

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
August 29, 2019**

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

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

I	9:00 A.M.	SDAB-D-19-134	Continue the use of an approved Cannabis Retail Sales and to construct interior alterations 100 - Mayfield Common NW Project No.: 286329359-005
WITHDRAWN			

II	10:30 A.M.	SDAB-D-19-135	Continue to operate a Cannabis Retail Sales store and to construct interior alterations 12120 - Jasper Avenue NW Project No.: 286660760-009
----	------------	---------------	-------------------------------------------------------------------------------------------------------------------------------------------------------

III	1:30 P.M.	SDAB-D-19-136	Construct an outdoor patio (54 m ²), accessory to an existing Bar and Neighbourhood Pub (Winters Lounge) 10630 - Winterburn Road NW Project No.: 272466799-001
-----	-----------	---------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

NOTE: *Unless otherwise stated, all references to “section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM II: 10:30 A.M.

FILE: SDAB-D-19-135

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:
APPLICATION NO.: 286660760-009

APPLICATION TO: Continue to operate a Cannabis Retail Sales store and to construct interior alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 26, 2019

DATE OF APPEAL: August 5, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12120 - Jasper Avenue NW

LEGAL DESCRIPTION: Plan 1225U Lots 1-4

ZONE: (CB3) Commercial Mixed Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: Oliver Area Redevelopment Plan

<i>Grounds for Appeal</i>

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

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

- (a) The development was approved by the Subdivision and Development Appeal Board (“SDAB”) by written decision dated November 8, 2018 (File Number: SDAB-D-18-175).
- (b) The development was approved with a condition requiring the Appellant’s store to be established or begin operations within nine months of the permit being issued.

- (c) On February 25, 2019, City Council amended the Edmonton Zoning Bylaw for which all future development permits for cannabis retail would no longer be subject to the nine-month condition.
- (d) For circumstances beyond the control of the Appellant, for more than six months, Alberta Gaming, Liquor and Cannabis (“AGLC”) suspended the number of store licences issued due to marijuana supply shortages.
- (e) On May 30, 2019, the AGLC lifted the moratorium on accepting new retail licence applications and issuing new retail licences.
- (f) The Appellant applied for a new development permit to “continue to operate a cannabis retail sales location”.
- (g) The proposed development represents a permitted use on the subject lands (Commercial Mixed Business Zone (CB3) – s. 370.2(4), Edmonton Zoning Bylaw).
- (h) The provisions of s. 70 of the Edmonton Zoning Bylaw do not limit this Board’s authority to approve the proposed development.
- (i) The “public lands” (Grant Notley Park) is a passive area as it is not used for community or recreation activities. There are no playing fields or playgrounds for the public to use.
- (j) Furthermore, the proposed development is sufficiently separated from the “public lands”:
- (k) The “public lands” are not visible from the proposed development and the proposed development is not visible from the “public lands”.
- (l) There are at least six (6) lanes of arterial roadway (Jasper Avenue), buildings and another two (2) lanes of arterial roadway (100 Avenue NW) separating the proposed development and the “public lands”.
- (m) The proposed development will not unduly interfere with the amenities of the neighbourhood, nor materially interfere with or affect the use, enjoyment or value of neighbouring properties.
- (n) Such further and other reasons as may be presented at the hearing of this matter.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, [...]

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 370.2(4), **Cannabis Retail Sales** is a **Permitted Use** in the **(CB3) Commercial Mixed Business Zone**.

Under section 7.4(9), **Cannabis Retail Sales** means:

development used for the retail sale of Cannabis that is authorized by provincial or federal legislation. This Use may include retail sales of Cannabis accessories. This Use does not include Cannabis Production and Distribution.

Under section 6.1, **Cannabis** means:

a cannabis plant and anything referred to in subsection (a) of this definition but does not include anything referred to in subsection (b) of this definition:

- a. Cannabis includes:
 - i. any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a part of the plant referred to in subsection (b) of this definition.
 - ii. any substance or mixture of substances that contains or has on it any part of such a plant;

- iii. any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained.
- b. Notwithstanding subsection (a) of this definition, Cannabis does not include:
 - i. a non-viable seed of a cannabis plant;
 - ii. a mature stalk, without any leaf, flower, seed or branch, of such plant;
 - iii. fibre derived from a stalk referred in subsection (b)(ii) of this definition; and
 - iv. the root or any part of the root of such a plant.

