

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

Wednesday, April 22, 2020

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

I 9:00 A.M. SDAB-D-20-042

To construct a Single Detached House with front attached Garage, Unenclosed Front Porch, fireplace and rear uncovered deck (1.98 metres by 4.83 metres)

13411 – 109 Street NW
Project No.: 339684590-001

II 9:00 A.M. SDAB-D-20-041

To construct exterior alterations (Building Height increase) to an existing Garden Suite

11837 - 85 Street NW
Project No.: 345423277-001

III 9:00 A.M. SDAB-D-20-043

To continue the Use of an approved Cannabis Sales

10650 – 82 Avenue NW
Project No.: 287274750-005

IV 9:00 A.M. SDAB-D-20-027

Change the Use from Professional, Financial and Office Support Services to a Personal Service Shop (operating as Body Rub Centre)

16872 - 111 Avenue NW, 16904C - 111 Avenue NW
Project No.: 348590018-002

V 1:30 P.M. SDAB-D-20-029

Construct exterior alterations to a Semi-detached House (front Driveway extension, 6.58 metres by 2.01 metres)

1413 – 26 Avenue NW
Project No.: 343592655-001

VI 1:30 P.M. SDAB-D-20-044

Construct a Single Detached House with front attached Garage, Unenclosed Front Porch, front and rear balconies, rear uncovered deck (3.66 metres by 4.72 metres), fireplace, and basement development (NOT to be used as an additional Dwelling)

13107 – 66 Avenue NW
Project No.: 350536685-001

VII 1:30 P.M. SDAB-D-20-045

To add a Cannabis Retail Sales Use to the basement of a Mixed Use building and to construct interior alterations

5231 Terwillegar Boulevard NW
Project No.: 352995301-002

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-20-042

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 339684590-001

APPLICATION TO: Construct a Single Detached House with front attached Garage, Unenclosed Front Porch, fireplace and rear uncovered deck (1.98 metres by 4.83 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 27, 2020

DATE OF APPEAL: March 12, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 13411 – 109 Street NW

LEGAL DESCRIPTION: Plan 6280KS Blk 24 Lot 5

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:

Unfortunately, we only want to do an infill on this site if we can get front access for a variety of reasons:

Several Nearby Properties have front access garages, specifically: 10904 134 AVE , 10822 134 AVE NW , 10926 134A AVE, 13505 109 ST NW.

The rear lane is in an extreme state of disrepair.

The rear lane does not have any snow removal and coupled with the state of repair would make winter access by bike or small car impossible.

The engineer has specified retaining wall requirements to the rear which would make rear construction of a rear garage impractical or impossible.

Construction of a rear garage would necessarily cover over the water line and possibly the gas line which would severely affect construction timelines. As it would not be possible to build the garage this construction season since we would be required to wait until completion of the primary dwelling structure. Furthermore, this would make any future repairs difficult and costly.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board (“SDAB”) made and passed the following motion on March 25, 2020:

“That the appeal hearing be rescheduled to a date to be determined.”

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 110.2(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.2(8), **Single Detached Housing** means “development consisting of a building containing one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.”

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, Garden Suites, Semi-detached Housing and Duplex Housing.”

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

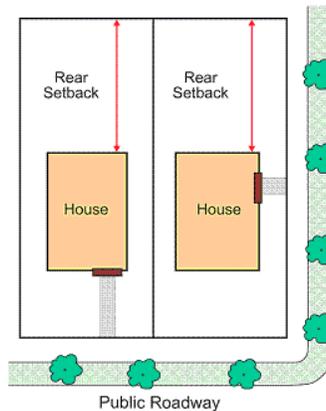
to regulate residential development in Edmonton’s mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Rear Setback

Section 814.3(4) states “the minimum Rear Setback shall be 40% of Site Depth, [...]”

Under section 6.1 **Rear Setback** means:

the distance that a development or a specified portion of it, must be set back from a Rear Lot Line. A Rear Setback is not a Rear Yard, Amenity Space or Separation Space.



Under section 6.1, **Site Depth** means “the distance between the mid-points of the Front Lot Line and the mid-points of the Rear Lot Line.”

Development Officer’s Determination

1. Reduced Rear Setback - The minimum rear setback shall be 40% of site depth (Section 814.3.4).

Required: 14.6m (40% of 36.6m)

Proposed: 11.1m (30% of 36.6m)

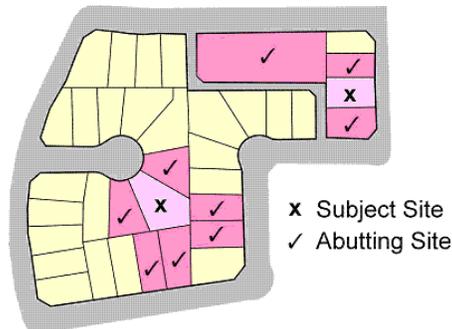
Deficient by: 3.5m

Driveway

Section 814.3(17) states “Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue.”

Under section 6.1 **Abut** or **abutting** means:

immediately contiguous to or physically touching, and when used with respect to a lot or Site, means that the lot or Site physically touches upon another lot, Site, or piece of land, and shares a property line or boundary line with it;



Under section 6.1 **Lane** means “an alley as defined in the Traffic Safety Act.”

Under section 6.1 **Driveway** means “an area that provides for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”

Development Officer’s Determination

2. Vehicular Access - Where the Site Abuts a Lane, vehicular access shall be from the Lane (Section 814.3.17).

Proposed: The vehicular access is located off of 109 Street (front).

Attached Garage

Section 814.3(18) states Attached Garages shall be developed in accordance with the following:

- a. a Garage may protrude beyond the front or flanking wall of the principal building a distance that is characteristic of existing Garages on the blockface;
- b. a Garage may have a maximum width that is characteristic of the width of existing attached Garages on the blockface;
- c. building mass shall be articulated through features such as recessions or off-sets, architectural treatments, and Landscaping; and
- d. ...

Development Officer's Determination

3. Attached Garage - a Garage may protrude beyond the front or flanking wall of the principal building a distance that is characteristic of existing Garages on the blockface (814.3.18.a).

Proposed: The front attached garage protrudes past the front wall of the house. No other front attached garages on the blockface protrude past the front wall of the house.

4. Attached Garage - a Garage may have a maximum width that is characteristic of the width of existing attached Garages on the blockface (814.3.18.b).

Proposed: The front attached garage is a two car garage, only one single car garage currently exists on the blockface.

Community Consultation

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) and 814.3(9) of this Overlay:

- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;

- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit Application in accordance with Sections 11.3 and 11.4.

Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	814.3(17) – Driveway Access 814.3(18) – Attached Garage
Tier 2	The municipal address and assessed owners of the land Abutting the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site of the proposed development	814.3(4) – Rear Setback

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 Minor Development Permit</h2>		Project Number: 339684590-001 Application Date: AUG 29, 2019 Printed: February 27, 2020 at 2:13 PM Page: 1 of 2	
This document is a Development Permit Decision for the development application described below.				
Applicant	Property Address(es) and Legal Description(s) 13411 - 109 STREET NW Plan 6280KS Blk 24 Lot 5 Specific Address(es) Entryway: 13411 - 109 STREET NW Building: 13411 - 109 STREET NW			
Scope of Application To construct a Single Detached House with front attached Garage, Unenclosed Front Porch, fireplace and rear uncovered deck (1.98m x 4.83m).				
Permit Details <table border="0" style="width: 100%; font-size: small;"> <tr> <td style="width: 50%;"> # of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N </td> <td style="width: 50%;"> # of Primary Dwelling Units To Construct: 1 Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>			# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: 1 Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
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Development Application Decision Refused Issue Date: Feb 27, 2020 Development Authority: TODD, ADAM Reason for Refusal <ol style="list-style-type: none"> 1. Reduced Rear Setback - The minimum rear setback shall be 40% of site depth (Section 814.3.4). Required: 14.6m (40% of 36.6m) Proposed: 11.1m (30% of 36.6m) Deficient by: 3.5m 2. Vehicular Access - Where the Site Abuts a Lane, vehicular access shall be from the Lane (Section 814.3.17). Proposed: The vehicular access is located off of 109 Street (front). 3. Attached Garage - a Garage may protrude beyond the front or flanking wall of the principal building a distance that is characteristic of existing Garages on the blockface (814.3.18.a). Proposed: The front attached garage protrudes past the front wall of the house. No other front attached garages on the blockface protrude past the front wall of the house. 4. Attached Garage - a Garage may have a maximum width that is characteristic of the width of existing attached Garages on the blockface (814.3.18.b). Proposed: The front attached garage is a two car garage, only one single car garage currently exists on the blockface. 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				
THIS IS NOT A PERMIT				



