

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
April 17, 2019**

**Hearing Room No. 3  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

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

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I	9:00 A.M.	SDAB-D-19-056	Install (1) Freestanding Minor Digital Off-premises Sign (1-side 3 metres x 6.1 metres facing E) (PATTISON - Kinco Tires).  12506 - 124 Street NW Project No.: 306349178-001
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II	11:00 A.M.	SDAB-D-19-038	Change the Use from a Convenience Retail Store to Minor Alcohol Sales.  11303 - 95 Street NW Project No.: 237889353-005
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**NOTE:** *Unless otherwise stated, all references to "Section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-056

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 306349178-001

APPLICATION TO: Install (1) Freestanding Minor Digital Off-premises Sign (1-side 3 metres by 6.1 metres facing E) (PATTISON - Kinco Tires).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 13, 2019

DATE OF APPEAL: March 18, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12506 - 124 Street NW

LEGAL DESCRIPTION: Plan 644AE Blk 13 Lot 1

ZONE: IB Industrial Business Zone

OVERLAY: N/A

STATUTORY PLAN: Yellowhead Corridor Area Structure Plan

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*Grounds for Appeal*

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

We are solicitors for Pattison Outdoor Advertising, the Applicant in the above noted matter. Our clients' Development Permit Application has been refused. On behalf of our clients, we hereby appeal the refusal on the following grounds:

1. The subject sign will not interfere at all with the use, enjoyment or value of any neighbouring properties and will not negatively impact on the amenities of this Industrial Business (IB) District;
2. The variance in setback is requested to protect the integrity of the parking areas on the site;

3. The sign has existed in its present plight and condition for approximately 10 years with no complaints having been received. Given the site layout and the extended boulevard between the site and Yellowhead Trail, there is ample setback provided; and
4. Such further and other reasons as may be presented at the hearing of this appeal.

<b><i>General Matters</i></b>
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**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 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.

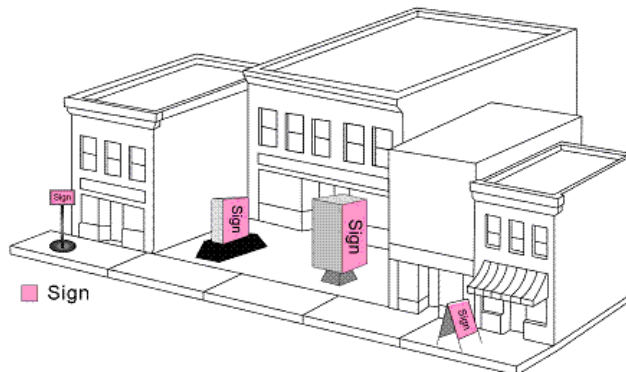
**General Provisions from the *Edmonton Zoning Bylaw*:**

Under section 400.3(42), **Minor Digital Off-premises Signs** is a **Discretionary Use** in the **(IB) Industrial Business Zone**.

Under section 7.9(6), **Minor Digital Off-premises Signs** means:

a Freestanding or Fascia Sign that contains Digital Copy, is a Permanent Sign, displays Off-premises Advertising, and does not include moving effects, message transition effects, video images, or animation.

Under section 6.2, **Freestanding Signs** means a Sign supported independently of a building.



Section 400.4(6) states “Signs shall comply with the regulations found in Schedule 59F.”

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.

***Schedule 59F – Sign Regulations***

Schedule 59F.3(6)(j) states proposed Signs with an Area greater than 8.0 square metres shall not be located within any Setback.

Section 400.4(3) states a minimum Setback of 6.0 metres shall be required where any lot line of a Site abuts a public roadway, other than a Lane, or abuts the property line of a Site zoned residential.

Under Section 6.1, **Setback** means the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space.

