

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Thursday, 9:00 A.M.
April 15, 2021

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-21-057

To operate a Major Home Based Business (THE
DETAILER - Auto detailing business). Two client
visits per day by appointment only

10639 - 143 Street NW
Project No.: 384096391-001

II 10:30 A.M. SDAB-D-21-058

To develop a Cannabis Retail Sales

12904 - 82 Street NW
Project No.: 386906652-002

III 1:30 P.M. SDAB-D-21-059

To change the use of a General Retail Store to a
Liquor Store, and construct interior alterations

9345 - 156 Street NW, 9325 - 156 Street NW
Project No.: 387844633-002

NOTE: *Unless otherwise stated, all references to "Section numbers" in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-21-057

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 384096391-001

APPLICATION TO: Operate a Major Home Based Business (THE DETAILER - Auto detailing business). Two client visits per day by appointment only

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 8, 2021

DATE OF APPEAL: March 21, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10639 - 143 Street NW

LEGAL DESCRIPTION: Plan 459KS Blk 2 Lot 33

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:

I am applying to operate a bespoke auto detailing business from my detached garage. My initial application for a Major Business License received negative feedback from a City Planner, who indicated that my permit would not be approved. In our email correspondence, the City Planner expressed their belief that my business would be better suited to a non-residential area, and suggested my business fell under the Rapid

Drive-through Vehicle Service classification. I am submitting this document in order to provide further information about how my business will not disrupt my residential area, addressing concerns about noise, parking, and safety. My business has been carefully designed to be considerate of my neighbours, and is a small-scale, high-end service that is very different from the larger-scale and industrial business categories identified by the City as comparable. I hope that by providing additional information about my business and how it fits into my neighbourhood, I will demonstrate that it is appropriate for its current setting as a Major Home Business.

NOTE: Please refer to the file to view the detailed appeal submission.

| |
|------------------------|
| General Matters |
|------------------------|

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

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

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,

(A) within 21 days after the date on which the written decision is given under section 642, 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 110.3(4), a **Major Home Based Business** is a **Discretionary Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.3(7), **Major Home Based Business** means:

development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution.

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.

Section 75 - Major Home Based Business

A Major Home Based Business shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;
7. a Bed and Breakfast Operation, operating as a Major Home Based Business may have more than two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units;
8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
9. **the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.**

