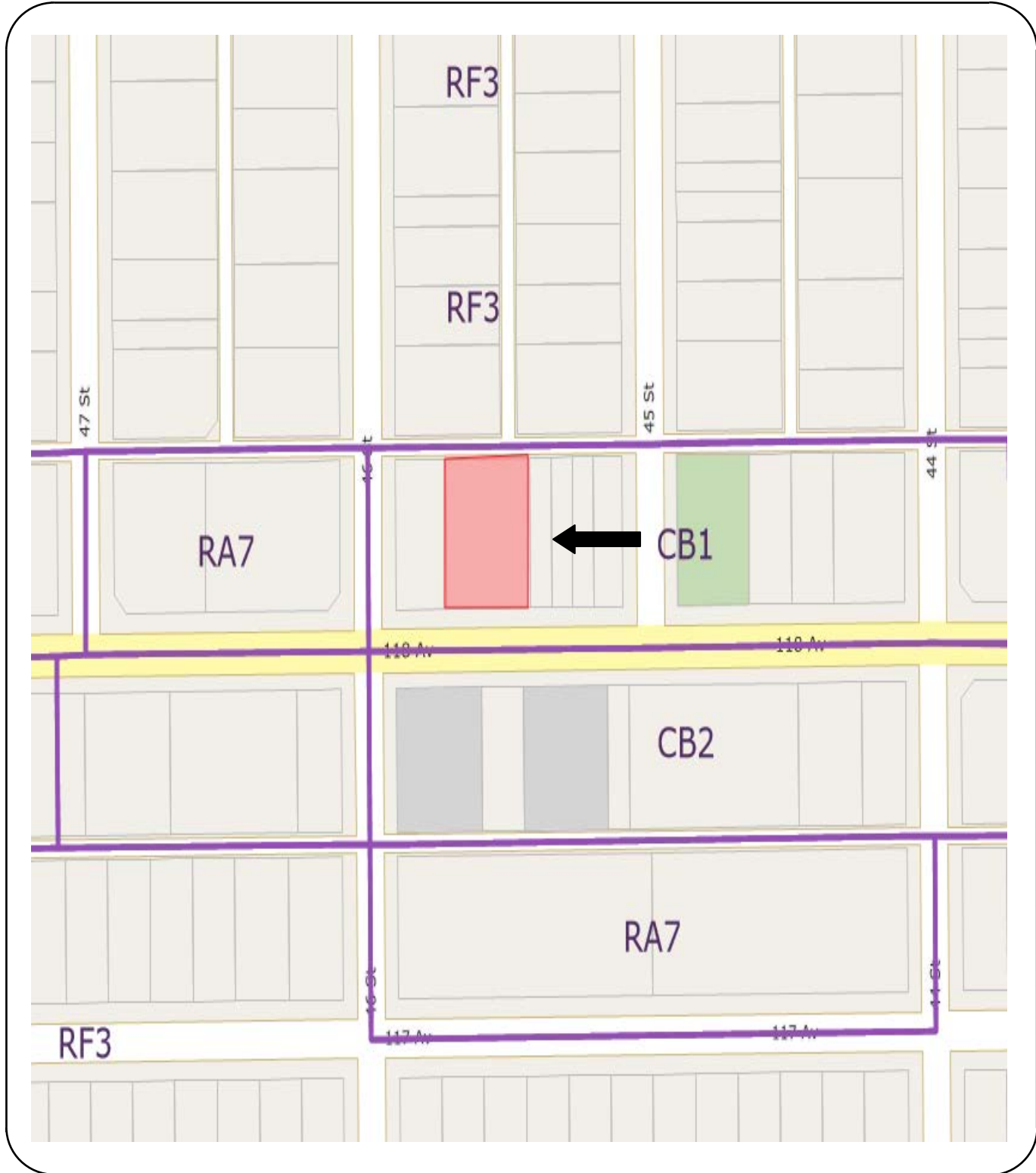
Required Setback: 200 m
Proposed Setback: 173 m
Deficient by 27 m

Under Sections 70.1(b) and 70.4 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.