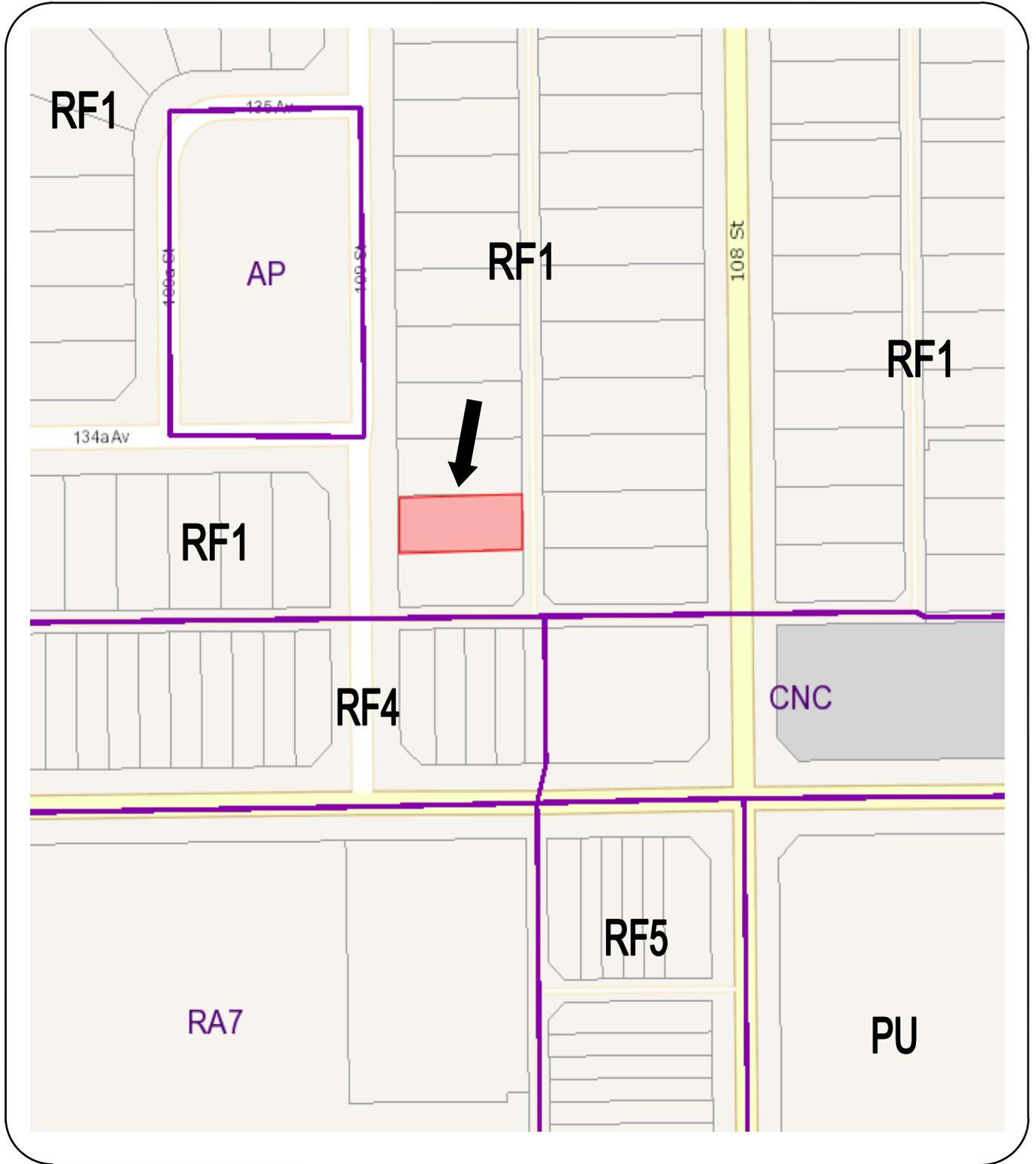
Project Number: **339684590-001**
Application Date: AUG 29, 2019
Printed: February 27, 2020 at 2:13 PM
Page: 2 of 2

Application for Minor Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Lot Grading Fee	\$145.00	\$145.00	91117301742S001	Dec 24, 2019
Development Permit Inspection Fee	\$207.00	\$207.00	91117301742S001	Dec 24, 2019
Dev. Application Fee	\$493.00	\$493.00	91117301742S001	Dec 24, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$845.00</u>	<u>\$845.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-042



ITEM II: 9:00 A.M.

FILE: SDAB-D-20-041

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 345423277-001

APPLICATION TO: Construct exterior alterations (Building Height increase) to an existing Garden Suite

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 27, 2020

DATE OF APPEAL: March 4, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11837 - 85 Street NW

LEGAL DESCRIPTION: Plan RN76 Blk 2 Lot 2

ZONE: (RF6) Medium Density Multiple Family Zone

OVERLAY: N/A

STATUTORY PLAN: Alberta Avenue / Eastwood Area Redevelopment Plan

General Matters

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

I wish to appeal as the Garden suite is built already and I have put my hard savings in building it for personal use and the height had been increased because of the engineering drawings not coordinated by the framers and I trusted them to follow up for lumber but they didn't and the height got increased. Please allow the garden suite as I have put a lot of labour and savings into it for my young son so he lives next to me.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board (“SDAB”) made and passed the following motion on March 25, 2020:

“That the appeal hearing be rescheduled to a date to be determined.”

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

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- (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, or [...]

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*:

Section 170.3(3) states a **Garden Suite** is a **Discretionary Use** in the **(RF6) Medium Density Multiple Family Zone**.

Under Section 7.2(3), **Garden Suite** means:

an Accessory building containing a Dwelling, which is located separate from the principal Use which is Single Detached Housing, and which may contain a Parking Area. A Garden Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are separate from those of the principal Dwelling located on the Site. This Use includes Mobile Homes that conform to Section 78 of this Bylaw. This Use does not include Secondary Suites, Blatchford Lane Suites, or Blatchford Accessory Suites.

Section 170.1 states the **General Purpose** of the **(RF6) Medium Density Multiple Family Zone** is to provide for medium density housing, where some units may not have access at ground level.

Height – Garden Suite

Under section 6.1, **Height** means “a vertical distance between two points.”

Under section 87.2(a) the maximum height shall be 6.5 metres where the Garden Suite has a roof slope of 4/12 (18.4°) or greater.

Under section 52.2 in determining whether a development conforms to the maximum Height permissible in any Zone, the following regulations shall apply:

- c. Where the maximum Height as determined by Section 52.1 is measured to the midpoint, the ridge line of the roof shall not extend more than 1.5 metres above the maximum permitted building Height of the Zone or overlay, or in the case of a Garden Suite the maximum permitted building Height in accordance with Section 87 of this Bylaw.

Development Officer’s Determination

Height - The Height of a Garden Suite with a roof slope of 4/12 or greater shall be 6.5m (Section 87.2.a):