Development Officer's Determination


1. The Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone (Section 75.9).

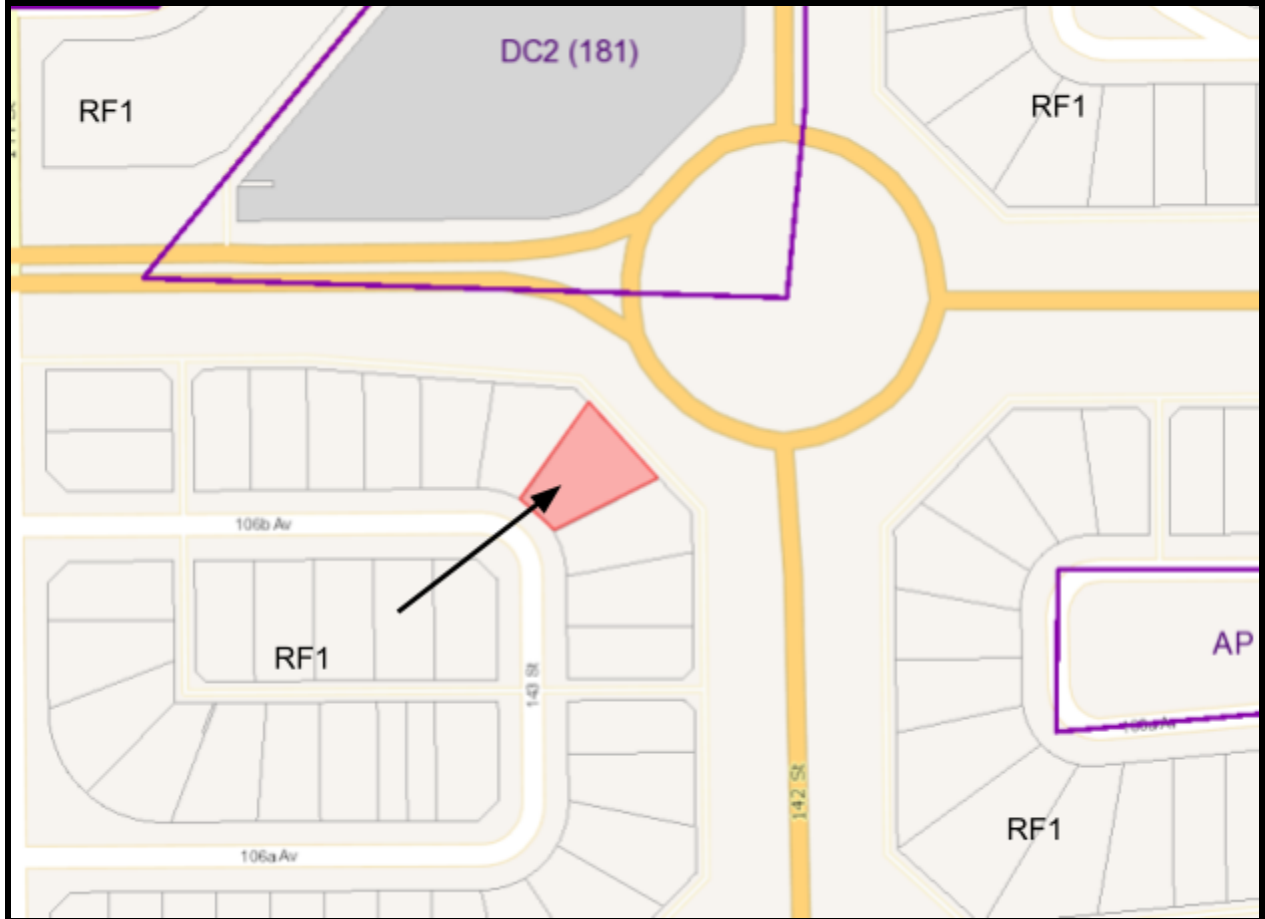
Proposed: In the opinion of the Development Officer, the use would more appropriately be located in a Commercial or Industrial Zone.

[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.

|  | Application for Home Occupation | | | | Project Number: 384096391-001 Application Date: JAN 18, 2021 Printed: March 8, 2021 at 8:57 AM 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) 10639 - 143 STREET NW Plan 459KS Blk 2 Lot 33 | | | | | | | | | | | | | | | | | | | | | | | |
| | | Specific Address(es) Suite: 10639 - 143 STREET NW Entryway: 10639 - 143 STREET NW Building: 10639 - 143 STREET NW | | | | | | | | | | | | | | | | | | | | | | | |
| Scope of Application To operate a Major Home Based Business (THE DETAILER - Auto detailing business). 2 client visits per day by appointment only. | | | | | | | | | | | | | | | | | | | | | | | | | |
| Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> # of business related visits/day: 2 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: N </td> <td style="width: 50%; vertical-align: top;"> # of vehicles at one time: Business has Trailers or Equipment?: Description of Business: A bespoke auto detailing business washing and protecting vehicles. This includes washing cars, applying wax/ceramic coatings, and cleaning the interior. Expiry Date: </td> </tr> </table> | | | | | | # of business related visits/day: 2 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: N | # of vehicles at one time: Business has Trailers or Equipment?: Description of Business: A bespoke auto detailing business washing and protecting vehicles. This includes washing cars, applying wax/ceramic coatings, and cleaning the interior. Expiry Date: | | | | | | | | | | | | | | | | | | |
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| Development Application Decision Refused Issue Date: Development Authority: ZHOU, ROWLEY Reason for Refusal 1. The Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone (Section 75.9). Proposed: In the opinion of the Development Officer, the use would more appropriately be located in a Commercial or Industrial 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. | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fees <table border="0" style="width: 100%; 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>Dev. Application Fee</td> <td style="text-align: right;">\$327.00</td> <td style="text-align: right;">\$327.00</td> <td style="text-align: right;">052588025045001</td> <td style="text-align: right;">Jan 25, 2021</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;">\$327.00</td> <td style="text-align: right; border-top: 1px solid black;">\$327.00</td> <td></td> <td></td> </tr> </tbody> </table> | | | | | | | Fee Amount | Amount Paid | Receipt # | Date Paid | Dev. Application Fee | \$327.00 | \$327.00 | 052588025045001 | Jan 25, 2021 | Total GST Amount: | \$0.00 | | | | Totals for Permit: | \$327.00 | \$327.00 | | |
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| Dev. Application Fee | \$327.00 | \$327.00 | 052588025045001 | Jan 25, 2021 | | | | | | | | | | | | | | | | | | | | | |
| Total GST Amount: | \$0.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| Totals for Permit: | \$327.00 | \$327.00 | | | | | | | | | | | | | | | | | | | | | | | |
| THIS IS NOT A PERMIT | | | | | | | | | | | | | | | | | | | | | | | | | |