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

Section 370.1 states that the **General Purpose** of the **(CB3) Commercial Mixed Business Zone** is:

to create a mixed-use zone to provide for a range of medium intensity Commercial Uses as well as enhance opportunities for residential development in locations near high capacity transportation nodes, including Transit Avenues or other locations offering good accessibility. This Zone is not intended to accommodate "big box" style commercial development that utilizes significant amounts of surface parking, nor is it intended to be located abutting any Zone that allows Single Detached Housing as a Permitted Use, without appropriate site interface provisions.

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

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

Section 70 – Cannabis Retail Sales

- 1. Any Cannabis Retail Sales shall not be located less than 200 m from any other Cannabis Retail Sales. For the purposes of this subsection only:
 - a. the 200 m separation distance shall be measured from the closest point of the Cannabis Retail Sales Use to the closest point of any other approved Cannabis Retail Sales Use;

- b. A Development Officer shall not grant a variance to reduce the separation distance by more than 20 m in compliance with Section 11; and
 - c. The issuance of a Development Permit which contains a variance to separation distance as described in 70(1)(b) shall be issued as a Class B Discretionary Development.
 2. **Any Site containing Cannabis Retail Sales shall not be located less than:**
 - a. 200 m from any Site being used for a public library, at the time of the application for the Development Permit for the Cannabis Retail Sales; and
 - b. **100 m from any Site being used for Community Recreation Services Use, a community recreation facility or as public lands at the time of application for the Development Permit for the Cannabis Retail Sales.**
 3. For the purposes of subsection 2:
 - a. separation distances shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;
 - b. the term “public library” is limited to the collection of literary, artistic, musical and similar reference materials and learning resources in the form of books, electronic files, computers, manuscripts, recordings and films for public use, and does not include private libraries, museums or art galleries.
 - c. the term “community recreation facilities” means indoor municipal facilities used primarily by members of the public to participate in recreational activities conducted at the facilities, as per the Municipal Government Act; and
 - d. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.
 4. Subsection 105(3) of the Gaming, Liquor and Cannabis *Regulation*, is expressly varied by the following:
 - a. any Site containing a Cannabis Retail Sales shall not be located less than:

Public or private education

- i. 200 m from a Site being used for public or private education, at the time of the application for the Development Permit for the Cannabis Retail Sales;

Provincial health care facility

- ii. 100 m from a Site being used for a provincial health care facility at the time of the application for the Development Permit for the Cannabis Retail Sales; and

School reserve or municipal and school reserve

- iii. 100 m from a Site designated as school reserve or municipal and school reserve at the time of the application for the Development Permit for the Cannabis Retail Sales.

Measurement of Separation Distances

- b. For the purposes of this subsection, separation distances shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures.

Sites Greater than Two Hectares

- c. For Sites that are greater than 2.0 ha in size and zoned either CSC or DC2, that do not contain a public library at the time of application for the Development Permit for the Cannabis Retail Sales:
 - i. Subsection 70(2), and 70(4)(a) shall not apply; and
 - ii. the distances referred to in Subsection 105(3) of the *Gaming, Liquor and Cannabis Regulation* shall be expressly varied to 0 m.
 - d. For the purposes of subsection 70(4)(a)(i), the term "public or private education" means a school as defined in subsection (1)(y)(i) and (1)(y)(ii) of the *School Act (as amended from time to time)*.
5. Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 70(2), 70(3)(a) or 70(4).

Design Requirements

6. Cannabis Retail Sales shall include design elements that readily allow for natural surveillance to promote a safe urban environment, where applicable and to the satisfaction of the Development Officer, including the following requirements:

- a. customer access to the store is limited to a storefront that is visible from the street other than a Lane, or a shopping centre parking lot, or mall access that allows visibility from the interior of the mall into the store;
- b. the exterior of all stores shall have ample transparency from the street;
- c. Any outdoor lighting shall be designed to ensure a well-lit environment for pedestrians and illumination of the property; and
- d. Landscaping shall be low-growing shrubs or deciduous trees with a high canopy at maturity to maintain natural surveillance.