Required: 6.5m

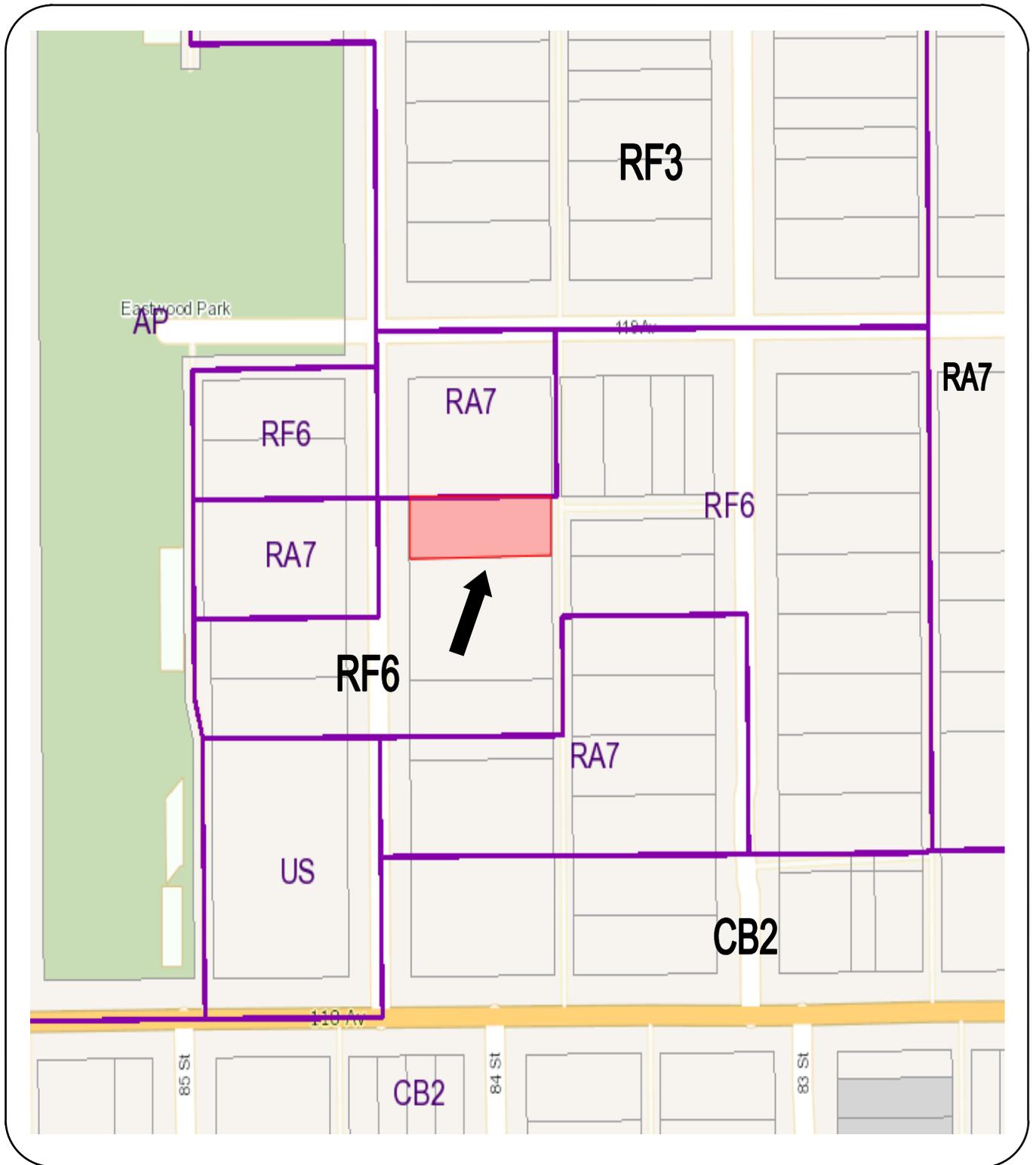
Proposed: 7.0m

Exceeds by: 0.5m

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: 345423277-001 Application Date: NOV 01, 2019 Printed: February 27, 2020 at 4:20 PM Page: 1 of 1																														
<h2 style="margin: 0;">Application for Alterations Permit</h2>																															
This document is a Development Permit Decision for the development application described below.																															
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Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> <td style="width: 50%; border: none;"> Site Area (sq. m.): 696.17 </td> </tr> </table>		Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 696.17																												
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Building Permit Decision Refused																															
Fees <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 60%;"></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>Building Permit Fee (Construction Value)</td> <td style="text-align: right;">\$0.00</td> <td style="text-align: right;">\$975.00</td> <td style="text-align: right;">06255521</td> <td style="text-align: right;">Nov 01, 2019</td> </tr> <tr> <td>Safety Codes Fee</td> <td style="text-align: right;">\$0.00</td> <td style="text-align: right;">\$39.00</td> <td style="text-align: right;">06255521</td> <td style="text-align: right;">Nov 01, 2019</td> </tr> <tr> <td>Building Permit Refund</td> <td style="text-align: right;">\$1,014.00</td> <td></td> <td></td> <td></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;">\$1,014.00</td> <td style="text-align: right; border-top: 1px solid black;">\$1,014.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Building Permit Fee (Construction Value)	\$0.00	\$975.00	06255521	Nov 01, 2019	Safety Codes Fee	\$0.00	\$39.00	06255521	Nov 01, 2019	Building Permit Refund	\$1,014.00				Total GST Amount:	\$0.00				Totals for Permit:	\$1,014.00	\$1,014.00		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-041



ITEM III: 9:00 A.M.

FILE: SDAB-D-20-043

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.:	287274750-005
APPLICATION TO:	To continue the use of an approved Cannabis Retail Sales
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	March 4, 2020
DATE OF APPEAL:	March 12, 2020
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	10650 – 82 Avenue NW
LEGAL DESCRIPTION:	Plan I Blk 65 Lots 13-15
ZONE:	(CB2) General Business Zone
OVERLAY:	Main Streets Overlay
STATUTORY PLAN:	Strathcona Area Redevelopment Plan

Grounds for Appeal

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

The Appellant respectfully appeals the decision of the development officer on the following grounds:

1. The development was approved by the Subdivision and Development Appeal Board (“SDAB”) by written decision dated December 20, 2018 (File Number: SDAB-D-18-203).
2. The development was approved with a condition requiring the development to commence within nine months of the date when Alberta Gaming, Liquor and Cannabis (“AGLC”) removed its temporary suspension for accepting and issuing applications for Cannabis Retail licensing.

3. On February 25, 2019, City Council amended the Edmonton Zoning Bylaw for which all future development permits for cannabis retail would no longer be subject to the nine-month condition.
4. For circumstances beyond the control of the Appellant, for more than six months, AGLC suspended the number of store licences issued due to marijuana supply shortages.
5. The Appellant applied for a new development permit to “continue the use of an approved Cannabis Retail Sales.”
6. The proposed development represents a permitted use on the subject lands (340 (CB2) General Business Zone, Edmonton Zoning Bylaw).
7. The provisions of s. 70 of the Edmonton Zoning Bylaw do not limit this Board’s authority to approve the proposed development.
8. If the setback in Section 70 of the Edmonton Zoning Bylaw is applicable (which is not acknowledged), then it is appropriate for this Board to vary the setback for the following reasons:
 - (a) the setback is 179 metres, meaning that the variance sought is only 21 metres;
 - (b) the variance will not negatively impact the amenities of the neighbourhood or the use, value and enjoyment of neighbouring properties.
9. Such further and other reasons as may be presented at the hearing of this matter.

<i>General Matters</i>

Appeal Information:

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- (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 340.2(6), **Cannabis Retail Sales** is a **Permitted Use** in the **(CB2) General Business 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.

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 340.1 states that the **General Purpose** of the **(CB2) General Business Zone** is “to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.”

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

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 public education service (Section 70.2):

**Required Setback: 200 m
 Proposed Setback: 179 m from Old Scona Academic Public School (Gr. 10 – 12)
 Deficient by 21 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.

Previous Subdivision and Development Appeal Board Decisions

Application Number	Description	Decision
SDAB-D-18-203	To change the Use from a Pawn Shop and a Restaurant to a Cannabis Retail Sales and construct interior alterations	December 20, 2018; “The Appeal is ALLOWED. The decision of the Development Officer is REVOKED. The Development is APPROVED.”
SDAB-D-16-149	To change the use from a General Retail Store to a Pawn Store (Cash Canada Pawn Shop).	August 12, 2016; The appeals are DENIED, and the decision of the Development Authority is CONFIRMED. The development is GRANTED as approved by the Development Authority.

SDAB-D-14-192	To relocate an existing Major Alcohol Sales Use business from 8204-109 Street to 10650-82 Avenue (change the use from a Business Support Services Use that was a Rogers Video to a Major Alcohol Sales Use and to construct interior alterations (Liquor Depot).	August 7, 2014; The appeal is DENIED and the decision of approval by the Development Authority CONFIRMED.
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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.

	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: 287274750-005 Application Date: FEB 28, 2020 Printed: March 6, 2020 at 2:51 PM Page: 1 of 1		
This document is a Development Permit Decision for the development application described below.				
Applicant	Property Address(es) and Legal Description(s) 10650 - 82 AVENUE NW Plan I Blk 65 Lots 13-15			
	Specific Address(es) Suite: 10660 - 82 AVENUE NW Entryway: 10660 - 82 AVENUE NW Building: 10650 - 82 AVENUE NW			
Scope of Application To continue the use of an approved Cannabis Retail Sales.				
Permit Details				
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)			
Development Application Decision Refused Issue Date: Mar 04, 2020 Development Authority: WELCH, IMAI Reason for Refusal The proposed Cannabis Retail Store does not comply with the minimum setback requirement from a public education site (Old Scona Academic Public School) (Section 70.4): Required Setback: 200 m Proposed Setback: 179 m Deficient by 21 m Under Section 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. 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				
	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$0.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$0.00	\$0.00		
THIS IS NOT A PERMIT				

ITEM IV: 9:00 A.M.

FILE: SDAB-D-20-027

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY TWO ADJACENT PROPERTY OWNERS

APPELLANT (No. 1):

APPELLANT (No. 2):

APPLICATION NO.: 348590018-002

APPLICATION TO: Change the Use from Professional, Financial and Office Support Services to a Personal Service Shop (operating as Body Rub Centre)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: January 16, 2020

DATE OF APPEAL (No.1): February 3, 2020

DATE OF APPEAL (No. 2): February 10, 2020

NOTIFICATION PERIOD: January 23, 2020 through February 13, 2020

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 16872 - 111 Avenue NW, 16904C - 111 Avenue NW

LEGAL DESCRIPTION: Plan 9724094 Unit 28, Condo Common Area (Plan 9724094)

ZONE: (IB) Industrial Business Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

Appellant (No. 1)

We do not feel that this is a good location to house a body rub Centre that is proposed for this location.

This location is too close to a family oriented gaming centre, as well as our other tenants do not wish to have such a facility this close to their business. We do not think that other business owners that may have facilities in this area or next to this proposed location would be in favor of this either.

Appellant (No. 2)

We respectfully ask that the SDAB leave the designated use of this location: 16872 – 111 Avenue NW, as Professional, Financial and Office Support Services. This designation fits with the business development of the West Sheffield Industrial area and the neighbouring businesses in the condominium complex in which it is located.

- Parking: this unit should remain designated as "Professional, Financial and Office Support Services" so that parking for employees and the occasional visitor can be accommodated without putting undue pressure on neighbouring businesses.