SURROUNDING LAND USE DISTRICTS

Site Location ← **File: SDAB-D-21-057** ▲
N

ITEM II: 10:30 A.M.

FILE: SDAB-D-21-058

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 386906652-002

APPLICATION TO: Develop a Cannabis Retail Sales.

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 17, 2021

DATE OF APPEAL: March 18, 2021

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 12904 - 82 Street NW

LEGAL DESCRIPTION: Plan 103MC Blk 13 Lot 2

ZONE: (CSC) Shopping Centre Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

The refusal is being appealed based on the same reasons as outlined in a previous SDAB Decision (SDAB-D-19-181). A copy of which is on file.

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| <i>General Matters</i> |
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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 320.2(3), **Cannabis Retail Sales** is a **Permitted Use** in the **(CSC) Shopping Centre 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 6.1, **Site** means “an area of land consisting of one or more abutting Lots.”

Section 320.1 states that the **General Purpose** of the **(CSC) Shopping Centre Zone** is:

to provide for larger shopping centre developments intended to serve a community or regional trade area. Residential, office, entertainment and cultural uses may also be included within such shopping complexes.

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.

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| <i>Section 70 – Cannabis Retail Sales</i> |
|---|

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 Sales does not comply with the minimum setback requirement from an approved Cannabis Retail Sales (S. 70.1):

