

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Thursday, 9:00 A.M.
April 8, 2021

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-21-053

Construct an Accessory Building (rear mutual detached Garages (12.29m x 6.4m))

15803 - 97 Avenue NW
Project No.: 362725232-006

TO BE RAISED

II 10:30 A.M. SDAB-D-21-037

Install (10) Fascia On-premises (window) Signs (HEALTH SQUARE MEDICAL CLINIC & PHARMACY)

11045 - 124 Street NW
Project No.: 370976523-001

III 1:30 P.M. SDAB-D-21-054

Construct a Liquor Store

10940 - 23 Avenue NW
Project No.: 381720708-002

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-21-053

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 362725232-006

APPLICATION TO: Construct an Accessory Building (rear mutual detached Garages (12.29m x 6.4m))

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: February 10, 2021

DATE OF APPEAL: March 9, 2021

NOTIFICATION PERIOD: February 18, 2021 through March 11, 2021

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 15803 - 97 Avenue NW

LEGAL DESCRIPTION: Plan 3081HW Blk 5B Lot 5

ZONE: (RF5) Row Housing Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Jasper Place Area Redevelopment Plan

Grounds for Appeal

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

The city is approving a variance for a property which has no development permit.

<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 160.2(3), **Multi-unit Housing** is a **Permitted Use** in the **(RF5) Row Housing Zone**.

Under section 160.2(4), a **Secondary Suite** is a **Permitted Use** in the **(RF5) Row Housing Zone**.

Under section 7.2(4), **Multi-unit Housing** means:

development that consists of three or more principal Dwellings arranged in any configuration and in any number of buildings. This Use does not include Blatchford Townhousing or Blatchford Stacked Row Housing.

Under section 7.2(6), **Secondary Suite** means:

development consisting of a Dwelling located within, and Accessory to, a structure in which the principal Dwelling is in a building that is in the form of Single Detached Housing, Semi-detached Housing, Duplex Housing, or Multi-unit Housing that is built in the form of Row Housing. A Secondary Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are physically separate from those of the principal Dwelling within the structure. A Secondary Suite also has an entrance separate from the entrance to the principal Dwelling, either from a common indoor landing or directly from outside the structure. This Use Class includes the Development or Conversion of Basement space or space above ground level to a separate Dwelling, or the addition of new floor space for a Secondary Suite to an existing Dwelling. A Secondary Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision. This Use Class does not include Garden Suites, Lodging Houses, Blatchford Lane Suites, Blatchford Accessory Suites, or Blatchford Townhousing.

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, **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.”

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

Side Lot Line

Section 50.3.5.c states:

the distance between an Accessory building and the lot line running parallel to any flanking public roadway, other than a Lane, shall not be less than the Side Setback required for the principal building. If the principal building was developed before October 2, 1961, the distance may be reduced, if the placement of the proposed Garage is consistent with the placement of other existing Garages in the same block.

Section 814.3(b) states “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.”

Section 160.4(9) states “the minimum Side Setbacks shall be 1.2 m, except that it shall be 3.0 m where the Side Yard Abuts a flanking public roadway other than a Lane.”

Development Officers Determination

Accessory Building Setback - The distance from the garage to the side property line along 97 Ave is 2m, instead of 3 m. (Section 50.3.5.b)

[unedited]


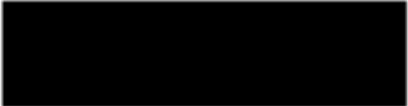
Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-20-153	To construct a Multi-unit Housing (4 Dwellings Row House) with Unenclosed front Porches, side landings and Secondary Suites in the Basements	November 17, 2020; The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is GRANTED as applied for to the Development Authority with Variance to Reduced Rear Setback - The distance from the multi-unit house to the rear property line

		abutting the lane is 14.6m instead of 18.0m. (Section 814.3.4)
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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.