- According to the Zoning Bylaw, Section 7.4 (42): "Personal Service Shops means development used for the provision of personal services to an individual which are related to the care and appearance of the body, or the cleaning and repair of personal effects. This Use includes barbershops, hairdressers, beauty salons, tailors, dressmakers, shoe repair shops, and city cleaning establishments and laundromats. This Use does not include Health Services." [Source: [https://webdocs.edmonton.ca/zoningbylaw/ZoningBylaw/Part2/Industrial/400 \(IB\) Industrial Business Zone.htm](https://webdocs.edmonton.ca/zoningbylaw/ZoningBylaw/Part2/Industrial/400%20(IB)%20Industrial%20Business%20Zone.htm)]. Why has a development permit been issued for a Personal Services shop operating as a Body Rub Centre when this type of service is not included in the definition?

- Personal Safety:

1. The business licence requirements for a Body Rub Centre include a "patron management plan" that anticipates that patrons of the establishment may be: "intoxicated, under the influence of drugs, quarrelsome, riotous, disorderly, involved in illegal activities or convicted of an indictable criminal offence". If this establishment has to provide a plan to deal with these patrons, it stands to reason that these are the types of patrons that will be frequenting the business. The rest of the businesses in our complex should not have the burden of having to also deal with these patrons.

2. A body rub centre is allowed to remain open until 11:00 pm, which compromises the security of the other businesses in the complex and neighbouring area which are generally closed by 6:00 pm. Individual businesses who do remain open later will have to retain additional staff to ensure personal safety for their employees and customers.

3. The body rub centre is compelled to have a minimum of two employees, one of whom is a manager, on site at all times during open hours. This indicates that the patrons visiting the business must be supervised or it puts a lone employee at risk. The other employers in our complex feel that these regulations put us at risk as well, necessitating an unfair financial burden in having to ensure the personal safety of ourselves, our staff and our customers. [Source: Bylaw 13138: <https://vwww.edmonton.ca/documents/Bylaws/C13138.pdf>]

- A number of the businesses in our complex are operated/attended by women. Many of us occupy our spaces alone and must keep the doors unlocked due to the walk-in nature of our business. With a Body Rub Center in the complex, women will be at increased risk on a daily basis for simply running our businesses. One shop holds classes in the evening and the owner (female) or a member of her staff (usually female) may be on site alone, to finish closing up. The presence of a Body Rub Center would directly compromise our safety and, as a result, negatively affect our ability to effectively function as required to serve the demands of our work.

- A number of businesses in our complex and our neighbouring complex offer classes, programs and services to children. Allowing a development permit and licence for a Body Rub Centre will negatively impact the customer base for these businesses.

- The City of Edmonton and the Edmonton City Police have established a Body Rub Centre Task Force. The need for the city to have a full time task force devoted to Body Rub Centres also indicates that this type of business brings with it an undesirable security issue for neighbouring businesses.

- City Council debate: City Council is preparing to debate "the merits of a five year exit strategy on licensing Body Rub Centres". The report by City Administration is due in June, 2020. We feel that, at the very least, no development permits should be approved until the City has had a chance to review the report and make a decision on its current licensing practice for Body Rub Centres. [Source: <http://sirepub.edmonton.ca/sirepub/mtgviewer.aspx?doctype.Minutes&meetid=2283>]

- The location of this particular business: 16872 - 111 Avenue NW is a middle unit in a business condominium complex. It was previously occupied by a professional services company (Dynatax). Changing the permitted use of this middle unit, with limited parking, shared walls and late night hours is not consistent with the neighbouring businesses. The other business owners in this complex and in the neighbouring complexes feel that the development permit should not have been approved. The use as Professional, Financial and Office Support is the appropriate designation for this space.

- Unfair financial burden and loss of customer base: for all of the reasons above, we believe that the other owners of Condominium Corporation #972 4094 and our neighbouring businesses will have to provide additional security for our staff and for our customers, that we will have difficulty retaining staff and we will lose customers. We feel that the parking situation and the security and safety issues will result in disputes and loss of business. This would not be the case if the use of the space remains as "Professional, Financial and Office Support Services".

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on February 27, 2020:

“That the appeal hearing be tabled to March 18, 2020 at the verbal request of the Appellants.”

The Subdivision and Development Appeal Board made and passed the following motion on March 18, 2020:

“The hearing has been postponed to April 22, 2020.”

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, or
 - (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;
- (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 400.3(23), **Personal Service Shops** is a **Discretionary Use** in the **(IB) Industrial Business Zone**.

Under section 7.4(42), **Personal Service Shops** means:

development used for the provision of personal services to an individual which are related to the care and appearance of the body, or the cleaning and repair of personal effects. This Use includes barbershops, hairdressers, beauty salons, tailors, dressmakers, shoe repair shops, and dry cleaning establishments and laundromats. This Use does not include Health Services.

Under section 6.1, **Body Rub Centre** means:

a Personal Service Shop development where services are provided that involve the physical external manipulation of the soft tissues of the human body that are performed, offered or solicited for a fee in a manner that appeals to or is designed to appeal to erotic or sexual appetites or inclinations. This includes but is not limited to a body rub advertised by

any means as “sensual”, “sexy” or by any other word or any depiction having like meaning or implication.

Section 400.1 states that the **General Purpose** of the **(IB) Industrial Business Zone** is:

to provide for industrial businesses that carry out their operations such that no nuisance is created or apparent outside an enclosed building and such that the Zone is compatible with any adjacent non-industrial Zone, and to accommodate limited, compatible non-industrial businesses. This Zone should normally be located on the periphery of industrial areas and adjacent to arterial or major collector roadways.

<i>Body Rub Centres</i>

Section 97 states:

A Personal Service Shop that is operating as a Body Rub Centre shall comply with the following regulations:

1. At the time a Development Permit application is made for a Body Rub Centre, the proposed location of the Body Rub Centre shall not be closer than 100.0 metres from any Site having a valid development permit for Public Education Services, Private Education Services, Public Park sites, Child Care Services, Temporary Shelter Services, and/or Extended Medical Treatment Services.

For the purpose of this subsection only:

- a. the 100.0 metre separation distance shall be measured from the closest point of the Body Rub Centre 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. Public Education Services and Private Education Services are limited to primary and secondary schools inclusive that have a valid Development Permit; and
 - c. the term “Public Park sites” is limited to park Sites zoned as AP Zone, and areas in the river valley that are zoned as the A Zone.
2. Personal Service Shop Use operating as a Body Rub Centre shall not be located on a Site having a valid Development Permit for Residential Use Classes, Residential Related Use Classes, or Bars and Neighbourhood Pubs at the time of the application for the Development Permit.

3. The Development Officer shall consider Crime Prevention Through Environmental Design Criteria (CPTED) when reviewing applications for Personal Service Shop Use Class operating as a Body Rub Centre.
 - a. The Development Officer shall determine whether a CPTED Audit of the business premises is required, and may confer with the Edmonton Police Service for their recommendation;
 - b. If the Development Officer deems that a CPTED Audit is necessary, the Development Officer may include recommendations of the CPTED Audit that, in the Development Officer's opinion, have implications for land use impacts including, but not limited to, exterior illumination, landscaping, screening, signs, and access, as condition(s) of the Development Permit;
 - c. Where a Body Rub Centre is proposed to be located on the First Storey, all glazed surfaces within the Façade shall be transparent, non-reflective and maintain unobstructed visibility into and out of the Public Space of the business.
4. Signs placed on or within a Personal Service Shop Use operating as a Body Rub Centre shall comply with the applicable Sign Regulations contained in Section 59 of this Bylaw and the applicable Sign Schedule for the Land Use Zone governing the Site on which the Body Rub Centre is located, except that Fascia Signs shall not:
 - a. obstruct clear glazing required in subsection 97(3)(c) of this Bylaw; and
 - b. obstruct clear glazing as required by the Land Use Zone governing the Site on which the Body Rub Centre is located.

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: 348590018-002 Application Date: NOV 29, 2019 Printed: February 3, 2020 at 3:11 PM Page: 1 of 3
<h2 style="margin: 0;">Major Development Permit</h2>	
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) 16904C - 111 AVENUE NW Condo Common Area (Plan 9724094) 16872 - 111 AVENUE NW Plan 9724094 Unit 28
	Specific Address(es) Suite: 16872 - 111 AVENUE NW Entryway: 16872 - 111 AVENUE NW Building: 16840 - 111 AVENUE NW
Scope of Permit To change the Use from Professional, Financial and Office Support Services to a Personal Service Shop (operating as Body Rub Centre).	
Permit Details	
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 8589.56	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Permit Decision Approved Issue Date: Jan 16, 2020 Development Authority: SHAH, NIKHIL	



Project Number: **348590018-002**
 Application Date: NOV 29, 2019
 Printed: February 3, 2020 at 3:11 PM
 Page: 2 of 3

Major Development Permit

Subject to the Following Conditions

"The proposed Personal Service Shop (operating as Body Rub Centre) is listed as a Discretionary Use and is subject to the right appeal in accordance to Section 21. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

- 1) The applicant or landowner shall take all reasonable measures to fully implement the recommendations of the CPTED report for the proposed development.
- 2) Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.
- 3) Where a Body Rub Centre is proposed to be located on the First Storey, all glazed surfaces within the Façade shall be transparent, non-reflective and maintain unobstructed visibility into and out of the Public Space of the business (Reference Section 97.3(c)).
- 4) Any types of the signed are required separate development and building permits. Signs placed on or within a Personal Service Shop Use operating as a Body Rub Centre shall comply with the applicable Sign Regulations contained in Section 59 of this Bylaw and the applicable Sign Schedule for the Land Use Zone governing the Site on which the Body Rub Centre is located.
- 5) No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback.
- 6) Immediately upon demolition/ alterations of the building, the site shall be cleared of all debris.
- 7) Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51)

NOTES :

This Development Permit is not a Business Licence. A separate application must be made for a Business Licence. You may require Building permit approvals prior to issue a Business Licence.