Required Setback: 200m


**Proposed Setback: 119m from 8107-128A Avenue (DP
372077716-002)
Deficient by: 81m**

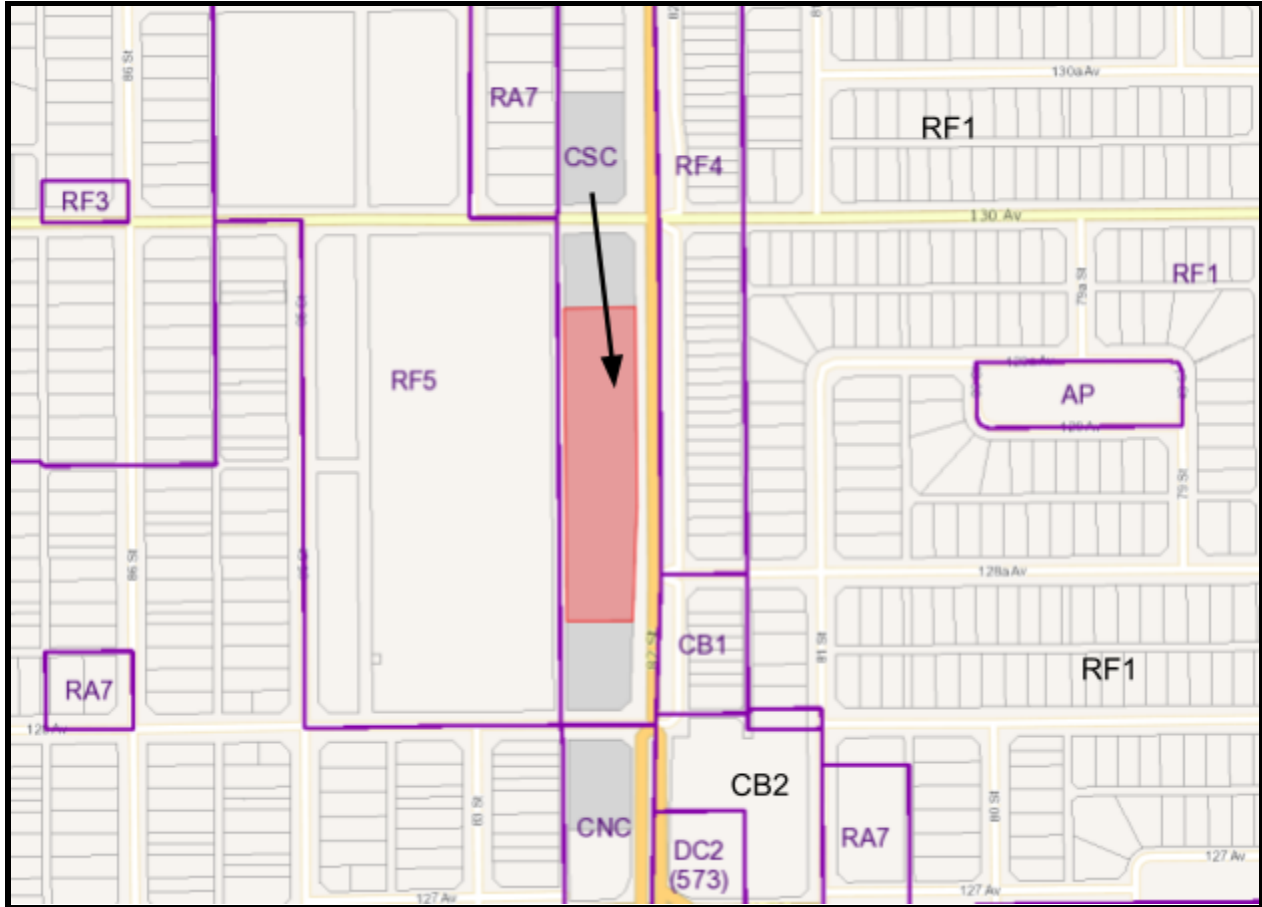
**Under Section 70.1 of the Zoning Bylaw, the Development Officer is
not permitted to grant a variance to the degree proposed.**

[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.