**Development Officer's Determination**

1) Proposed Signs with an Area greater than 8.0 m<sup>2</sup> shall not be located within any Setback. (Reference 59F.3(6)(j))

PROPOSED SIGN AREA: 18.3 m<sup>2</sup>: greater than 8.0 m<sup>2</sup>

Required Setback in IB Zone: 6.0m: (Reference Section 400.4(3) and Section 6 Definitions)

Proposed:

0 m from south property line

1.5 m from east property line

Deficient by:

6.0 m from south property line


4.5 m from east property line

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**Notice to Applicant/Appellant**

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

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	Project Number: <b>306349178-001</b> Application Date: MAR 04, 2019 Printed: March 18, 2019 at 3:18 PM Page: 1 of 2		
<h2 style="margin: 0;">Application for Sign Combo Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
<b>Applicant</b> <div style="border: 1px solid black; height: 40px; width: 100%; margin-top: 5px;"></div>	<b>Property Address(es) and Legal Description(s)</b> 12506 - 124 STREET NW Plan 644AE Blk 13 Lot 1		
<b>Scope of Application</b> To install (1) Freestanding Minor Digital Off-premises Sign (1-side 3m x 6.1m facing E) (PATTISON - Kinco Tires).			
<b>Permit Details</b> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; border-right: 1px solid black; padding: 5px;">                     ASA Sticker No./Name of Engineer:                      Construction Value: 100000                 </td> <td style="width: 50%; padding: 5px;">                     Class of Permit:                      Expiry Date:                 </td> </tr> </table>		ASA Sticker No./Name of Engineer: Construction Value: 100000	Class of Permit: Expiry Date:
ASA Sticker No./Name of Engineer: Construction Value: 100000	Class of Permit: Expiry Date:		
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 1 Minor Digital On/Off-premises Sign: 0	Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0		
I/We certify that the above noted details are correct. Applicant signature: _____			
<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Mar 13, 2019 <b>Development Authority:</b> NOORMAN, BRENDA  <b>Reason for Refusal</b> 1) Proposed Signs with an Area greater than 8.0 m <sup>2</sup> shall not be located within any Setback. (Reference 59F.3(6)(j))  PROPOSED SIGN AREA: 18.3 m <sup>2</sup> : greater than 8.0 m <sup>2</sup>  Required Setback in IB Zone: 6.0m: (Reference Section 400.4(3) and Section 6 Definitions)  Proposed: 0 m from south property line 1.5 m from east property line  Deficient by: 6.0 m from south property line 4.5 m from east property line			
<b>THIS IS NOT A PERMIT</b>			





Project Number: **306349178-001**  
Application Date: MAR 04, 2019  
Printed: March 18, 2019 at 3:18 PM  
Page: 2 of 2