	Project Number: 362725232-006 Application Date: JUN 02, 2020 Printed: February 25, 2021 at 12:53 PM Page: 1 of 4		
<h2>Accessory Building Permit</h2>			
<p>This document is a record of a Development and/or Building 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 and issued pursuant to the Safety Codes Act RSA 2000, Safety Codes Act Permit Regulation, Alberta Building Code and City of Edmonton Bylaw 15894 Safety Codes Permit Bylaw.</p>			
Applicant 	Property Address(es) and Legal Description(s) 15803 - 97 AVENUE NW Plan 3081HW Blk 5B Lot 5 Location(s) of Work Building: 9640 - 158 STREET NW		
Scope of Permit To construct an Accessory Building (rear mutual detached Garages (12.29m x 6.4m)).			
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> <td style="width: 50%;"> Site Area (sq. m.): 686.61 </td> </tr> </table>		Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 686.61
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 686.61		
Development Permit Decision Approved Issue Date: Feb 10, 2021 Development Authority: LAI, ECHO			



Project Number: **362725232-006**
Application Date: JUN 02, 2020
Printed: February 25, 2021 at 12:53 PM
Page: 2 of 4

Accessory Building Permit

Subject to the Following Conditions

NOTE: This Development Permit is NOT valid until the Principle Dwelling obtains a valid Development Permit for the site and the Notification Period expires in accordance to Section 21. (Reference Section 17.1)

This Development Permit authorizes the development of an Accessory Building (rear mutual detached Garages (12.29m x 6.4m)).

The development shall be constructed in accordance with the stamped and approved drawings.

An Accessory building or structure shall not exceed 4.3m in Height. (Reference Section 6.1 and 50.3(3)).

Eave projections shall not exceed 0.46m into required Setbacks or Separations spaces less than 1.2m. (Reference Section 44.1(c) (ii))

ADVISEMENTS:

A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.

Any proposed change from the original approved drawings is subject to a revision/re-examination fee. The fee will be determined by the reviewing officer based on the scope of the request and in accordance with current fee schedules. A review fee may be collected for each change request.

The driveway access must maintain a minimum clearance of 1.5 m from the service pedestal and all other surface utilities. The applicant or property owner is responsible for the location of all underground and above ground utilities and maintaining the required clearance as specified by the utility companies. Alberta One-Call, Shaw, and Telus should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with the relocation or removal of the service pedestal shall be at the expense of the applicant or property owner.

An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2)

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

Variances

Accessory Building Setback - The distance from the garage to the side property line along 97 Ave is 2m, instead of 3 m. (Section 50.3.5.b)

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: Feb 18, 2021

Ends: Mar 11, 2021

Building Permit Decision

Issued

Issue Date: Feb 25, 2021 Permit Issuer: CLARK, GRAEME



Project Number: 362725232-006
Application Date: JUN 02, 2020
Printed: February 25, 2021 at 12:53 PM
Page: 3 of 4

Accessory Building Permit

Conditions of Issuance

P.E. Graeme Clark

Permit issued subject to all notations on the stamped plans.

Foundation Engineering: MR Engineering Ltd. MD Mizanur Rahman P.Eng. MARh 18, 2020.

Table 9.10.14.5(A) requires a 45 minute fire resistance rating with combustible or non combustible construction and with combustible or non combustible cladding for the east wall of the garage facing the house.

Fire Separation:

1 hour fire separation shall be continuous to separate the Garage units - from footing to underside of roof sheathing including all projections. (Note: if standard truss or support greater than 24 inches - require infill blocking at not more than 24" o/c to support drywall sheets)

Non vented soffits are required on the right (south) side and front and rear of the garage as outlined in Part 9.10.15.5.11 in the NBC 2019(AE)

No projections within 18 inch (0.45 m) of property line.

A vertical swinging man door is required as outlined in Part 9.9.6.4. and 9.9.8.2. of the NBC 2019(AE).