|  | <p>Application for Major Development Permit</p> | | | | <p>Project Number: 386906652-002 Application Date: FEB 18, 2021 Printed: March 17, 2021 at 2:06 PM Page: 1 of 1</p> | | | | | | | | | | | | | | | | | | | |
|--|---|-------------------|-----------------|--------------|---|--|-------------|-----------|-----------|----------------------------|------------|------------|-----------------|--------------|-------------------|--------|--|--|--|---------------------------|-------------------|-------------------|--|--|
| <p>This document is a Development Permit Decision for the development application described below.</p> | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Applicant</p> | <p>Property Address(es) and Legal Description(s) 12904 - 82 STREET NW Plan 103MC Blk 13 Lot 2</p> | | | | | | | | | | | | | | | | | | | | | | | |
| | <p>Specific Address(es) Suite: 12916 - 82 STREET NW Entryway: 12916 - 82 STREET NW Building: 12904 - 82 STREET NW</p> | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Scope of Application To develop a Cannabis Retail Sales.</p> | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Permit Details</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> Class of Permit: Gross Floor Area (sq. m.): New Sewer Service Required: Site Area (sq. m.): </td> <td style="width: 50%;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Main Street Overlay </td> </tr> </table> | | | | | Class of Permit: Gross Floor Area (sq. m.): New Sewer Service Required: Site Area (sq. m.): | Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Main Street Overlay | | | | | | | | | | | | | | | | | | |
| Class of Permit: Gross Floor Area (sq. m.): New Sewer Service Required: Site Area (sq. m.): | Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Main Street Overlay | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Development Application Decision Refused Issue Date: Mar 17, 2021 Development Authority: WELCH, IMAI</p> <p>Reason for Refusal The proposed Cannabis Retail Sales does not comply with the minimum setback requirement from an approved Cannabis Retail Sales (S. 70.1):</p> <p>Required Setback: 200m Proposed Setback: 119m from 8107-128A Avenue (DP 372077716-002) Deficient by: 81m</p> <p>Under Section 70.1 of the Zoning Bylaw, the Development Officer is not permitted to grant a variance to the degree proposed.</p> <p>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.</p> | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Fees</p> <table border="0" style="width: 100%;"> <thead> <tr> <th></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$5,600.00</td> <td style="text-align: right;">\$5,600.00</td> <td style="text-align: right;">071520210225000</td> <td style="text-align: right;">Feb 25, 2021</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 | 071520210225000 | Feb 25, 2021 | Total GST Amount: | \$0.00 | | | | Totals for Permit: | \$5,600.00 | \$5,600.00 | | |
| | Fee Amount | Amount Paid | Receipt # | Date Paid | | | | | | | | | | | | | | | | | | | | |
| Major Dev. Application Fee | \$5,600.00 | \$5,600.00 | 071520210225000 | Feb 25, 2021 | | | | | | | | | | | | | | | | | | | | |
| Total GST Amount: | \$0.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Totals for Permit: | \$5,600.00 | \$5,600.00 | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>THIS IS NOT A PERMIT</p> | | | | | | | | | | | | | | | | | | | | | | | | |



SURROUNDING LAND USE DISTRICTS

Site Location ← File: SDAB-D-21-058 ▲
N

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 387844633-002

APPLICATION TO: Change the Use of a General Retail Store to a Liquor Store, and construct interior alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 15, 2021

DATE OF APPEAL: March 22, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9345 - 156 Street NW, 9325 - 156 Street NW

LEGAL DESCRIPTION: Plan 1039MC Blk 13 Lot 5, Plan 1822765 Blk 13 Lot 64

ZONE: (CB2) General Business Zone

OVERLAY: Main Streets 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 2123030 Alberta Ltd. Our clients application, made through its architect H2 Architecture Ltd., for a development permit to develop a liquor store at the above captioned address was refused on March 15, 2021. We hereby appeal the said refusal on the grounds that:
- Liquor stores are a discretionary use in the CB2 General Business Zone;
 - The proposed development is appropriate at the subject site;
 - None of the variances required to the regulations of the zoning bylaw, and in particular section 85 thereof, would materially affect on the use,

- enjoyment, and value of neighbouring properties, or undue interference with the amenities of the neighbourhood; and
- Such further and other reasons as may be presented at the hearing of the within appeal.

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| <i>General Matters</i> |
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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 the decision in accordance with subsection (2.1).

(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 the decision in accordance with subsection (2.1).

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 340.2(13), **Liquor Stores**, on a Site of 2 ha or larger, is **Permitted Use** in the **(CB2) General Business Zone**.

Under section 340.3(9), **Liquor Stores**, on a Site of less than 2 ha, is a **Discretionary Use** in the **(CB2) General Business Zone**.

Under section 7.4(30) **Liquor Stores** means:

development used for the retail sale of any and all types of alcoholic beverages to the public for off-site consumption. This Use may include retail sales of related products such as soft drinks and snack foods.