## Application for Sign Combo Permit

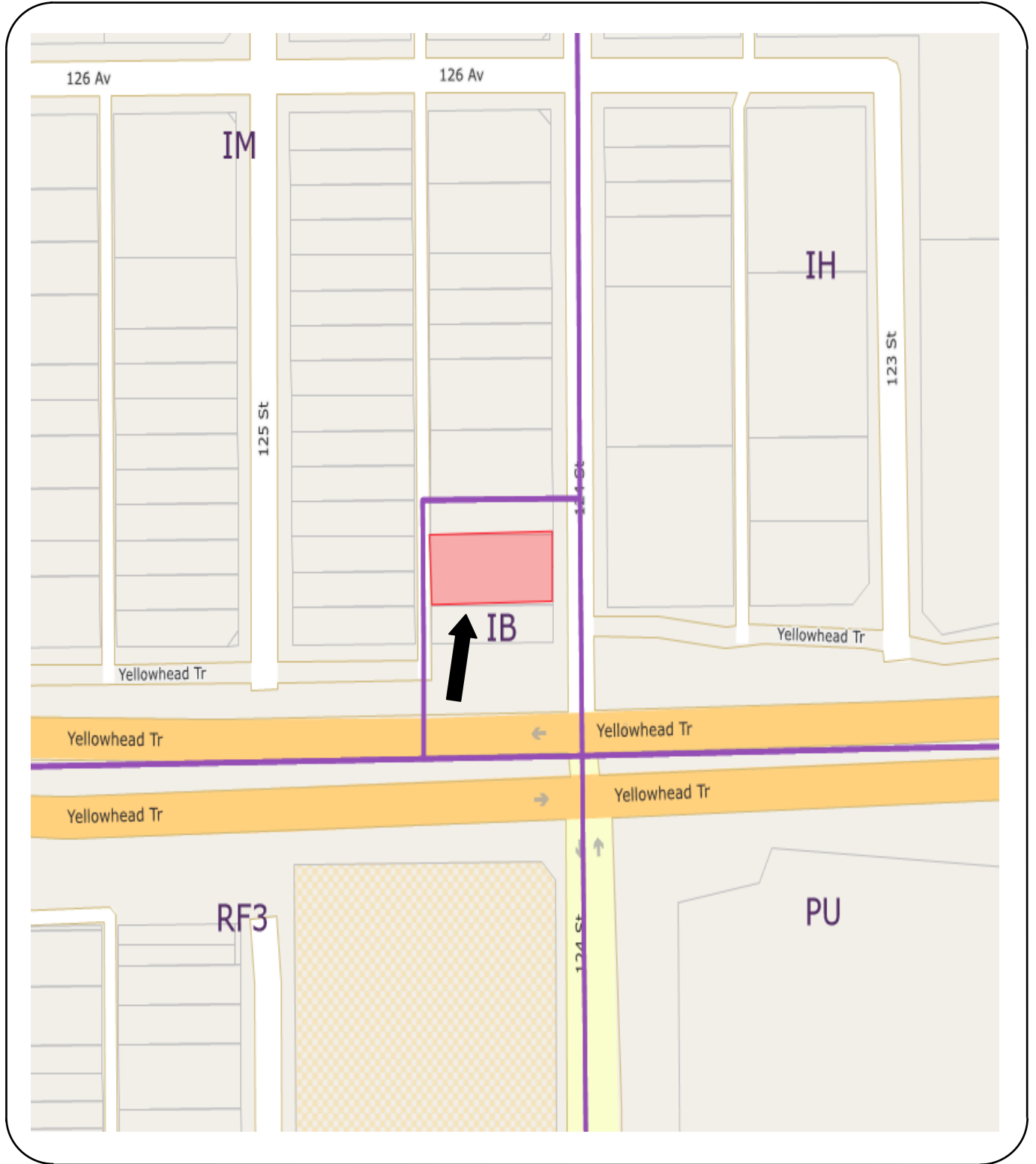
### Rights of Appeal

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

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Sign Building Permit Fee	\$1,057.00	\$1,057.00	05688759	Mar 05, 2019
Safety Codes Fee	\$42.28	\$42.28	05688759	Mar 05, 2019
Sign Dev Appl Fee - Digital Signs	\$458.00	\$458.00	05688759	Mar 05, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$1,557.28</u>	<u>\$1,557.28</u>		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-056



**TO BE RAISED**  
**ITEM II: 11:00 A.M.**

**FILE: SDAB-D-19-038**

**AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER**

APPELLANT:

APPLICATION NO.: 237889353-005

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

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 4, 2019

DATE OF APPEAL: February 25, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11303 - 95 Street NW

LEGAL DESCRIPTION: Plan RN43 Blk 29 Lot 1

ZONE: CB1 Low Intensity Business Zone

OVERLAY: Secondhand Stores and Pawn Stores Overlay (n/a)

STATUTORY PLAN: n/a

***Grounds for Appeal***

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

I, Nahom Weldemariam, am the owner and applicant in the above noted matter.

In December of 2018, I applied for a liquor license to Alberta Gaming and Liquor Commission (AGLC), and it is been posted on AGLC website for 21 days if there is any objections from the community on the proposed development, however there was no any objections and AGLC approved it for Minor Alcohol Sales. Although Application for Development permit was submitted on Jan 16, 2019 to the city of Edmonton and the proposed development was refused because of the reason stated on section 85.1 “ Any Major Alcohol Sales or Minor Alcohol sales shall not be located within 500 meters from any other

Major Alcohol or Minor Alcohol Sales”. somewhat further distant from the whose Permit causes our location to be offside the Regulation. Notwithstanding the obvious merit in a variance being granted to Grounds for Appeal I am required to approach the Board for assistance. Accordingly, I hereby appeal the referenced refusal on the following grounds:

1. It remains the case that:
  - a) The proposed development is a Permitted Use in the Low Intensity Business zone.
  - b) The site of the proposed development is outside of the boundary that is listed on section 85.
  - c) The proposed development is separated from the other liquor store by at least 3 blocks.
  - d) The proposed development cannot and will not unduly interfere with the amenities of the neighborhood, or materially interfere with or affect the use, enjoyment or value of neighboring parcels of land.
2. The distance between the proposed development location and the other liquor store is around 490 meters apart.
3. Notwithstanding subsection 85(1), a Major Alcohol Sales or Minor Alcohol Sales may be located less than 500 m from any other Major Alcohol Sales or Minor Alcohol Sales if all the following regulations are met:
  - a) The Major Alcohol Sales or Minor Alcohol Sales are located on separate Sites;
  - b) The Major Alcohol Sales or Minor Alcohol Sales are located outside the boundary shown in Appendix 1 to Section 85; and
  - c) At least one of the Major Alcohol Sales or Minor Alcohol Sales is located on a Site greater than 2.5 ha in size that is zoned CSCa, UVCa, GVC, TC-C, DC1, DC2, CSC, CB1, CB2, CHY, CO or CB3.
4. As noted above, the proposed development is located in a separate site than the other Liquor Store. I also reviewed the boundary referenced in Appendix 1 to Section 85, and identified that the proposed development is outside this boundary. Finally, all three Sites with alcohol sales – including the proposed Major Alcohol Sales Use – are located on Sites greater than 2.5 hectares in size, and all are zoned CB1.