Foundations supporting exterior walls shall be at least 6 inches (150mm) above the finished ground level.

Window openings in a detached garage are not permitted if the limiting distance is less than 3.94 ft. (1.2m) as outlined in Part 9.10.15.4 of the NBC 2019(AE).

An Accessory Building shall not be constructed over a Natural Gas Service Line. For service line location please call Alberta One Call at 1-800-242-3447. For gas line relocation please call ATCO Utilities at 780-424-5222.

Subject to required final inspection prior to installation of insulation and vapor barrier.

The stamped drawings for which the building permit is issued must be available on the site for use of Safety Codes Officers (building inspectors) at ALL inspection stages. Printed plans MUST BE LEGIBLE.

ADVISEMENTS:

- The stamped drawings for which the building permit is issued must be available on the site for use of Safety Codes Officers (inspectors) at ALL inspection stages. Printed plans MUST BE LEGIBLE.
- Visit edmonton.ca/safetycodeinspections for inspection information.
- Deviation from approved drawings/site plans may be made only with written approval of the permit issuing office. Request permit revisions by contacting the permit issuer identified on this permit.
- Contact Alberta One Call www.albertaonecall.com 1-800-242-3447 to request utility locate service.
- A building permit expires if work on the project to which it applies is not started within 90 days from the date of issue of the permit or if abandoned for 120 days. If expired, a new permit must be obtained and fees paid before work is commenced or restarted.
- Work must comply with the requirements of National Building Code-Alberta Edition (NBC(AE)), the Safety Codes Act and related regulations.
- The owner is responsible for the repair of any damage to public property or works located on public property that may occur as a result of undertaking work regulated by NBC(AE). All sidewalks, streets or other public property that have been damaged shall be restored to a safe condition.
- An owner or constructor shall, upon request, provide written assurance from the person supervising construction that the work was in compliance with the requirements of NBC(AE) and any permits issued.

Fees

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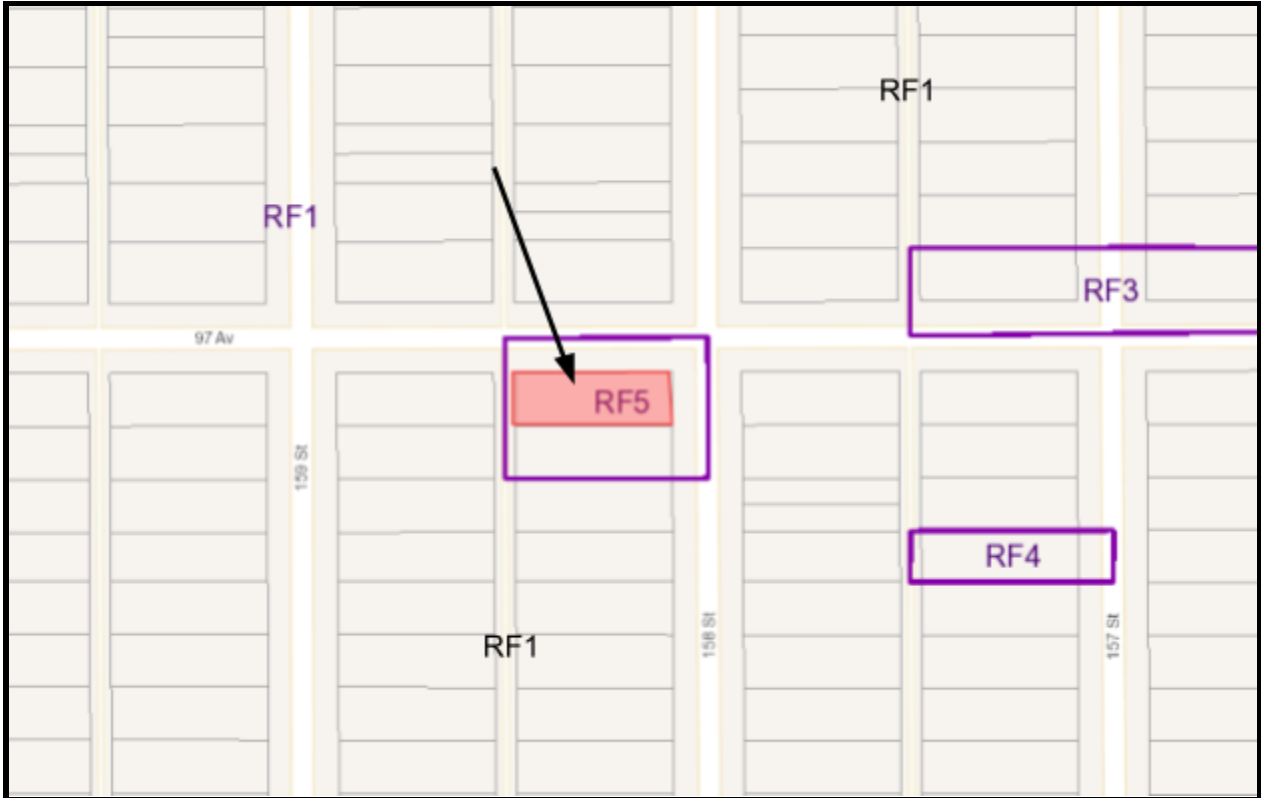