Section 340.1 states that the **General Purpose** of the **(CB2) General Business Zone** is:

to provide for larger shopping centre developments intended to serve a community or regional trade area. Residential, office, entertainment and cultural uses may also be included within such shopping complexes.

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.

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| <i>Section 85 - Liquor Stores</i> |
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1. Any Liquor Store shall not be located less than 500 m from any other Liquor Store.
2. Notwithstanding subsection 85(1), a Liquor Store may be located less than 500 m from any other Liquor Store if located:
 - a. outside the boundary shown in Appendix 1 to Section 85, provided:
 - i. the Liquor Stores are located on separate Sites, and

- ii. **at least one Liquor Store 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.**
- 3. For the purposes of Section 85, the 500 m separation distance shall be measured from the closest point of the Liquor Store to the closest point of any other approved Liquor Store.
- 4. **Any Site containing a Liquor Store shall not be located less than 100 m from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Liquor Store. Sites that are greater than 2.0 ha in size and zoned either CSC or DC2, are exempt from this restriction. For the purposes of this subsection only:**
 - a. **the 100 m separation distance shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;**
 - b. the term "community or recreation activities" is limited to Community Recreation Services, as defined in subsection 7.8(1) of this Bylaw, which includes community league buildings and facilities, and children's playgrounds and play areas. This term does not include arenas or other public assembly Uses, Child Care Services, Public Libraries and Cultural Exhibits, or Religious Assembly;
 - c. the term "public or private education facilities" is limited to elementary through to high schools inclusive only, and does not include dance schools, driving schools or other Commercial Schools; and
 - d. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.
- 5. **Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 85(4).**
- 6. **Notwithstanding Section 11 of this Bylaw, a Development Officer shall only grant a variance to subsection 85(1) or subsection 85(2) as outlined in subsections 85(7), 85(8) and 85(9).**
- 7. When the Development Officer receives an application for a Development Permit that is for the purpose of accommodating the temporary relocation of an approved Liquor Store within 500 m of its original location, a variance to subsection 85(1) or subsection 85(2) may be granted where:
 - a. the application for the Development Permit is for a Temporary Development, in order to limit the introduction of an additional Liquor Store within 500 m of the original approved Development Permit;

- b. the temporary location for any Liquor Store is not within 500 m of any legally conforming Liquor Store; and
 - c. the application for a Development Permit will not result in a total Floor Area for a Liquor Store that is 10.0% greater than the Floor Area of the existing approved Liquor Store, to a maximum increase of 50 m².
8. When a Development Officer receives an application for a Development Permit that is for the purpose of accommodating the reversion of an existing approved Liquor Store back to its original location on a Site, a variance of subsection 85(1) or subsection 85(2) may only be granted where the application for the reversion is submitted to the Development Officer within 5 years of the date of vacating the original location and the application will not result in a total Floor Area that is greater than the original approved Liquor Store.
9. The issuance of a Development Permit which contains a variance pursuant to subsection 85(7) shall be issued as a Temporary Development for a duration of up to 5 years or less, to be determined by the Development Officer.
10. The Development Officer may require lighting, signage or screening measures that ensure the proposed development is compatible with adjacent or nearby Residential Uses or Commercial Uses.
11. Liquor Stores shall include the following to allow for natural surveillance to promote safe surroundings:
 - a. Customer access is oriented to:
 - i. a public or internal roadway, other than a Lane;
 - ii. a shopping centre parking lot in front of the store; or
 - iii. a mall access that allows visibility from the interior of the mall into the store.
 - b. Premises located at ground level shall include:
 - i. Ample transparency to maintain sight lines into and out of the premises. To ensure transparency and sight lines are maintained:
 1. Not more than 10% of the windows may be covered by Signs, the remainder shall be clear, untinted, and free from obstruction.
 - ii. Outdoor lighting is required to provide a well-lit environment for pedestrians entering and exiting the premises and to illuminate the property. The Development Officer shall require the applicant to provide a plan showing the location and details of perimeter lighting to ensure adequate lighting.