Any proposed Signs shows under this development permit applications, if any, are not reviewed or approved. Signs require separate Development Applications. A separate application must be made for all types of Signs. You must require Development and Building permit approvals prior to installing /construct any Signs.

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 ERCB Directive 079, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2)

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

A subject development permit will expire in accordance with the provision of Section 22 of the Edmonton Zoning Bylaw 12800 as amended.

A Building Permit is required for any construction or change in the 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 (780-442-5311) for further information.

The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to



Project Number: 348590018-002
Application Date: NOV 29, 2019
Printed: February 3, 2020 at 3:11 PM
Page: 3 of 3

Major Development Permit

the presence or absence of any environmental contaminants on the property.

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

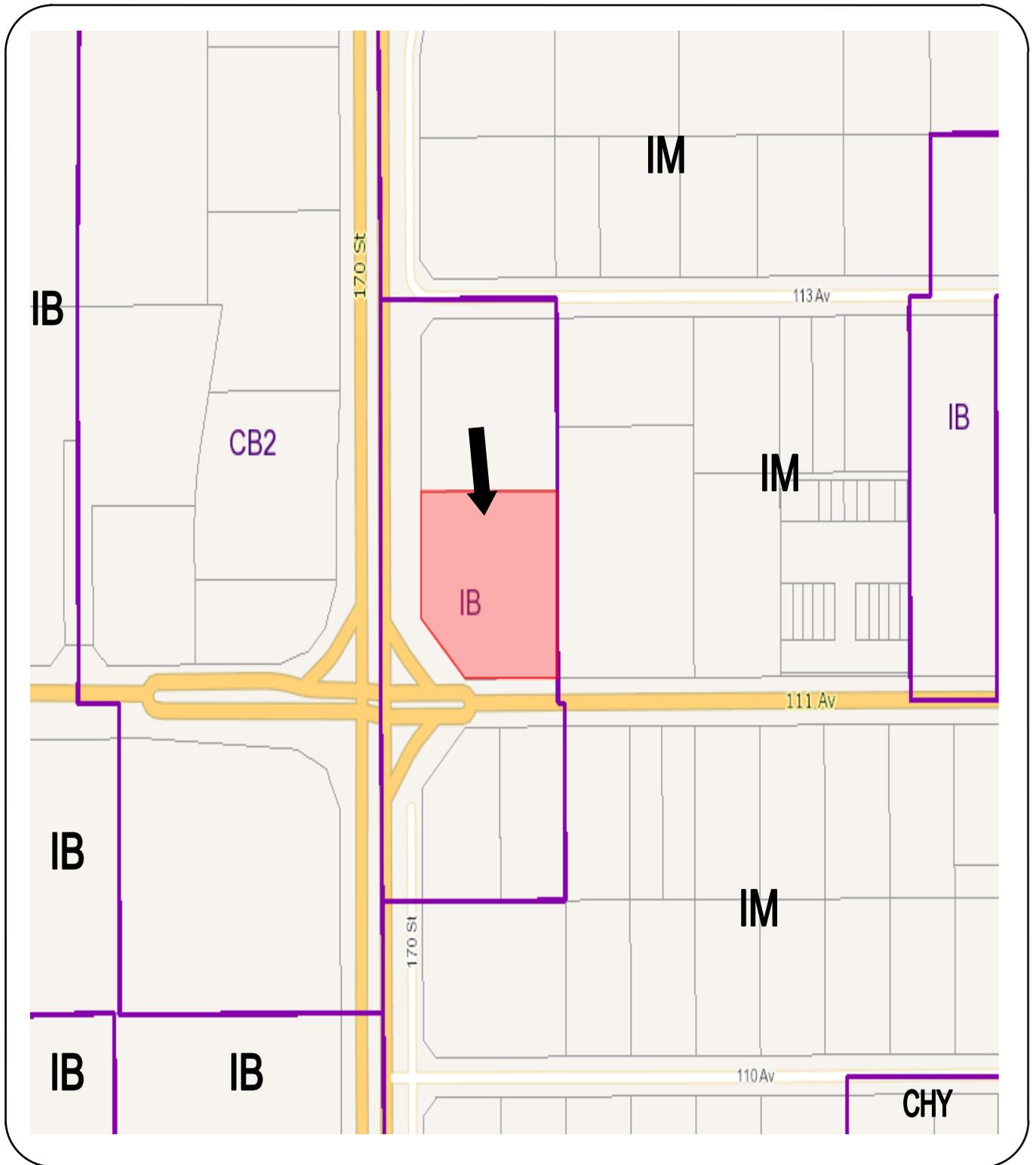
Rights of Appeal

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:Jan 23, 2020 **Ends:** Feb 13, 2020

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$518.00	\$518.00	06306377	Nov 29, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	\$518.00	\$518.00		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-027



ITEM V: 1:30 P.M.

FILE: SDAB-D-20-029

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 343592655-001

APPLICATION TO: Construct exterior alterations to a Semi-Detached House (front Driveway extension, 6.58 metres by 2.01 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: December 10, 2019

DATE OF APPEAL: December 22, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 1413 – 26 Avenue NW

LEGAL DESCRIPTION: Plan 1521297 Blk 8 Lot 59

ZONE: (RF5) Row Housing Zone

OVERLAY: N/A

STATUTORY PLAN(S): The Meadows Area Structure Plan
Tamarack Neighbourhood Structure Plan

Grounds for Appeal

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

On my property we have a single driveway but more green area as compared to other two garage homes. I am willing to utilize that space. In Refusal it is mentioned that parking not be created in front yard but this will not be a parking space as we want to make our dream home more beautiful with the extension as we will putt some beautiful tiles to make the entry more beautiful and attractive. Also I will leave the same even more green area than others. So why not to utilize the space.

To do so I will modify own property only with city permission.

We don't want this extension for parking neither covering front yard as front yard will be left 2.51 M after covering 2M with tiles .

Our neighbors have 2.05 M front yard right now as all two garages home have only this much.

See attached for reference.

Please issue permit as this permit will help us to enhance the beauty of our dream home. It will help us to make entry more beautiful and attractive.

<i>General Matters</i>

Appeal Information:

The Board is advised that the appeal hearing was scheduled for March 26, 2020 at the request of the Appellant.

The Subdivision and Development Appeal Board ("SDAB") made and passed the following motion on March 25, 2020:

"That the appeal hearing be rescheduled to a date to be determined."

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*:

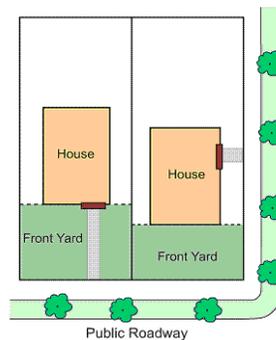
Under section 160.3(8), **Semi-detached Housing** is a **Discretionary Use** in the **(RF5) Row Housing Zone**.

Under section 6.1, **Accessory** means “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.”

Under section 6.1, **Driveway** means “an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”

Under section 6.1, **Front Yard** means:

the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



Under section 6.1, **Garage** means “an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.”

Under section 6.1, **Parking Area** means “an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.”

Under section 6.1, **Walkway** means “a path for pedestrian circulation that cannot be used for vehicular parking.”

Section 160.1 states that the **General Purpose** of **(RF5) Row Housing Zone** is “to provide for ground oriented housing.”

Off-street Parking and Loading Regulations

Section 54.1(4) states:

The Front Yard of any ground level Dwelling in any Residential Zone, or in the case of a corner Site, either the Front Yard or the flanking Side

Yard in any Residential Zone, may include a maximum of one Driveway. The Driveway shall:

- a. lead directly from the roadway to the Garage or Parking Area;
- b. ...
- c. For a Garage or Parking Area with two or more parking spaces, have a maximum width that shall be calculated as the product of 3.7 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or Parking Area, or the width of the Garage or Parking Area, whichever is the lesser; and
- d. ...

Development Officer’s Determination

1. The Driveway shall lead directly from the roadway to the Garage or Parking Area. (Reference Section 54.1(4)(a))

The proposed Driveway extension leads to the front of the house not to a Garage or Parking Area. [unedited]

2. The width of the Driveway shall not exceed the width of the Garage. (Reference Section 54.1(4)(c))

The width of the proposed Driveway and Driveway extension is 2.01 m greater than the width of the Garage. [unedited]

Location of Vehicular Parking Facilities

Section 54.2(2) states:

- ...
- e. Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, shall be located in accordance with the following:
 - i. parking spaces shall not be located within a Front Yard in a Residential Zone;
 - ii. ...
- ...