Project Number: **362725232-006**
Application Date: JUN 02, 2020
Printed: February 25, 2021 at 12:53 PM
Page: 4 of 4

Accessory Building Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Application Fee	\$120.00	\$120.00	071520200714000	Jul 14, 2020
Safety Codes Fee	\$4.50	\$4.50	071520200714000	Jul 14, 2020
Building Permit Fee (Accessory Building)	\$112.00	\$112.00	071520200714000	Jul 14, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$236.50</u>	<u>\$236.50</u>		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-21-053

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TO BE RAISED

ITEM II: 10:30 A.M.

FILE: SDAB-D-21-037

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 370976523-001

APPLICATION TO: Install (10) Fascia On-premises (window) Signs
(HEALTH SQUARE MEDICAL CLINIC &
PHARMACY)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 25, 2021

DATE OF APPEAL: February 8, 2021

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 11045 - 124 Street NW

LEGAL DESCRIPTION: Plan RN39B Blk 45 Lot 11

ZONE: (CB1) Low Intensity Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

I would like to appeal the decision of the Development Authority for the following reasons:

1. Enhance the look of the building to make it look more modern and upbeat as it is an older building on 124st.
2. Privacy for the pharmacy since there is pharmaceutical drugs on site.

3. Privacy for the medical clinic since we want to protect the privacy of patients coming in and out of clinic.
4. Window covering act as a security film for break ins.
5. Block sunlight because of high sun exposure.

<i>General Matters</i>

On March 12, 2021, the Board made and passed the following motion:

“That SDAB-D-21-037 be TABLED until April 8, 2021.”

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

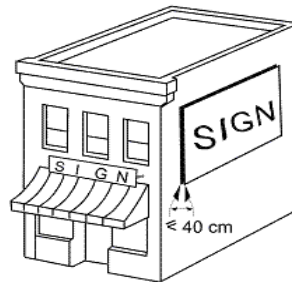
- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 330.2(21), a **Fascia On-premises Signs** is a **Permitted Use** in the **(CB1) Low Intensity Business Zone**.

Under section 7.9(2) **Fascia On-premises Signs** means a Fascia Sign, which is a Permanent Sign, displays On-premises Advertising and contains no Digital Copy.

Under Section 6.2, **Fascia Signs** means a Sign that is painted on or attached to an exterior building wall, or any other permitted structure, on which a two dimensional representation may be placed. Fascia Signs do not extend more than 40 cm out from the building wall or structure. Fascia Signs include banners or any other two dimensional medium.