- iii. Landscaping shall be located such that it does not obstruct sight lines into the premises.

Development Officer’s Determination

1) The proposed Liquor Store does not comply with the minimum setback requirement from public lands (Sherwood Community Park) (Section 85.4):

**Required Setback: 100 m
Proposed Setback: 71 m
Deficient by 29 m**

2) The proposed Liquor Store does not comply with the minimum setback requirement from a previously approved Liquor Store (Sections 85.1-2):

**Required Setback: 500 m
Proposed Setback: 304 m
Deficient by 196 m**

Under Sections 85.5-6 of the Zoning Bylaw, the Development Officer is prohibited from granting the necessary variances to the minimum setback to allow for the proposed Liquor Store.

[unedited]


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| <i>Previous Subdivision and Development Appeal Board Decision</i> |
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| Application Number | Description | Decision |
|--------------------|---|--|
| SDAB-D-19-204 | To change the use from a General Retail Store to a Cannabis Retail Sales, and construct interior alterations. | December 5, 2019; The appeal is ALLOWED and the decision of the Development Authority is REVOKED . The development is GRANTED as applied for to the Development Authority, subject to CONDITIONS . |

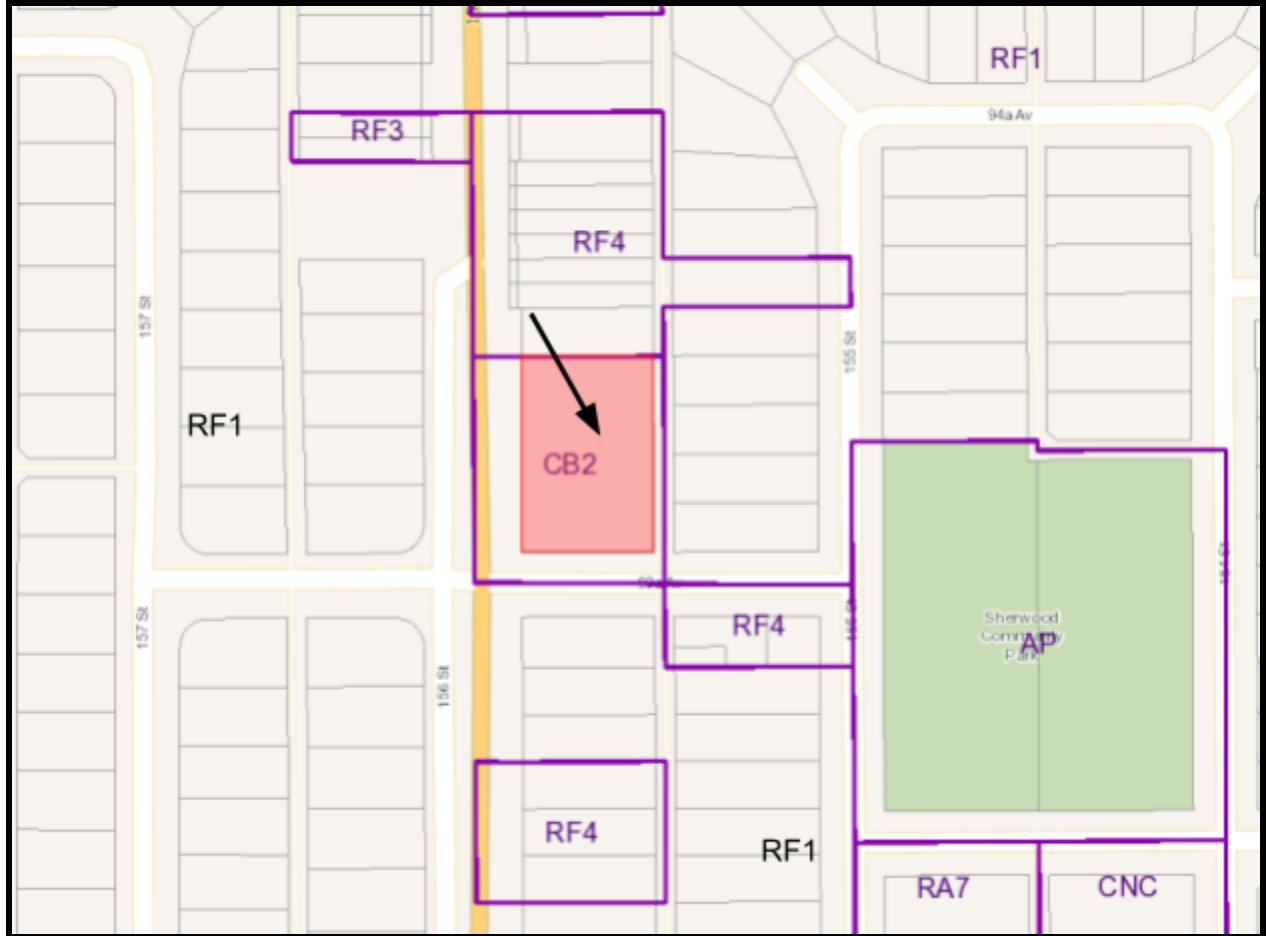


Notice to Applicant/Appellant

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

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|  | <h2>Application for Major Development Permit</h2> | | Project Number: 387844633-002 Application Date: MAR 01, 2021 Printed: March 15, 2021 at 6:24 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) | | |
| | 9345 - 156 STREET NW Plan 1039MC Blk 13 Lot 5 9325 - 156 STREET NW Plan 1822765 Blk 13 Lot 64 | | |
| | Specific Address(es) | | |