Development Officer's Determination

3. Parking spaces shall not be located within a Front Yard in a Residential Zone. (Section 54.2.2.e.(i))

The proposed Driveway extension will create parking spaces in the Front Yard in a Residential Zone. [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.

	Project Number: 343592655-001 Application Date: OCT 15, 2019 Printed: December 10, 2019 at 3:52 PM Page: 1 of 2		
<h2 style="margin: 0;">Application for Driveway Extension Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
Applicant	Property Address(es) and Legal Description(s) 1413 - 26 AVENUE NW Plan 1521297 Blk 8 Lot 59 Location(s) of Work Suite: 1413 - 26 AVENUE NW Entryway: 1413 - 26 AVENUE NW Building: 1411 - 26 AVENUE NW		
Scope of Application To construct exterior alterations to a Semi-Detached House (front Driveway extension, 6.58m x 2.01m).			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class Of Permit: Class B Stat. Plan Overlay/Annex Area: (none) </td> <td style="width: 50%; border: none;"> Site Area (sq. m.): 292.3 </td> </tr> </table>		Class Of Permit: Class B Stat. Plan Overlay/Annex Area: (none)	Site Area (sq. m.): 292.3
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: (none)	Site Area (sq. m.): 292.3		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused Issue Date: Dec 10, 2019 Development Authority: TESSERA, HERAN Reason for Refusal 1. The Driveway shall lead directly from the roadway to the Garage or Parking Area. (Reference Section 54.1(4)(a)) The proposed Driveway extension leads to the front of the house not to a Garage or Parking Area. 2. The width of the Driveway shall not exceed the width of the Garage. (Reference Section 54.1(4)(c)) The width of the proposed Driveway and Driveway extension is 2.01 m greater than the width of the Garage. 3. Parking spaces shall not be located within a Front Yard in a Residential Zone. (Section 54.2.2.e.(i)) The proposed Driveway extension will create parking spaces in the Front Yard in a Residential Zone. 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.			
Building Permit Decision Refused			
Fees			
THIS IS NOT A PERMIT			



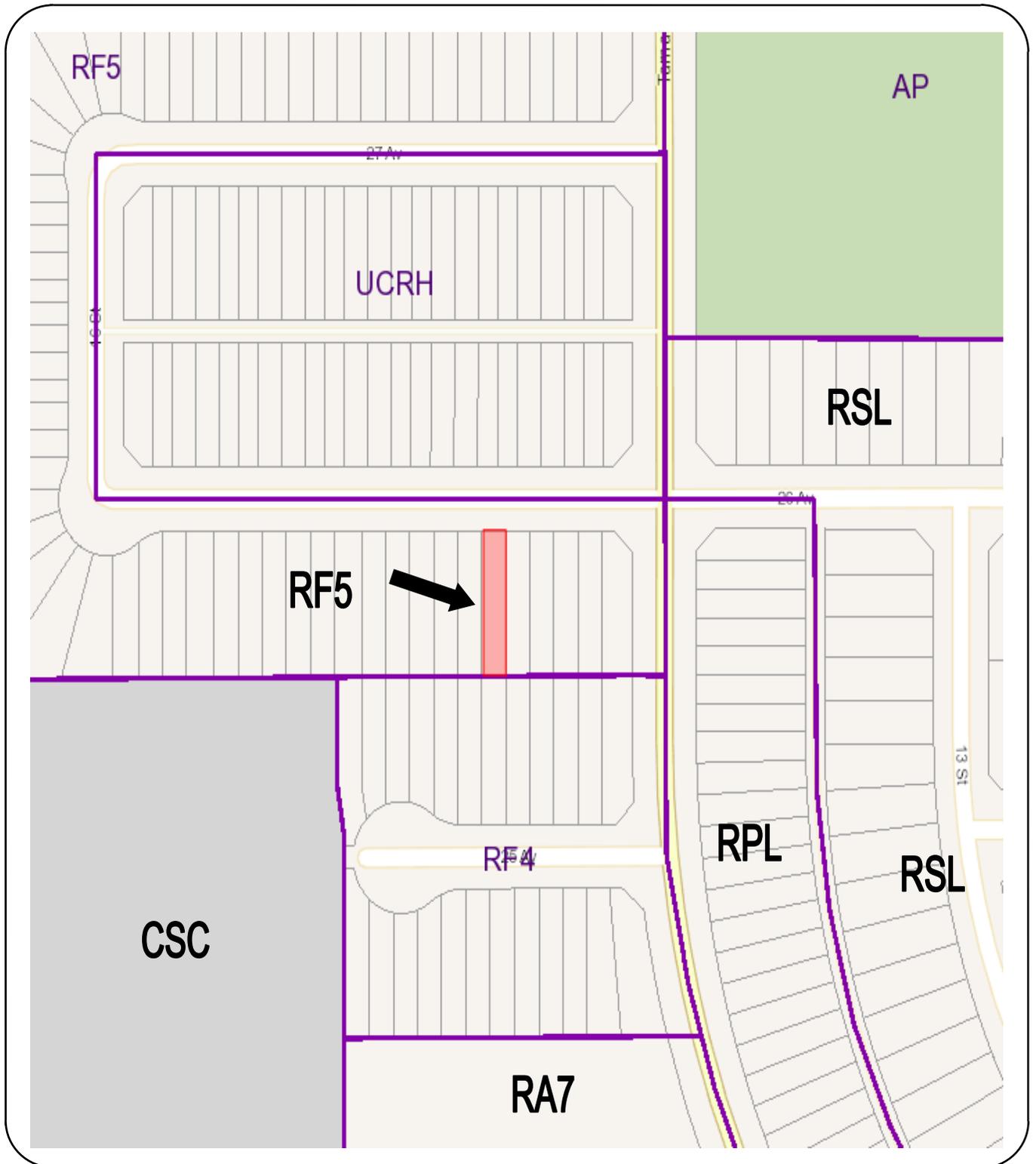
Application for Driveway Extension Permit

Project Number: **343592655-001**
Application Date: OCT 15, 2019
Printed: December 10, 2019 at 3:52 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Application Fee	\$173.00	\$173.00	06212206	Oct 15, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$173.00</u>	<u>\$173.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-029



ITEM VI: 1:30 P.M.

FILE: SDAB-D-20-044

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 350536685-001

APPLICATION TO: To construct a Single Detached House with front attached Garage, Unenclosed Front Porch, front and rear balconies, rear uncovered deck (3.66 metres by 4.72 metres), fireplace, and Basement development (NOT to be used as an additional Dwelling)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 11, 2020

DATE OF APPEAL: March 12, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 13107 – 66 Avenue NW

LEGAL DESCRIPTION: Plan 2020403 Blk 3Lot 21A

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:

We are solicitors for W. Yin, whose application for a Development Permit through his architect, PHD Homes Ltd., at the above captioned address was refused on March 11, 2020.

We hereby appeal the refusal of our client’s Permit application on the grounds that:

- The proposed single detached house is a Permitted Use in the RF1 Zone.
- The proposed single detached house is appropriate on the subject lands;
- The variances required for the proposed development will not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land; and
- Such further and other reasons as may be presented at the hearing of the within appeal.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board (“SDAB”) made and passed the following motion on March 25, 2020:

“That the appeal hearing be rescheduled to a date to be determined.”

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 110.2(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.2(8), **Single Detached Housing** means “development consisting of a building containing one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.”

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, Garden Suites, Semi-detached Housing and Duplex Housing.”

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

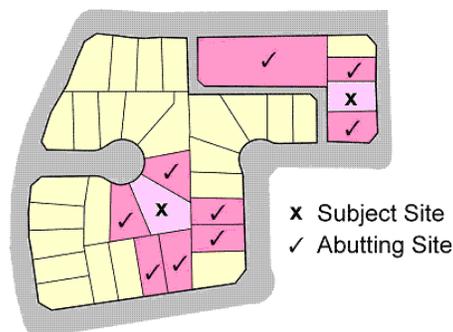
to regulate residential development in Edmonton’s mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Driveway

Section 814.3(17) states “Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue.”

Under section 6.1 **Abut** or **abutting** means:

immediately contiguous to or physically touching, and when used with respect to a lot or Site, means that the lot or Site physically touches upon another lot, Site, or piece of land, and shares a property line or boundary line with it;



Under section 6.1 **Lane** means “an alley as defined in the Traffic Safety Act.”

Under section 6.1 **Driveway** means “an area that provides for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”

Development Officer’s Determination

1. Vehicular Access - Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue (Section 814.3.17).

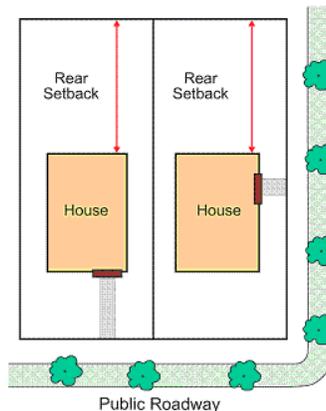
Proposed: The driveway is located off of 66 Avenue (front) instead of the lane.