Section 819.5(2) states (in part) Signs shall complement the pedestrian-oriented commercial environment and shall be provided in accordance with Schedule 59E of this Bylaw.

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

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

Section 814.1 states that the **General Purpose** of the **Mains Street 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.

Glazing

Section 819.4(10) states A maximum of 10% of the first Storey glazing may be covered by Signs. The remainder of the glazing shall remain free from obstruction.

Development Officer's Determination

1) 819.4(10): A maximum of 10% of the first Storey glazing may be covered by Signs. The remainder of the glazing shall remain free from obstruction.

PROPOSED: 100% of the windows are covered with signs.

Exceeds by: 90%

[unedited]

Community Consultation

Section 819.5(3) states When the Development Officer determines that a Development Permit application does not comply with the regulations contained in this section of the Overlay the notification process outlined in subsection 819.4(15) shall apply.



Section 819.4(15) states When the Development Officer determines that a Development Permit application does not comply with the regulations contained in this Overlay:

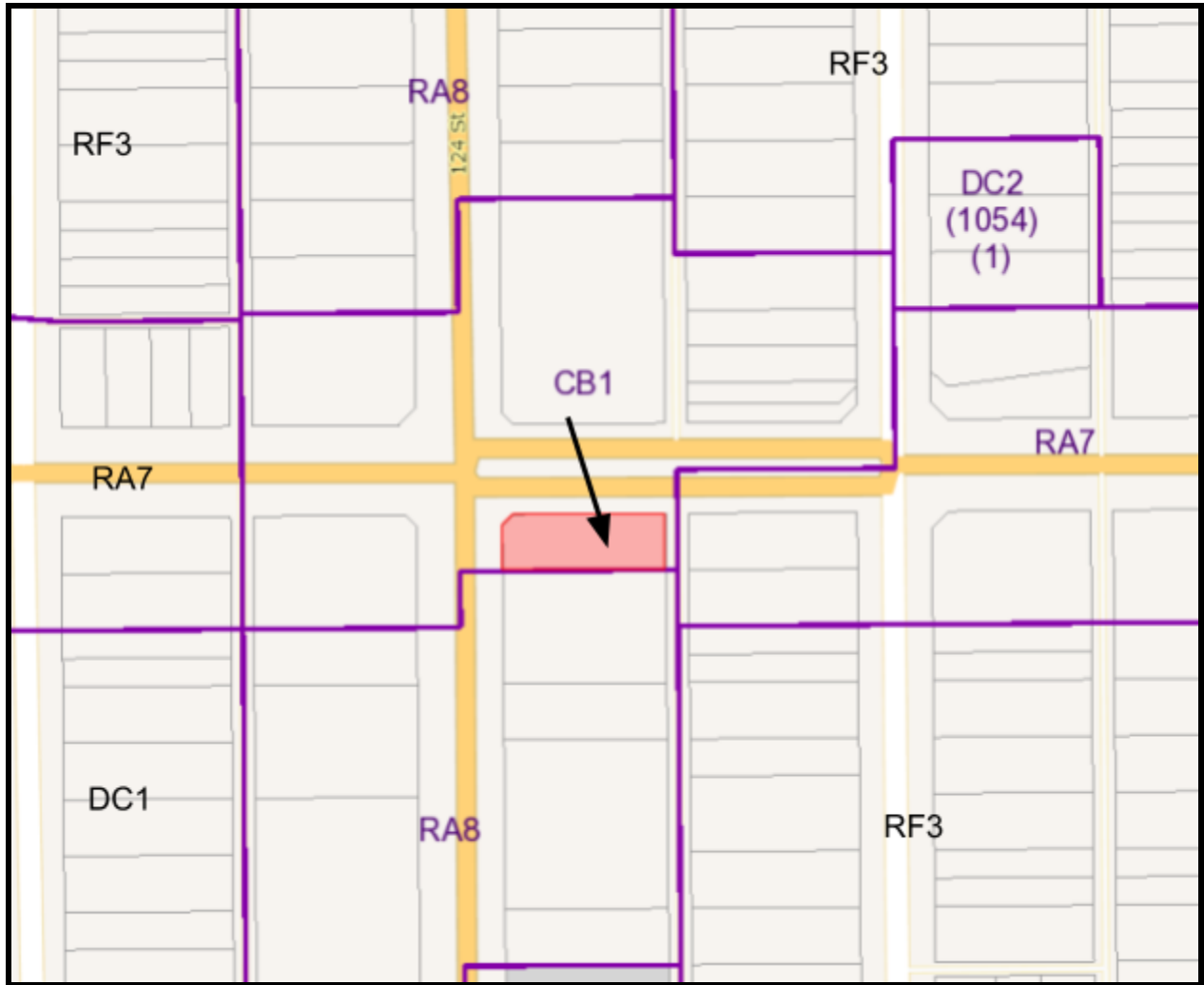
1. the Development Officer shall send notice to the municipal address and assessed owners of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development, and the President of each affected Community League and each Business Improvement Area Association operating within the distance described above to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
2. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been mailed, unless the Development Officer receives feedback from all specified recipients; and