Development Officer’s Determination

The proposed Cannabis Retail Store does not comply with the minimum setback requirement from public lands (Grant Notley Park) (Section 70.3):

**Required Setback: 100 m
Proposed Setback: 80 m
Deficient by 20 m**


Under Section 70.4 of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Cannabis Retail Store. [unedited]

Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-18-175	To change the use from General Retail Stores to a Cannabis Retail Sales	November 8, 2018; 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.

	Project Number: 286660760-009 Application Date: JUL 18, 2019 Printed: August 6, 2019 at 8:36 AM Page: 1 of 2		
<h2 style="margin: 0;">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) 12120 - JASPER AVENUE NW Plan 1225U Lot 4 12120 - JASPER AVENUE NW Plan 1225U Lots 3-4 12120 - JASPER AVENUE NW Plan 1225U Lot 3 12120 - JASPER AVENUE NW Plan 1225U Lots 1-2 Specific Address(es) Building: 12120 - JASPER AVENUE NW		
Scope of Application To continue to operate a Cannabis Retail Sales store and to construct interior alterations.			
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): </td> <td style="width: 50%;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused Issue Date: Jul 26, 2019 Development Authority: WELCH, IMAI Reason for Refusal The proposed Cannabis Retail Store does not comply with the minimum setback requirement from public lands (Grant Notley Park) (Section 70.3): Required Setback: 100 m Proposed Setback: 80 m Deficient by 20 m Under Section 70.4 of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Cannabis Retail Store. Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.			
Fees			
THIS IS NOT A PERMIT			



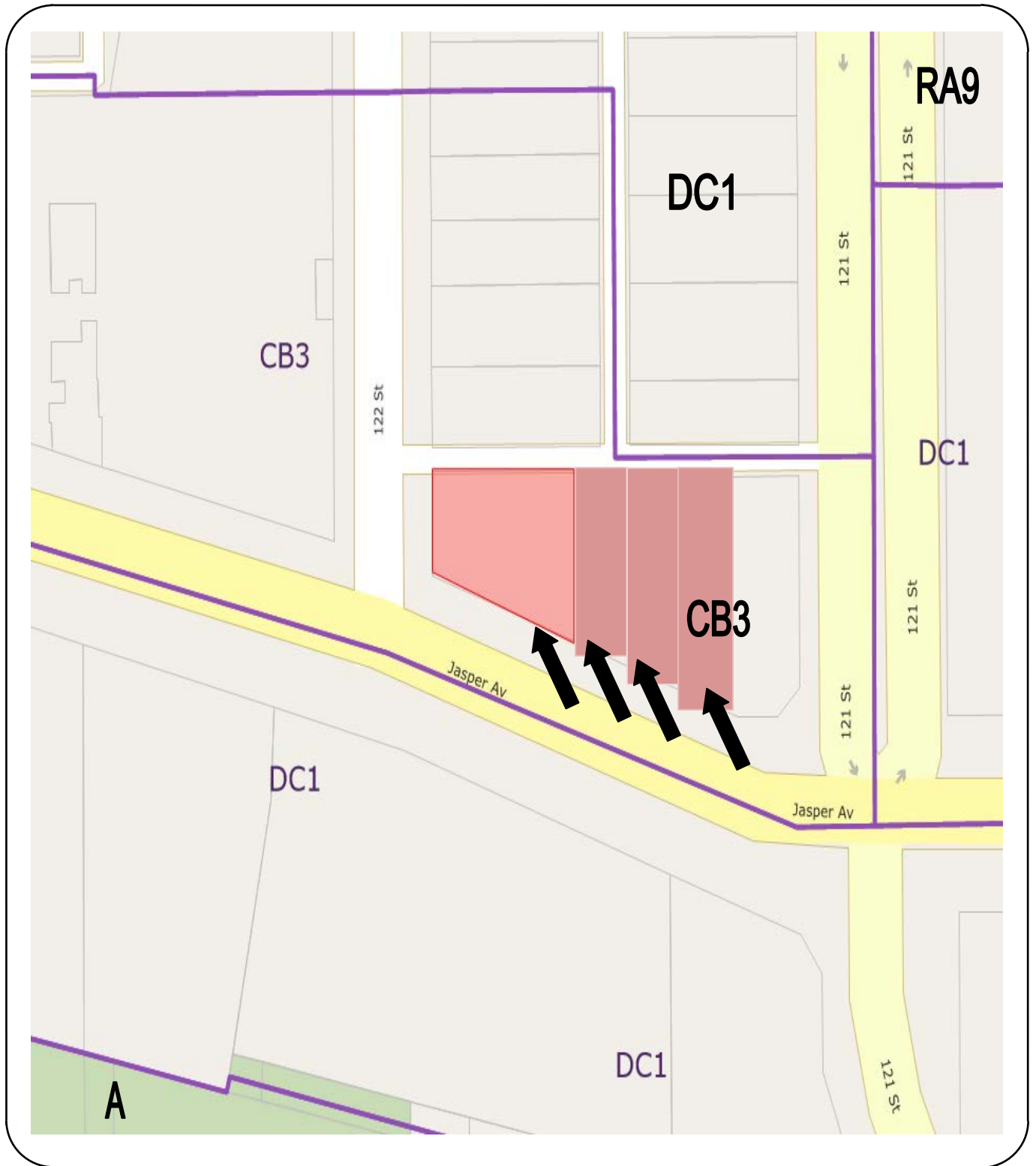
Application for Major Development Permit