Rear Setback

Section 814.3(4) states “the minimum Rear Setback shall be 40% of Site Depth, [...]”

Under section 6.1 **Rear Setback** means:

the distance that a development or a specified portion of it, must be set back from a Rear Lot Line. A Rear Setback is not a Rear Yard, Amenity Space or Separation Space.



Under section 6.1, **Site Depth** means “the distance between the mid-points of the Front Lot Line and the mid-points of the Rear Lot Line.”

Development Officer’s Determination

2. Reduced Rear Setback - The minimum Rear Setback shall be 40% of Site Depth (Section 814.3.4).

Required: 14.8m (40% of 36.9m)

Proposed: 9.4m (25% of 36.9m)

Deficient by: 5.4m

Side Setback

Section 814.3(3) states Side Setbacks shall be established on the following basis:

- a. ...
- b. where a Site Width is greater than 12.0 m and less than 18.3 m, the Side Setback requirements of the underlying Zone shall apply;
- c. ...

Section 110.4(10)(a) Side Setbacks shall total at least 20% of the Site Width, with a minimum Side Setback of 1.2 m on each side.

Development Officer's Determination

3. Reduced Side Setback - Side Setbacks shall total at least 20% of the Site Width, with a minimum Side Setback of 1.2 m on each side (Section 814.3.3.b and Section 110.4.10.a).

Required Total: 3.4m (20% of 16.8m)

Proposed: 2.5m (15% of 16.8m)

Deficient by: 0.9m

Community Consultation

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) and 814.3(9) of this Overlay:

- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to

approve the Development Permit Application in accordance with Sections 11.3 and 11.4.

Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	814.3(17) – Driveway Access
Tier 2	The municipal address and assessed owners of the land Abutting the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site of the proposed development	814.3(4) – Rear Setback

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: 350536685-001 Application Date: DEC 20, 2019 Printed: March 12, 2020 at 3:23 PM Page: 1 of 2										
<h2 style="margin: 0;">Application for Minor Development Permit</h2>											
This document is a Development Permit Decision for the development application described below.											
Applicant	Property Address(es) and Legal Description(s) 13107 - 66 AVENUE NW Plan 2020403 Blk 3 Lot 21A Specific Address(es) Entryway: 13107 - 66 AVENUE NW Building: 13107 - 66 AVENUE NW										
Scope of Application To construct a Single Detached House with front attached Garage, Unenclosed Front Porch, front and rear balconies, rear uncovered deck (3.66m x 4.72m), fireplace, and Basement development (NOT to be used as an additional Dwelling).											
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> # of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N </td> <td style="width: 50%; border: none; vertical-align: top;"> # of Primary Dwelling Units To Construct: 1 Class of Permit: Class B Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: 1 Class of Permit: Class B Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay								
# of Dwelling Units Add/Remove: 0 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: 1 Class of Permit: Class B Lot Grading Needed?: Y New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay										
Development Application Decision Refused Issue Date: Mar 11, 2020 Development Authority: ZHOU, ROWLEY Reason for Refusal <ol style="list-style-type: none"> 1. Vehicular Access - Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue (Section 814.3.17). Proposed: The driveway is located off of 66 Avenue (front) instead of the lane. 2. Reduced Rear Setback - The minimum Rear Setback shall be 40% of Site Depth (Section 814.3.4). Required: 14.8m (40% of 36.9m) Proposed: 9.4m (25% of 36.9m) Deficient by: 5.4m 3. Reduced Side Setback - Side Setbacks shall total at least 20% of the Site Width, with a minimum Side Setback of 1.2 m on each side (Section 814.3.3.b and Section 110.4.10.a). Required Total: 3.4m (20% of 16.8m) Proposed: 2.5m (15% of 16.8m) Deficient by: 0.9m 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; margin-top: 10px;"> <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>Development Permit Inspection Fee</td> <td style="text-align: right;">\$207.00</td> <td style="text-align: right;">\$207.00</td> <td style="text-align: right;">91000703255S001</td> <td style="text-align: right;">Dec 20, 2019</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Development Permit Inspection Fee	\$207.00	\$207.00	91000703255S001	Dec 20, 2019
	Fee Amount	Amount Paid	Receipt #	Date Paid							
Development Permit Inspection Fee	\$207.00	\$207.00	91000703255S001	Dec 20, 2019							
THIS IS NOT A PERMIT											



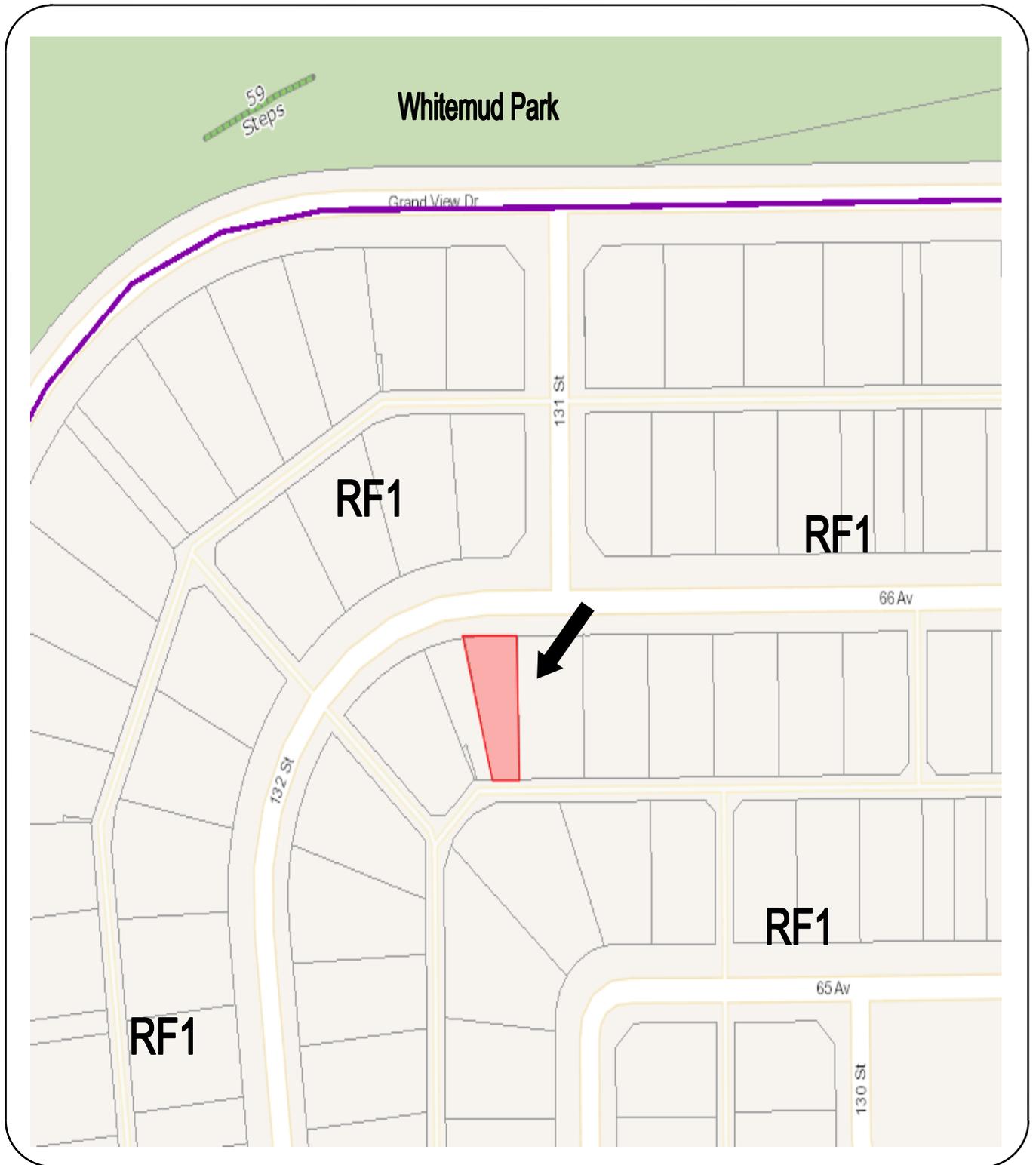
Project Number: **350536685-001**
Application Date: DEC 20, 2019
Printed: March 12, 2020 at 3:23 PM
Page: 2 of 2

Application for Minor Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Lot Grading Fee	\$145.00	\$145.00	91000703255S001	Dec 20, 2019
Dev. Application Fee	\$493.00	\$493.00	91000703255S001	Dec 20, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$845.00</u>	<u>\$845.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-044



ITEM VII: 1:30 P.M.

FILE: SDAB-D-20-045

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 352995301-002

APPLICATION TO: Add a Cannabis Retail Sales Use to the basement of a Mixed Use building and to construct interior alterations.