3. 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 Section 11.3.

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 Sign Permit</h2>	Project Number: 370976523-001 Application Date: AUG 21, 2020 Printed: January 25, 2021 at 1:29 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) 11045 - 124 STREET NW Plan RN39B Blk 45 Lot 11																					
Scope of Application To install (10) Fascia On-premises (window) Signs (HEALTH SQUARE MEDICAL CLINIC & PHARMACY).																						
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> ASA Sticker No./Name of Engineer: Construction Value: 4000 </td> <td style="width: 50%; border: none;"> Class of Permit: Expiry Date: </td> </tr> <tr> <td style="border: none;"> Fascia Off-premises Sign: 0 Fascia On-premises Sign: 10 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 0 Minor Digital On/Off-premises Sign: 0 </td> <td style="border: none;"> 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 </td> </tr> </table>			ASA Sticker No./Name of Engineer: Construction Value: 4000	Class of Permit: Expiry Date:	Fascia Off-premises Sign: 0 Fascia On-premises Sign: 10 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 0 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																
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Development Application Decision Refused Issue Date: Jan 25, 2021 Development Authority: NOORMAN, BRENDA Reason for Refusal 1) 819.4(10): A maximum of 10% of the first Storey glazing may be covered by Signs. The remainder of the glazing shall remain free from obstruction. PROPOSED: 100% of the windows are covered with signs. Exceeds by: 90% Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.																						
Fees <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right; border-bottom: 1px solid black;">Fee Amount</th> <th style="text-align: right; border-bottom: 1px solid black;">Amount Paid</th> <th style="text-align: left; border-bottom: 1px solid black;">Receipt #</th> <th style="text-align: left; border-bottom: 1px solid black;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Sign Development Application Fee</td> <td style="text-align: right;">\$960.00</td> <td style="text-align: right;">\$960.00</td> <td>06722131</td> <td>Sep 14, 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;">\$960.00</td> <td style="text-align: right; border-top: 1px solid black;">\$960.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Sign Development Application Fee	\$960.00	\$960.00	06722131	Sep 14, 2020	Total GST Amount:	\$0.00				Totals for Permit:	\$960.00	\$960.00		
	Fee Amount	Amount Paid	Receipt #	Date Paid																		
Sign Development Application Fee	\$960.00	\$960.00	06722131	Sep 14, 2020																		
Total GST Amount:	\$0.00																					
Totals for Permit:	\$960.00	\$960.00																				
THIS IS NOT A PERMIT																						



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-21-037

▲
N

ITEM III: 1:30 P.M.