Project Number: **286660760-009**
Application Date: JUL 18, 2019
Printed: August 6, 2019 at 8:36 AM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$0.00			
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$0.00</u>	<u>\$0.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-135



ITEM III: 1:30 P.M.

FILE: SDAB-D-19-136

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 272466799-001

APPLICATION TO: Construct an outdoor patio (54 m²),
accessory to an existing Bar and
Neighbourhood Pub (Winters Lounge)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 17, 2019

DATE OF APPEAL: July 3, 2019

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 10630 - Winterburn Road NW

LEGAL DESCRIPTION: NE-1-53-26-4

ZONE: (CNC) Neighbourhood Convenience
Commercial Zone

OVERLAY: N/A

STATUTORY PLAN: Winterburn Industrial Area Structure Plan

Grounds for Appeal

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

The patio being denied a permit has been in existence for over 20 years. The patio was in existence before the Bylaw change which now makes it non-conforming. There has only been maintenance of the patio done over the years; replacing rotten boards for safety purposes. No enhancements have been made. The patio, along with Winter's Restaurant & Bar, is a gathering place for the residence of West View Village. This is a community minded village, with close knit neighbours and Winter's has always supported this community with various donations to the Community League. Winter's has been under the same management for

over 20 years, provides employment for several of the residence and provides a location for locals to gather together for enjoyment.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, [...]

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;

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

...

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

and

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

Non-conforming use and non-conforming buildings

643(1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

(2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.

(4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no

additional buildings may be constructed on the lot while the non-conforming use continues.

(5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

- (a) to make it a conforming building,
- (b) for routine maintenance of the building, if the development authority considers it necessary, or
- (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 310.3(2), **Bars and Neighbourhood Pubs, for less than 100 occupants and 120 m² of Public Space**, is a **Discretionary Use** in the (CNC) **Neighbourhood Convenience Commercial Zone**.

Under section 7.4(6), **Bars and Neighbourhood Pubs** means:

development where the primary purpose of the facility is the sale of alcoholic beverages to the public, for consumption within the premises or off the Site. This Use typically has a limited menu and minors are prohibited from patronizing the establishment during at least some portion of the hours of operation. Typical Uses include neighbourhood pubs, bars, and cocktail lounges. This Use does not include Cannabis Lounges.

Section 3.2(1) states the following with respect to **Provisions for existing Development Permit and Direct Control Provisions**:

1. For the purpose of any Development Permit or Direct Control Provision:

...

- b. Major Eating and Drinking Establishments is deemed to be Specialty Food Services, Restaurants, Bars and Neighbourhood Pubs and Nightclubs;
- c. Minor Eating and Drinking Establishments is deemed to be:
 - i. Specialty Food Services;
 - ii. Restaurants; and
 - iii. Bars and Neighbourhood Pubs for less than 100 Occupants;

...