5. As the proposed development is a Permitted Use, the only issue before this Board is whether the proposed application complies with the applicable development regulations, and if not, whether a variance to any of those regulations should be granted.
6. In reference the attached maps for some of liquor stores around the city, confirms that a Minor Alcohol Sales or Major Alcohol Sales facility at approximately 200 – 300 meters apart from each other.
7. Such further and other reasons as may be presented at the hearing of this appeal.

<i>General Matters</i>
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**The Subdivision and Development Appeal Board made and passed the following motion on March 20, 2019:**

**"That the appeal hearing be scheduled for April 17, 2019, to allow the Appellant to be represented by legal counsel".**

**Appeal Information:**

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

**Grounds for Appeal**

**685(1)** If a development authority

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

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

**Appeals**

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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, [...]

**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;
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- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
  - (i) the proposed development would not
    - (A) unduly interfere with the amenities of the neighbourhood, or
    - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

**General Provisions from the *Edmonton Zoning Bylaw*:**

Under section 330.3(21), **Minor Alcohol Sales** is a **Discretionary Use** in the **CB1 Low Intensity Business Zone**.

Section 330.1 states that the **General Purpose** of **CB1 Low Intensity Business Zone** is:

to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

Under section 7.4(34), **Minor Alcohol Sales** is defined as “development used for the retail sale of any and all types of alcoholic beverages to the public. This Use may include retail sales of related products such as soft drinks and snack foods. The maximum Floor Area for this Use shall be no more than 275 m<sup>2</sup> per individual business premises.”

***Separation Distance from Other Alcohol Sales***

Section 85(1) states: “Any Major Alcohol Sales or Minor Alcohol Sales shall not be located less than 500 metres from any other Major Alcohol Sales or Minor Alcohol Sales.”

**Development Officer’s Determination**

The proposed location of the Minor Alcohol Sales is located within 500 m from an existing approved Minor Alcohol Sales location.


The proposed location does not meet the criteria outlined in Section 85 to allow a variance to this regulation.