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.

	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: 286180748-001 Application Date: JUN 28, 2018 Printed: August 24, 2018 at 3:55 PM Page: 1 of 1																				
This document is a Development Permit Decision for the development application described below.																						
Applicant <div style="border: 1px solid black; width: 200px; height: 50px; margin: 0 auto;"></div>	Property Address(es) and Legal Description(s) 4512 - 118 AVENUE NW Condo Common Area (Plan 1025138)																					
Specific Address(es) Entryway: 4512 - 118 AVENUE NW Building: 4512 - 118 AVENUE NW																						
Scope of Application To change the use from General Retail (India Bazaar) to Cannabis Retail Sales																						
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 105.9 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>			Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 105.9	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)																		
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I/We certify that the above noted details are correct. Applicant signature: _____																						
Development Application Decision Refused Issue Date: Aug 24, 2018 Development Authority: Chow, Stephen Reason for Refusal The proposed Cannabis Retail Store does not comply with the minimum setback requirement from a (insert prohibited use such as park, school, etc.) (Section 70.2): Required Setback: 200 m Proposed Setback: 173 m Deficient by 27 m Under Sections 70.1(b) and 70.4 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. Rights of Appeal 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.																						
Fees <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$5,600.00</td> <td style="text-align: right;">\$5,600.00</td> <td style="text-align: right;">05140433</td> <td style="text-align: right;">Jun 28, 2018</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$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;">\$5,600.00</td> <td style="text-align: right; border-top: 1px solid black;">\$5,600.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$5,600.00	\$5,600.00	05140433	Jun 28, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$5,600.00	\$5,600.00		
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Totals for Permit:	\$5,600.00	\$5,600.00																				
THIS IS NOT A PERMIT																						



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-155



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

APPELLANT:

ADDRESS OF APPELLANT: 3208 – 105 Street NW

APPLICATION NO.: 275811102-003

APPLICATION TO: Convert a Single Detached House to a six-sleeping unit Lodging House

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: August 21, 2018

DATE OF APPEAL: August 29, 2018

NOTIFICATION PERIOD: August 28, 2018 through September 18, 2018

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10509 - 32A Avenue NW

LEGAL DESCRIPTION: Plan 4884TR Blk 14 Lot 7

ZONE: RF1-Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

I would like to appeal the decision based on the potentially negative impact it could have on the neighborhood. Negative elements such as increased traffic, influx of unknown individuals, the negative impact on property value, and the safety of my young kids along with the rest of the kids in the neighborhood. The proposal I feel is inappropriate for the location.

General Matters

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (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, [...]

- (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made,

or

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any 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*

Section 110.1, the **General Purpose** of **(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, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

Discretionary Use

Section 110.3(4) states **Lodging Houses** is a **Discretionary Use** in the **(RF1) Single Detached Residential Zone**.

Under Section 7.3(6), **Lodging Houses** means:

a building or part of building, used for Congregate Living, containing Sleeping Units and four or more persons, and where there is no provision of on-site care, treatment or professional services of a physical or mental health nature. This Use does not include Extended Medical Treatment Services, Detention and Correction Facilities, Fraternity and Sorority Housing, Group Homes, and Limited Group Homes.

Under Section 6.1, **Congregate Living** means four or more individuals occupying Sleeping Units in a building where the occupants share access to facilities such as cooking, dining, laundry, or sanitary facilities. Typical Uses where Congregate Living is found include Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses.

Under Section 6.1, **Sleeping Unit** means a Habitable Room in a building used for Congregate Living in which the room is occupied by a person under any form of accommodation agreement providing remuneration for the room, and the room:

- a. does not include provision for cooking or food preparation except as provided for in Section 76 and 79 of this Bylaw;
- b. may or may not be equipped with sanitary facilities; and
- c. provides accommodation for a maximum of two persons.