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, **Occupants** means “when referring to Specialty Food Services, Restaurants, Bars and Neighbourhood Pubs and Nightclubs, people that may occupy Public Space within any of these Uses, to be calculated at 1 Occupant per 1.2 m² of Public Space.”

Under section 6.1, **Public Space** means:

space that is part of an establishment, which is open to the public and not restricted to only employees. Public Space includes any private non-sale hospitality area where products manufactured within the premises are provided to private groups for tasting and sampling. This definition does not include kitchens, administration offices, food or drink preparation areas.

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

Section 310.1 states that the **General Purpose** of the (CNC) **Neighbourhood Convenience Commercial Zone** is “to provide for convenience commercial and personal service uses, which are intended to serve the day-to-day needs of residents within residential neighbourhoods.”

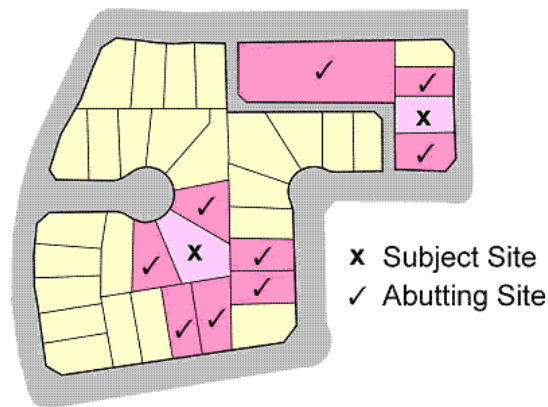
Section 90 – Outdoor Seating Associated With Speciality Food Services, Restaurants, Bars and Neighbourhood Pubs, and Nightclubs

Section 90.1 states:

If any Specialty Food Service, Restaurant, Bar and Neighbourhood Pub or Nightclub abuts or is across a Lane from a Site zoned residential or a Site with a residential development, the Development Officer shall draw a line parallel to the boundary or Lane separating each such residential development or Zone and bisecting the Site containing the Specialty Food Service, Restaurant, Bar and Neighbourhood Pub or Nightclub Uses and shall not allow any outdoor seating on the side of any such line that is closest to the Residential Zone or development.

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

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



Development Officer's Determination

1. A Bar and Neighbourhood Pub that abuts or is across a Lane from a Site zoned residential or a Site with a residential development, the Development Officer shall draw a line parallel to the boundary or Lane separating each such residential development or Zone and bisecting the Site containing the Bar and Neighbourhood Pub shall not allow any outdoor seating on the side of any such line that is closest to the Residential Zone or development. (Reference Section 90(1))

Proposed: The outdoor patio is located directly facing and abutting the Mobile Home Zone (RMH), which is a Residential Zone, contrary to Section 90(1). [unedited]

Use

Development Officer’s Determination

2. Bars and Neighbourhood Pubs, for less than 100 occupants and 120 m2 of Public Space, is a Discretionary Use in the Neighbourhood Convenience Commercial (CNC) Zone. (Reference Section 310.3)

Maximum allowed occupants: 100 occupants (seats)

Proposed: 180 occupants (seats)

Exceeds by: 80 occupants (seats)

Maximum allowed public space: 120 sq.m.

Proposed: outdoor patio with 54m2 of public space plus the existing 235 sq.m. = 289m2.

Exceeds by: 169 sq.m of public space

Advisements:

The Subdivision and Development Appeal Board (DAB/88-708) approved a Major Eating and Drinking Establishment, which was not a listed at the time, with 166 seats and 235 sq.m. public space with dance floor at this location.

[unedited]

Parking

Section 54.2, Schedule 1(A)(14) states:

Use of Building or Site	Minimum Number of Parking Spaces Required
Bars and Neighbourhood Pubs, Nightclubs	1 parking space per <u>8.0 m²</u> of Public Space

Development Officer’s Determination

3. On site parking shall comply with Section 54.2, Schedule 1 of the Zoning Bylaw.

Required: 68 spaces

Existing: 54 spaces

Deficient by: 14 spaces


[unedited]