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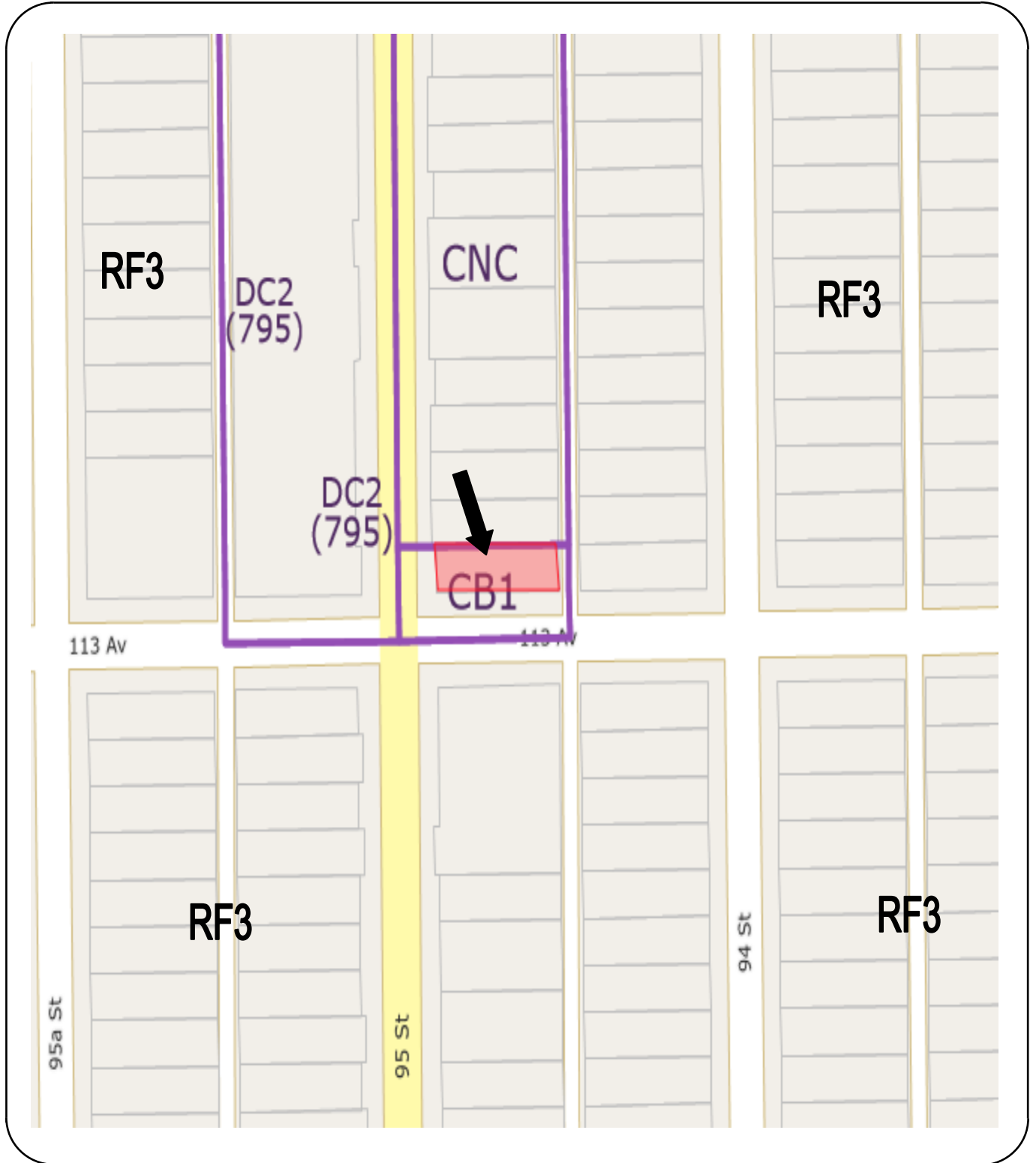
Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

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	Project Number: <b>237889353-005</b> Application Date: JAN 16, 2019 Printed: February 4, 2019 at 10:53 AM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Major Development Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
<b>Applicant</b> [REDACTED]	<b>Property Address(es) and Legal Description(s)</b> 11303 - 95 STREET NW Plan RN43 Blk 29 Lot 1  <b>Specific Address(es)</b> Suite: 1, 11305 - 95 STREET NW Entryway: 11303 - 95 STREET NW																				
<b>Scope of Application</b> To change the Use from a Convenience Retail Store to Minor Alcohol Sales.																					
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">                     Class of Permit: Class B                      Gross Floor Area (sq.m.):                      New Sewer Service Required: N                      Site Area (sq. m.): 352.66                 </td> <td style="width: 50%; border: none;">                     Contact Person:                      Lot Grading Needed?: N                      NumberOfMainFloorDwellings:                      Stat. Plan Overlay/Annex Area: (none)                 </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 352.66	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)																		
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I/We certify that the above noted details are correct. Applicant signature: _____																					
<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Feb 04, 2019 <b>Development Authority:</b> KIM, JENNIFER  <b>Reason for Refusal</b> Section 85.1 - Any Major Alcohol Sales or Minor Alcohol Sales shall not be located less than 500 m from any other Major Alcohol Sales or Minor Alcohol Sales.  The proposed location of the Minor Alcohol Sales is located within 500 m from an existing approved Minor Alcohol Sales location. The proposed location does not meet the criteria outlined in Section 85 to allow a variance to this regulation.  <b>Rights of Appeal</b> The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.																					
<b>Fees</b> <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$518.00</td> <td style="text-align: right;">\$518.00</td> <td style="text-align: right;">05594816</td> <td style="text-align: right;">Jan 16, 2019</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$518.00</td> <td style="text-align: right; border-top: 1px solid black;">\$518.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$518.00	\$518.00	05594816	Jan 16, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$518.00	\$518.00		
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<b>THIS IS NOT A PERMIT</b>																					





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-038