Development Officer's Determination

Discretionary Use - A Lodging House is approved as a Discretionary Use in the RF1 Zone (Section 110.3). [unedited]

Section 76 – Lodging Houses

In addition to the regulations in Section 96 of this Bylaw, Lodging Houses shall comply with the following regulations:

1. The maximum occupancy of a Lodging House in a Zone where Lodging Houses are a Discretionary Use shall be a maximum of 6 residents;
2. The maximum occupancy of a Lodging House in a Zone where Lodging Houses are a Permitted Use shall be the greater of 6 residents or 1 resident per 60 m² of Lot size;

3. The Development Officer may restrict the occupancy of a Lodging House to less than the maximum number of residents allowed having regard for the threshold purpose identified in Section 96, the level of traffic generation, parking demand, and frequency of visits by emergency vehicles relative to that which is characteristic of the Zone in which the Lodging House is located;
4. A Lodging House shall be developed as either a purpose-built freestanding structure, or Single Detached Housing converted for the purpose, or part of an Apartment Housing development;
5. A Lodging House may be located in Duplex Housing or Semi-detached Housing converted for the purpose in a Zone where Lodging Houses are a Permitted Use and both units are operated by a single provider;
6. In a Zone where Lodging Houses are a Permitted Use and where more than 12 Sleeping Units are allowed in a development, Sleeping Units may include limited food preparation facilities such as bar fridge, mini-sink, and microwave;
7. No Major Home Based Business, Secondary Suite, Garden Suite or Garage Suite shall be permitted as part of a Lodging House development or on the Site of such development;
8. Where a Lodging House is designed as a freestanding structure it shall be of a size, scale, and outward appearance that is typical of surrounding residential development; and
9. Increases in vehicular traffic generation and parking demand must be to the satisfaction of the Development Officer and/or Transportation Services.

<i>Section 96 - Lodging Houses Thresholds</i>
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1. Special Residential Facilities

For the purpose of this section, Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses shall be collectively referred to as Special Residential Facilities. Group Homes developed in combination with Apartment Housing either in one building or on one Site, and which meet the criteria of Section 94, Supportive Community Provisions, shall be exempt from the requirements of subsection 96(3)(b) and (c) of this Bylaw.

2. Threshold Purpose

The purpose of the Fraternity and Sorority Housing, Limited Group Homes, Group Homes, and Lodging Houses Thresholds is to:

- a. ensure that the capacity of any neighbourhood to accommodate Special Residential Facilities is not exceeded;

- b. ensure that Special Residential Facilities are available in all neighbourhoods; and
- c. protect existing Special Residential Facilities from concentration that could impair their proper functioning.

3. General Regulations

Special Residential Facilities shall comply with all thresholds contained in this Section in addition to any other regulations in this Bylaw including any relevant Special Land Use Provisions that apply. In all cases, the most restrictive threshold shall apply.

- a. When determining the threshold for the number of Special Residential Facilities per neighbourhood, a maximum of 3 facilities per 1000 persons shall be allowed in any neighbourhood.
- b. When determining the threshold for the number of Special Residential Facilities by Use per block.
 - i. a maximum of 2 Special Residential Facilities shall be allowed on a single block in a residential Zone;
 - ii. a maximum block length of 150 m measured from the nearest intersection shall be used to determine this threshold.
- c. When determining the threshold for the number of residents of Special Residential Facilities per opposing block face;
 - i. accommodation for a maximum of 12 residents shall be allowed on an opposing block face in Special Residential Facilities in any residential Zone where either Group Homes or Lodging Houses are a Discretionary Use;
 - ii. accommodation for a maximum of 30 residents shall be allowed on an opposing block face in Special Residential Facilities in any residential Zone where either Group Homes or Lodging Houses are a Permitted Use; and
 - iii. a maximum block face length of 150 m measured from the nearest intersection shall be used to determine this threshold.

4. Density

For the purposes of calculating Density for a Group Home or Lodging House each Sleeping Unit shall be considered a Dwelling when a development contains seven or more Sleeping Units.