Previous Subdivision and Development Appeal Board Decision

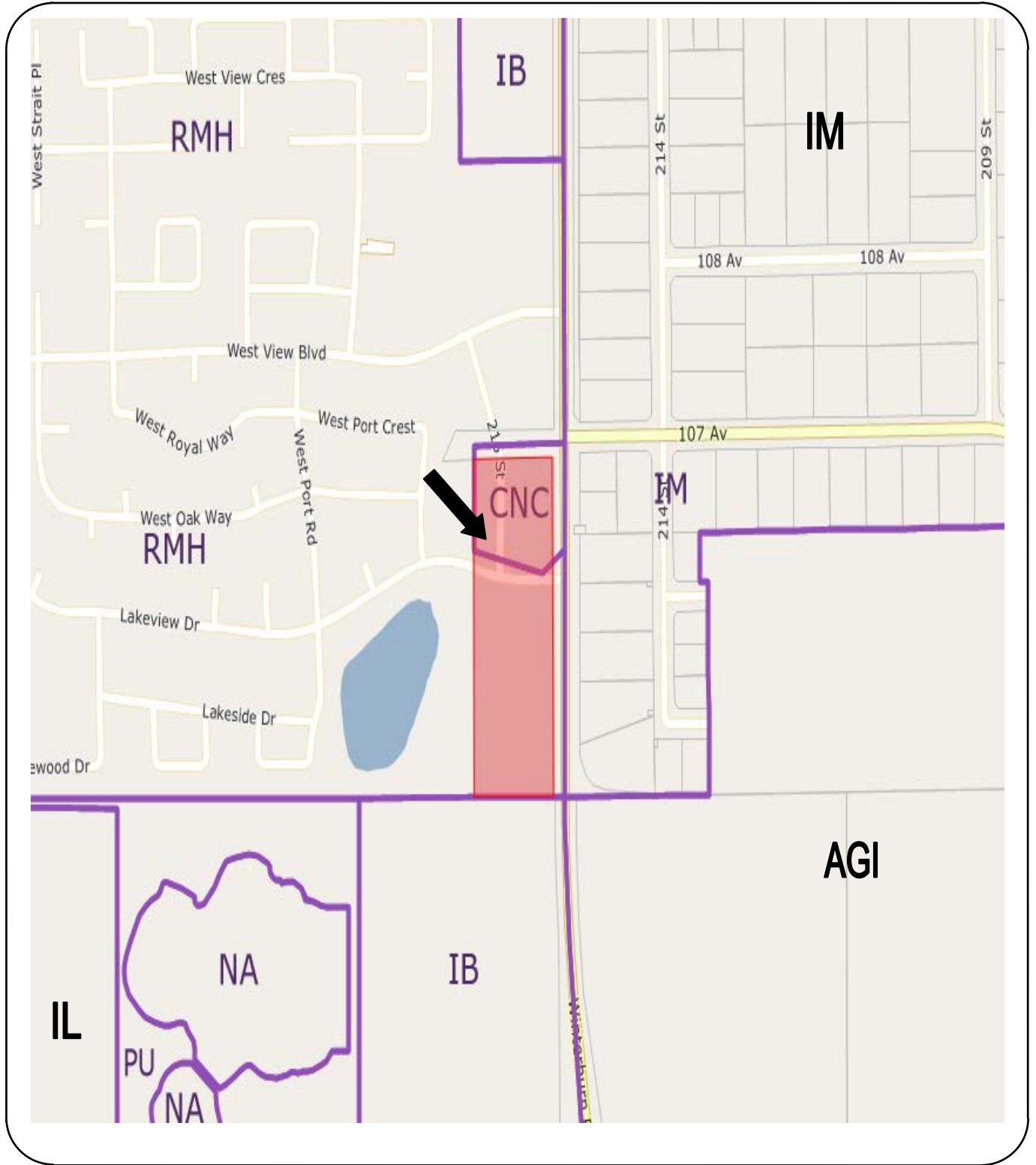
Application Number	Description	Decision
DAB-88-708	Change the use of a minor eating and drinking establishment (100 seats) to a major eating and drinking establishment (166 seats with dance floor) and construct interior alterations.	March 8, 1989; “that the appeal be ALLOWED and the DEVELOPMENT GRANTED, and the deficiency in parking be waived.”