| | Suite: 15508 - 93A AVENUE NW Entryway: 15508 - 93A AVENUE NW Building: 9325 - 156 STREET NW | | |
| Scope of Application | | | |
| To change the use of a General Retail Store to a Liquor Store, and construct interior alterations. | | | |
| Permit Details | | | |
| Class of Permit: Class B 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: Main Street Overlay | | |
| Development Application Decision | | | |
| Refused | | | |
| Issue Date: Mar 15, 2021 Development Authority: WELCH, DMAI | | | |
| Reason for Refusal | | | |
| 1) The proposed Liquor Store does not comply with the minimum setback requirement from public lands (Sherwood Community Park) (Section 85.4): | | | |
| Required Setback: 100 m Proposed Setback: 71 m Deficient by 29 m | | | |
| 2) The proposed Liquor Store does not comply with the minimum setback requirement from a previously approved Liquor Store (Sections 85.1-2): | | | |
| Required Setback: 500 m Proposed Setback: 304 m Deficient by 196 m | | | |
| Under Sections 85.5-6 of the Zoning Bylaw, the Development Officer is prohibited from granting the necessary variances to the minimum setback to allow for the proposed Liquor 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 | | | |
| THIS IS NOT A PERMIT | | | |

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|---|---------------------------------|--------------------|--|------------------|
|  | Application for | | Project Number: 387844633-002 | |
| | Major Development Permit | | Application Date: MAR 01, 2021 Printed: March 15, 2021 at 6:24 PM Page: 2 of 2 | |
| Fees | | | | |
| | Fee Amount | Amount Paid | Receipt # | Date Paid |
| Major Dev. Application Fee | \$528.00 | \$528.00 | 08923371 | Mar 05, 2021 |
| Total GST Amount: | \$0.00 | | | |
| Totals for Permit: | \$528.00 | \$528.00 | | |
| THIS IS NOT A PERMIT | | | | |



SURROUNDING LAND USE DISTRICTS

Site Location ← File: SDAB-D-21-059 ▲
N