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: February 24, 2020

DATE OF APPEAL: March 24, 2020

NOTIFICATION PERIOD: March 3, 2020 through March 24, 2020

RESPONDENT: Underground Cannabis

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 5231 Terwillegar Boulevard NW

LEGAL DESCRIPTION: Plan 0624539 Blk 50 Lot 2

ZONE: (TMU) Terwillegar Mixed Use Zone

OVERLAY: Special Area Terwillegar

STATUTORY PLAN: South Terwillegar Neighbourhood Structure Plan



Grounds for Appeal

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

1. The site has a Liquor store, As per by-law 12800, section 85.1 Alcohol sales shall not be located less than 500m from any other Alcohol sales. Cannabis is related to Liquor or more severe than Alcohol stores. So, it should not be located close to less than 500m from another Alcohol store. The by-law to be amended to indicate the distance between a Cannabis store and a Liquor store.

2. The site has various other business, the number of parking has not met the requirements.
3. The site is close to the Elementary/Junior High school (less than 300m walking distance), So it will impact the young people and cannabis retail sales should not be permitted in this location.
4. As per AGCL retail store requirements, it should have a separate shipping/receiving area that is separate from other businesses. But it has no separate shipping/receiving area specific to this new retail store permit.
5. The site is within the residential area not in a commercial shopping area. Hence this permit should be canceled to help the community to avoid easy access to such types of stores.
6. The site is next to the many condominiums where potentially children and families living.

<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.

(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, or
 - (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;
- (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 920.10(2)(6), **Cannabis Retail Sales** is a **Permitted Use** in the (TMU) **Terwillegar Mixed Use 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 920.10(3)(r) states “Cannabis Retail Sales shall comply with Section 70 of this Bylaw.”

Section 920.10(1) states that the **General Purpose** of the (TMU) **Terwillegar Mixed Use Zone** is “to provide for mixed Use development in Terwillegar.”

Section 920.1 states that the **General Purpose** of the **Special Area Terwillegar** is:

to designate a portion of the Terwillegar Towne Neighbourhood, and a portion of the South Terwillegar Neighbourhood, as shown on Appendix I to this Section, as a Special Area and to adopt appropriate land Use regulations for this Special Area to achieve the objectives of the Terwillegar Town Neighbourhood Area Structure Plan (NASP), as adopted under Bylaw 11056, as amended, and the South Terwillegar Neighbourhood Area Structure Plan (NASP), as adopted under Bylaw 13454.

<i>Parking</i>

Section 54.2, Schedule 1(A)(12) states:

Any development within a Commercial Use not listed separately in this table, with a Floor Area of:	Minimum Number of Parking Spaces Required
a. less than 4 500 m ²	1 parking space per 40.0 m ² of Floor Area
b. 4 500m ² - 9 000m ²	1 parking space per 33.3 m ² of Floor Area
c. 9 000 m ² - 28 000 m ²	1 parking space per 28.5 m ² of Floor Area
d. greater than 28 000 m ²	1 parking space per 25.0 m ² of Floor Area

Under section 6.1, **Floor Area** means:

the total Floor Area of the building or structure, contained within the outside surface of the exterior and Basement walls, provided that in the

case of a wall containing windows, the glazing line of windows may be used.

Development Officer's Determination

Parking - The site has 13 parking spaces, instead of 14 (Section 54 and Schedule 1) [unedited]

Section 70 – Cannabis Retail Sales

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.

<i>Previous Subdivision and Development Appeal Board Decision</i>
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Application Number	Description	Decision
SDAB-D-11-092	Change the use from a General Retail Stores Use to a a Minor Alcohol Sales Use and to construct interior alterations	May 20, 2011; that the appeal be DENIED and the decision of the Development Authority CONFIRMED (Development Approved)

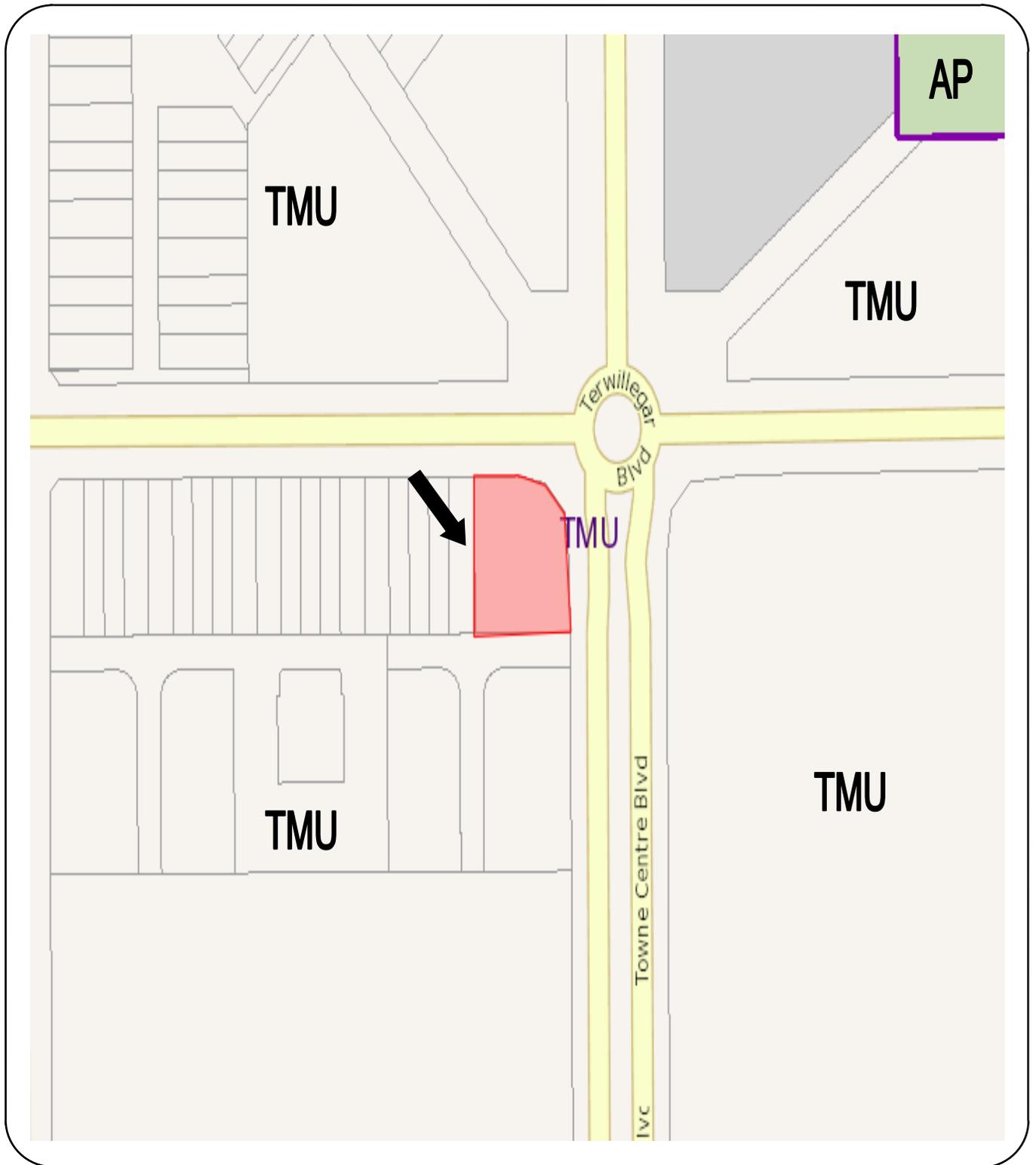
Notice to Applicant/Appellant

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: 352995301-002 Application Date: JAN 23, 2020 Printed: March 25, 2020 at 7:56 AM Page: 1 of 3
<h2>Major Development Permit</h2>		
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) 5231 - TERWILLEGAR BOULEVARD NW Plan 0624539 Blk 50 Lot 2	
	Specific Address(es) Building: 5231 - TERWILLEGAR BOULEVARD NW	
Scope of Permit To add a Cannabis Retail Sales use to the basement of a Mixed Use building and to construct interior alterations.		
Permit Details		
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: Terwillegar Towne	
Development Permit Decision Approved Issue Date: Feb 24, 2020 Development Authority: CHOW, STEPHEN Subject to the Following Conditions Zoning Conditions: 1. There shall be no parking, loading, storage, trash collection, outdoor service or display area permitted within the required 4.5m (14.76 ft.) setback. (Reference Section 340.4(3) & (5).) 2. All required parking and loading facilities shall only be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the building or Use for which the parking and loading facilities are provided, and the parking and loading facilities shall not be used for driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind. (Reference Section 54.1.1.c) 3. 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. 4. Signs require separate Development Applications.		

	<p>Project Number: 352995301-002 Application Date: JAN 23, 2020 Printed: March 25, 2020 at 7:56 AM Page: 2 of 3</p>
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<p>Fees</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 40%;"></th> <th style="width: 15%; text-align: right;">Fee Amount</th> <th style="width: 15%; text-align: right;">Amount Paid</th> <th style="width: 15%; text-align: right;">Receipt #</th> <th style="width: 15%; 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;">06410108</td> <td style="text-align: right;">Feb 03, 2020</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	06410108	Feb 03, 2020	Total GST Amount:	\$0.00				Totals for Permit:	\$5,600.00	\$5,600.00		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-045