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: 272466799-001 Application Date: JAN 16, 2018 Printed: July 3, 2019 at 9:11 AM Page: 1 of 2		
<h2 style="margin: 0;">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) 10630 - WINTERBURN ROAD NW NE-1-53-26-4 Specific Address(es) Suite: 10650 - WINTERBURN ROAD NW Entryway: 10650 - WINTERBURN ROAD NW Building: 10630 - WINTERBURN ROAD NW		
Scope of Application To construct an outdoor patio (54m2), accessory to an existing Bar and Neighbourhood Pub. (Winters Lounge)			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Class A Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class A Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Class A Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused Issue Date: Jun 17, 2019 Development Authority: ADAMS, PAUL			
THIS IS NOT A PERMIT			

	Project Number: 272466799-001 Application Date: JAN 16, 2018 Printed: July 3, 2019 at 9:11 AM Page: 2 of 2																																			
<h2 style="margin: 0;">Application for Major Development Permit</h2>																																				
<p>Reason for Refusal</p> <p>1. A Bar and Neighbourhood Pub that abuts or is across a Lane from a Site zoned residential or a Site with a residential development, the Development Officer shall draw a line parallel to the boundary or Lane separating each such residential development or Zone and bisecting the Site containing the Bar and Neighbourhood Pub shall not allow any outdoor seating on the side of any such line that is closest to the Residential Zone or development. (Reference Section 90(1))</p> <p>Proposed: The outdoor patio is located directly facing and abutting the Mobile Home Zone (RMH), which is a Residential Zone, contrary to Section 90(1).</p> <p>2. Bars and Neighbourhood Pubs, for less than 100 occupants and 120 m2 of Public Space, is a Discretionary Use in the Neighbourhood Convenience Commercial (CNC) Zone. (Reference Section 310.3)</p> <p>Maximum allowed occupants: 100 occupants (seats) Proposed: 180 occupants (seats) Exceeds by: 80 occupants (seats)</p> <p>Maximum allowed public space: 120 sq.m. Proposed: outdoor patio with 54m2 of public space plus the existing 235 sq.m. = 289m2. Exceeds by: 169 sq.m of public space</p> <p>Advisements: The Subdivision and Development Appeal Board (DAB/88-708) approved a Major Eating and Drinking Establishment, which was not a listed at the time, with 166 seats and 235 sq.m. public space with dance floor at this location.</p> <p>3. On site parking shall comply with Section 54.2, Schedule 1 of the Zoning Bylaw.</p> <p>Required: 68 spaces Existing: 54 spaces Deficient by: 14 spaces</p> <p>Rights of Appeal</p> <p>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 style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Development Permit Inspection Fee</td> <td style="text-align: right;">\$510.00</td> <td style="text-align: right;">\$510.00</td> <td style="text-align: right;">04745538</td> <td style="text-align: right;">Jan 16, 2018</td> </tr> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$362.00</td> <td style="text-align: right;">\$362.00</td> <td style="text-align: right;">04745538</td> <td style="text-align: right;">Jan 16, 2018</td> </tr> <tr> <td>Development Application Refund</td> <td style="text-align: right;">(\$500.00)</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$372.00</td> <td style="text-align: right; border-top: 1px solid black;">\$872.00</td> <td></td> <td></td> </tr> <tr> <td colspan="5">(overpaid by (\$500.00))</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Development Permit Inspection Fee	\$510.00	\$510.00	04745538	Jan 16, 2018	Major Dev. Application Fee	\$362.00	\$362.00	04745538	Jan 16, 2018	Development Application Refund	(\$500.00)				Total GST Amount:	\$0.00				Totals for Permit:	\$372.00	\$872.00			(overpaid by (\$500.00))				
	Fee Amount	Amount Paid	Receipt #	Date Paid																																
Development Permit Inspection Fee	\$510.00	\$510.00	04745538	Jan 16, 2018																																
Major Dev. Application Fee	\$362.00	\$362.00	04745538	Jan 16, 2018																																
Development Application Refund	(\$500.00)																																			
Total GST Amount:	\$0.00																																			
Totals for Permit:	\$372.00	\$872.00																																		
(overpaid by (\$500.00))																																				
<p>THIS IS NOT A PERMIT</p>																																				



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-136