5. Register

For the purpose of applying these regulations the Development Officer shall maintain a register of all approved Special Residential Facilities. The register shall include the address of the facility, maximum occupancy of the facility, and any other necessary information.

Parking

Section 54.2 Schedule 1(A)(7) states for Lodging Houses, 1 parking space per 2 Sleeping Units is required.

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.

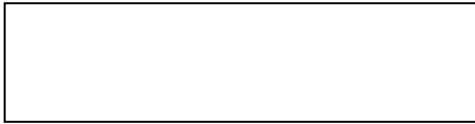


Project Number: 275811102-003
Application Date: MAY 08, 2018
Printed: August 30, 2018 at 7:58 AM
Page: 1 of 4

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)

10509 - 32A AVENUE NW
Plan 4884TR Blk 14 Lot 7

Specific Address(es)

Entryway: 10509 - 32A AVENUE NW
Building: 10509 - 32A AVENUE NW

Scope of Permit

To convert a Single detached House to a 6-sleeping unit Lodging House

Permit Details

Class of Permit: Class B
Gross Floor Area (sq.m):
New Sewer Service Required: Y
Site Area (sq. m.): 509.95

Contact Person:
Lot Grading Needed?: N
NumberOfMainFloorDwellings: 4
Stat. Plan Overlay/Annex Area: (none)

I/We certify that the above noted details are correct.

Applicant signature: _____

Development Permit Decision

Approved

Issue Date: Aug 21, 2018 **Development Authority:** LANGILLE, BRANDON



Project Number: **275811102-003**
Application Date: MAY 08, 2018
Printed: August 30, 2018 at 7:58 AM
Page: 2 of 4

Major Development Permit

Subject to the Following Conditions

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21. (Reference Section 17.1)

This Development Permit authorizes development to change the Use from Single Detached Housing to a Lodging House (6 sleeping units). The development shall be constructed in accordance with the stamped and approved drawings.

The required parking spaces shall be wholly provided on the same Site as the building. (Reference Section 54.2(2)(a) and Schedule 1)

No Major Home Based Business, Secondary Suite, Garden Suite or Garage Suite shall be permitted as part of the Limited Group Home development or on the Site of such development (Reference Section 76.7).

For the purposes of calculating Density for a Group Home or Lodging House each Sleeping Unit shall be considered a Dwelling when a development contains seven or more Sleeping Units (Reference Section 96.4).

For the purpose of applying these regulations the Development Officer shall maintain a register of all approved Special Residential Facilities. The register shall include the address of the facility, maximum occupancy of the facility, and any other necessary information (Reference Section 96.5)

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Sanitary Sewer Trunk Fund fee of \$2326.00 (\$1163/Dwelling). 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.

ADVISEMENTS:

- i.) Signs require separate Development Applications.
- ii.) 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.
- iii.) This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.
- iv.) Any future deck development greater than 0.6m (2ft) in height will require development and building permit approvals
- v.) Any future deck enclosure or cover requires a separate development and building permit approval.
- vi.) Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.
- vii.) An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site.



Project Number: **275811102-003**
 Application Date: MAY 08, 2018
 Printed: August 30, 2018 at 7:58 AM
 Page: 3 of 4

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Variances

Discretionary Use - A Lodging House is approved as a Discretionary Use in the RF1 Zone (Section 110.3).

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.