FILE: SDAB-D-21-054

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 381720708-002

APPLICATION TO: Construct a Liquor Store

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 8, 2021

DATE OF APPEAL: March 10, 2021

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 10940 - 23 Avenue NW

LEGAL DESCRIPTION: Plan 0323339 Blk 32 Lot 11

ZONE: (CSC) Shopping Centre Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

1. The site of the proposed development is located in a major commercial area made up of a number of shopping centre developments that serve a large and highly populated catchment area.
2. There are a variety of commercial uses within the commercial area.
3. The proposed development is separated from the approved alcohol sales locations to the south by 23 Ave., which is a major commercial road. The shopping centres north and south of 23 Ave. are functionally separate and serve different customer bases.

4. The proposed development is separated from the approved alcohol sales location to the west by 110 Street. The shopping centre west of 110 Street functions as a separate shopping centre from the shopping centre east of 110 Street (the site of the proposed development), which is anchored by a Safeway grocery store.
5. Locating an additional liquor store on the site of the proposed development 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.
6. Such further and other grounds as may be raised at the hearing of this appeal.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

the person applying for the permit or affected by the order under section 645 may appeal 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 330.3(9), a **Liquor Store** is a **Discretionary Use** in the **(CSC) Shopping Centre 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 330.1 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.

<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) Section 85.1 - The proposed Liquor Store is less than 500m from four other Liquor Stores:

**Development Permit No. 000417046-001
2011 - 111 STREET NW
Required Setback: 500 m
Proposed Setback: 227m
Deficient by: 273m**

**Development Permit No. 041908147-030
2305 - 111 STREET NW
Required Setback: 500 m
Proposed Setback: 139m
Deficient by: 361m**

**Development Permit No. 062884842-001
10965 - 23 AVENUE NW
Required Setback: 500 m
Proposed Setback: 81m
Deficient by: 419m**



**Permit Clearance No. 303412648-002 (Development Permit No. 000108996-001)
2118 - 109 STREET NW
Required Setback: 500 m
Proposed Setback: 206m
Deficient by: 294m**

The Development Officer is prohibited from granting a variance to the minimum separation distance from another Liquor Store, in accordance with Section 85.6 of the Zoning Bylaw.

[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: 381720708-002 Application Date: DEC 23, 2020 Printed: March 8, 2021 at 11:19 AM Page: 1 of 2			
<h2>Application for Major Development Permit</h2>				
This document is a Development Permit Decision for the development application described below.				
Applicant 	Property Address(es) and Legal Description(s) 10940 - 23 AVENUE NW Plan 03233339 Blk 32 Lot 11 Specific Address(es) Suite: 10940 - 23 AVENUE NW Entryway: 10940 - 23 AVENUE NW Building: 10940 - 23 AVENUE NW			
Scope of Application To construct a Liquor Store.				
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> Class of Permit: Class B Gross Floor Area (sq.m.): 516 New Sewer Service Required: N/A Site Area (sq. m.): 12073 </td> <td style="width: 50%; vertical-align: top;"> Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>			Class of Permit: Class B Gross Floor Area (sq.m.): 516 New Sewer Service Required: N/A Site Area (sq. m.): 12073	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class B Gross Floor Area (sq.m.): 516 New Sewer Service Required: N/A Site Area (sq. m.): 12073	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)			
Development Application Decision Refused Issue Date: Mar 08, 2021 Development Authority: BUCCINO, SAMANTHA				
THIS IS NOT A PERMIT				



Project Number: **381720708-002**
 Application Date: DEC 23, 2020
 Printed: March 8, 2021 at 11:19 AM
 Page: 2 of 2

Application for Major Development Permit

Reason for Refusal

1) Section 85.1 - The proposed Liquor Store is less than 500m from four other Liquor Stores:

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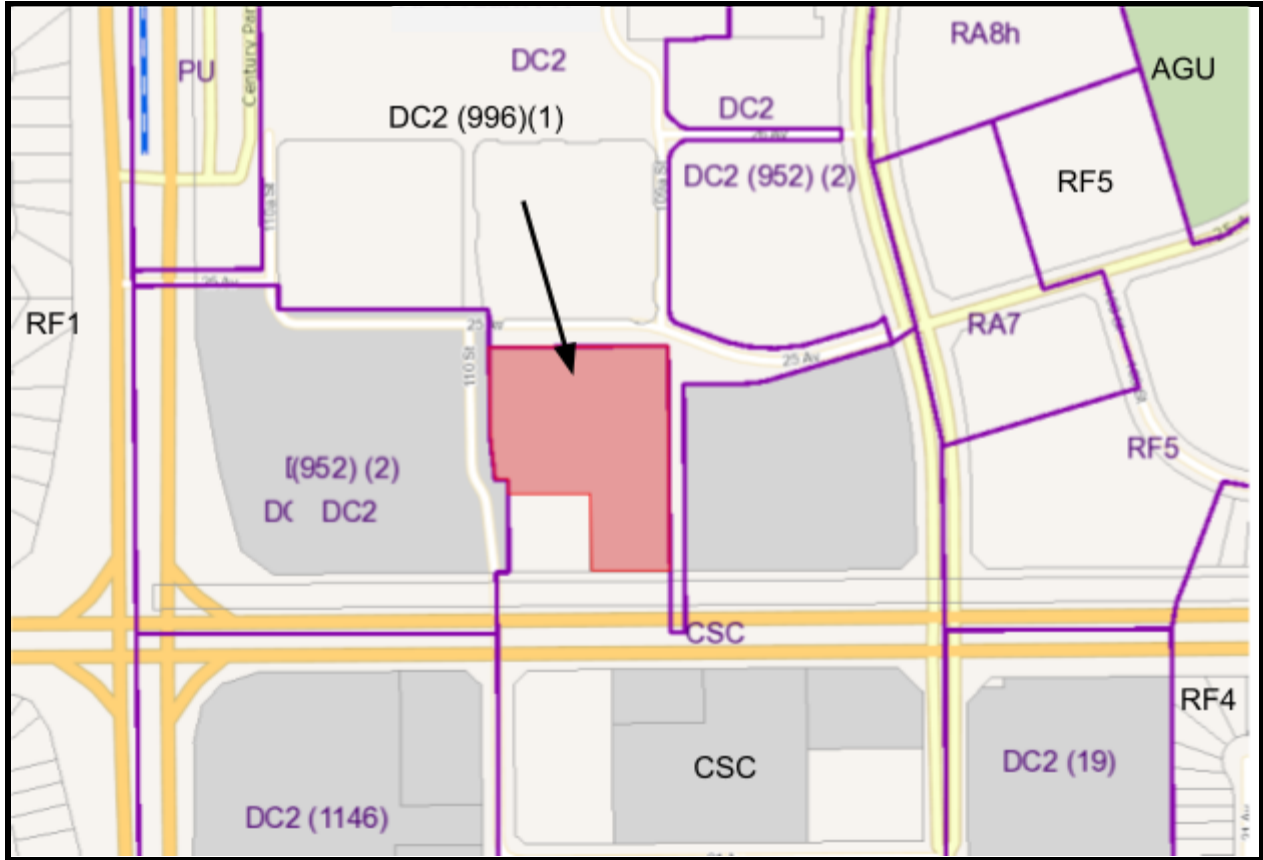
Rights of Appeal

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
Lot Grading Fee	\$285.61	\$285.61	06875198	Jan 07, 2021
Dev. Application Fee for GFA	\$100.00	\$100.00	06875198	Jan 07, 2021
Major Dev. Application Fee	\$981.00	\$981.00	06875198	Jan 07, 2021
Development Permit Inspection Fee	\$528.00	\$528.00	06875198	Jan 07, 2021
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,894.61	\$1,894.61		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ← **File: SDAB-D-21-054** ▲
N