Notice Period Begins: Aug 28, 2018

Ends: Sep 18, 2018

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid

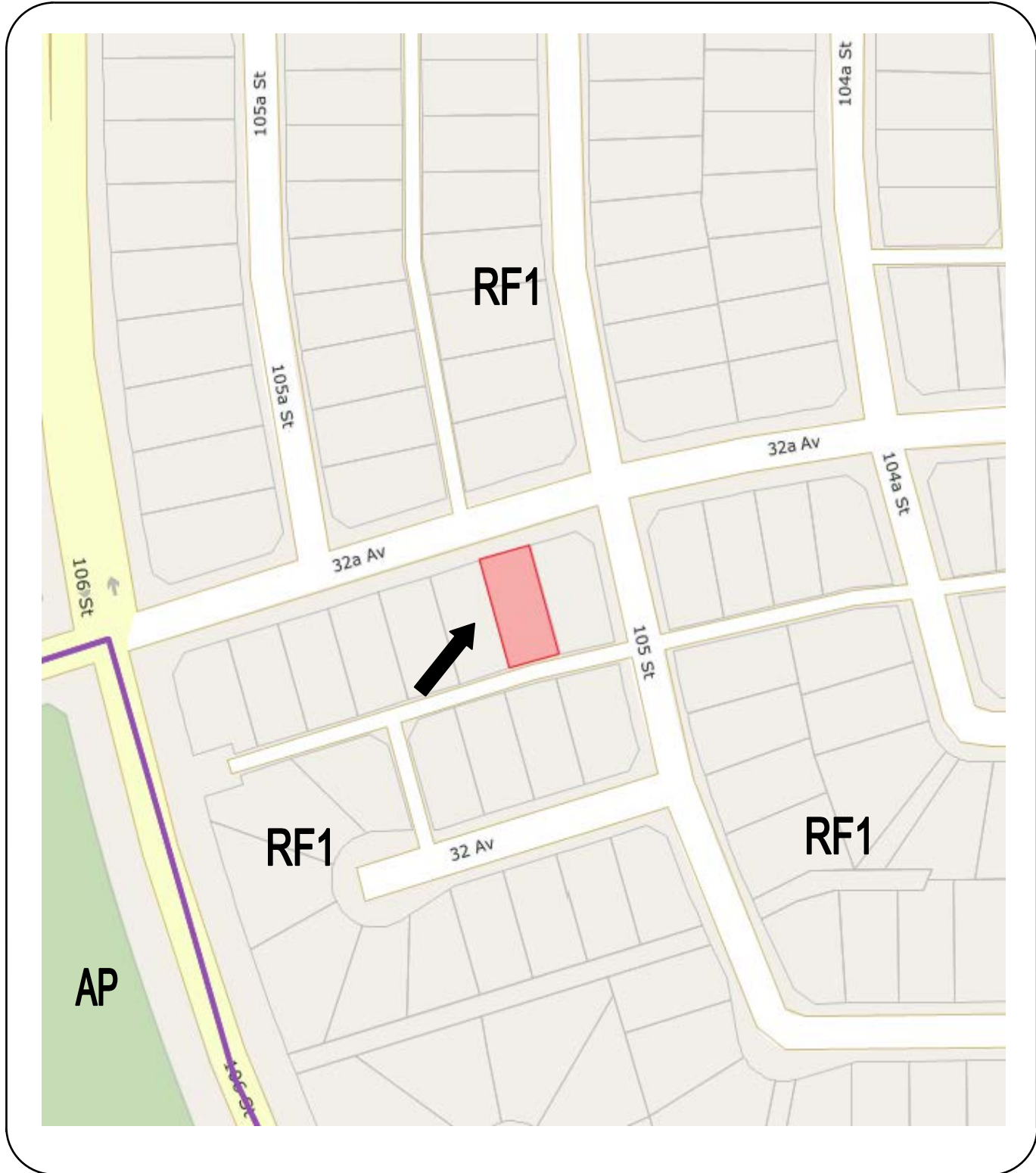


Project Number: **275811102-003**
Application Date: MAY 08, 2018
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Page: 4 of 4

Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee # of dwelling units	\$150.00	\$150.00	05003222	May 08, 2018
Sanitary Sewer Trunk Fund 2012+	\$2,326.00	\$2,326.00	05283428	Aug 24, 2018
Major Dev. Application Fee	\$510.00	\$510.00	05003222	May 08, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$2,986.00</u>	<u>\$2,986.00</u>		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-156

