

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
December 5, 2018**

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

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

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I	9:00 A.M.	SDAB-D-18-200	Construct an Accessory Building, existing without permits (shed (2.21 metres by 3.11 metres))  9725 - 85 Avenue NW Project No.: 263481709-002
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II	10:30 A.M.	SDAB-D-18-201	Change the use from General Retail Stores to Cannabis Retail Sales  4303 - 167 Avenue NW Project No.: 287222895-001
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III	1:30 P.M.	SDAB-D-18-202	Construct a third-storey addition with a roof patio and interior alterations to a Health Service (Cannabis Counselling)  9629 - 82 Avenue NW Project No.: 270831691-008
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**NOTE:** *Unless otherwise stated, all references to “Section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-18-200

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT PROPERTY OWNER

APPELLANT:

APPLICATION NO.: 263481709-002

APPLICATION TO: Construct an Accessory Building, existing without permits (shed (2.21 metres by 3.11 metres))

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: November 6, 2018

DATE OF APPEAL: November 20, 2018

NOTIFICATION PERIOD: Nov. 13, 2018 through Dec. 4, 2018

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9725 - 85 Avenue NW

LEGAL DESCRIPTION: Plan I7 Blk 91 Lot 26

ZONE: RF2-Low Density Infill Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan

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*Grounds for Appeal*

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

The shed is one foot inside my property. A surveyor marked the property line after the shed was built and they were removed.

*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, [...]

- (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***

Section 120.2 (7) states **Single Attached Housing** is a **Permitted Use** in the **(RF2) Low Density Infill Zone**.

Under Section 7.2(8), **Single Detached Housing** means

development consisting of a building containing one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

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

Section 50.1(1) states a Use shall be Accessory to a Permitted or Discretionary Use which is a principal Use on the Site, if such Use complies with the definition of Accessory in this Bylaw. Notwithstanding the foregoing, Accessory parking may be on the same Site as the principal Use or comply with subsection 54.2(2) of this Bylaw.

Section 50.1(2) states Accessory Uses and buildings are permitted in a Zone when Accessory to a principal Use which is a Permitted Use in that same Zone and for which a Development Permit has been issued.

Section 120.1, the **General Purpose** of **(RF2) Low Density Infill Zone** is to retain Single Detached Housing, while allowing infill on narrow lots, and Secondary Suites and Garden Suites.

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.

<b><i>Site Coverage</i></b>
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Section 120.4 (7) and (8) states that Maximum Site Coverage shall be as follows:

	Principal Dwelling/ building	Accessory building	Principal building with attached Garage	Total Site Coverage
a. Single Detached and Duplex Housing - Site area <a href="#">300 m<sup>2</sup></a> or greater	28%	12%	40%	40%
b. Single Detached and Duplex Housing - Site area less than <a href="#">300 m<sup>2</sup></a>	28%	14%	42%	42%

c. Semi-detached Housing - Site area <u>600 m<sup>2</sup></u> or greater	28%	12%	40%	40%
d. Semi-detached Housing - Site area less than <u>600 m<sup>2</sup></u>	28%	14%	42%	42%
e. All other Uses	28%	12%	40%	40%

Notwithstanding subsection 120.4(7), the maximum Site Coverage for the Principal Dwelling/building and the maximum total Site Coverage shall be increased by up to 2% of the Site Area, in addition to any increase allowed under Section 87, to accommodate single Storey Unenclosed Front Porches.

Under Section 6.1, **Site Coverage** means the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 metres above Grade, including Accessory buildings or Structures, calculated by perpendicular projection onto a horizontal plane from one point located at an infinite distance above all buildings and structures on the Site. This definition shall not include:

- a. steps, eaves, cornices, and similar projections;
- b. driveways, aisles and parking lots unless they are part of a Parking Garage which extends 1.0 metres or more above Grade; or
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 metres above Grade.

**Development Officer’s Determination**

Site Coverage - The Accessory Buildings (shed and detached garage) cover 14.2% of the site, instead of 12%. In total, all the buildings cover 42.3% of the site, instead of 42% (Section 120.4.7 and 8). [unedited]

<b><i>Eaves Projection</i></b>
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Section 44.1(c)(ii) states that the following features may project into a required Setback or Separation Space as provided for below: eaves or similar architectural features on Accessory buildings, provided that such projections do not exceed 0.6 metres in the case of Setbacks or Separation Spaces of 1.2 metres or greater, and 0.46 metres for Setbacks or Separation Spaces of less than 1.2 metres.

**Development Officer’s Determination**

Eaves projection is 0.65 metres into the required setback instead of 0.46 metres (Section 44.1(c.ii)). [unedited]


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Notice to Applicant/Appellant

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

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	Project Number: <b>263481709-002</b> Application Date: SEP 06, 2018 Printed: November 6, 2018 at 12:21 PM Page: 1 of 2				
<b>Accessory Building Permit</b>					
This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.					
<b>Applicant</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 100%;"><b>Property Address(es) and Legal Description(s)</b></td> </tr> <tr> <td style="text-align: center;">9725 - 85 AVENUE NW Plan 17 Blk 91 Lot 26</td> </tr> <tr> <td><b>Location(s) of Work</b></td> </tr> <tr> <td>Entryway: 9725 - 85 AVENUE NW Building: 9725 - 85 AVENUE NW</td> </tr> </table>	<b>Property Address(es) and Legal Description(s)</b>	9725 - 85 AVENUE NW Plan 17 Blk 91 Lot 26	<b>Location(s) of Work</b>	Entryway: 9725 - 85 AVENUE NW Building: 9725 - 85 AVENUE NW
<b>Property Address(es) and Legal Description(s)</b>					
9725 - 85 AVENUE NW Plan 17 Blk 91 Lot 26					
<b>Location(s) of Work</b>					
Entryway: 9725 - 85 AVENUE NW Building: 9725 - 85 AVENUE NW					
<b>Scope of Permit</b>					
To construct an Accessory Building, existing without permits (shed (2.21m x 3.11m)).					
<b>Permit Details</b>					
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 404.11				
I/We certify that the above noted details are correct. Applicant signature: _____					
<b>Development Permit Decision</b>					
Approved					
<b>Issue Date:</b> Nov 06, 2018 <b>Development Authority:</b> ANGELES, JOSELITO					
<b>Subject to the Following Conditions</b>					
This Development Permit authorizes the development of an Accessory Building, existing without permits (shed (2.21m x 3.11m)). The development shall be constructed in accordance with the stamped and approved drawings.					
This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21. (Reference Section 17.1)					
ADVISEMENTS:					
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.					
<b>Variations</b>					
Site Coverage - The Accessory Buildings (shed and detached garage) cover 14.2% of the site, instead of 12%. In total, all the buildings cover 42.3% of the site, instead of 42% (Section 120.4.7 and 8).					
Eaves projection is 0.65 m into the required setback instead of 0.46 m (Section 44.1(c.ii)).					
<b>Rights of Appeal</b>					
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.					
<b>Notice Period Begins:</b> Nov 13, 2018 <b>Ends:</b> Dec 04, 2018					
<b>Building Permit Decision</b>					
No decision has yet been made.					

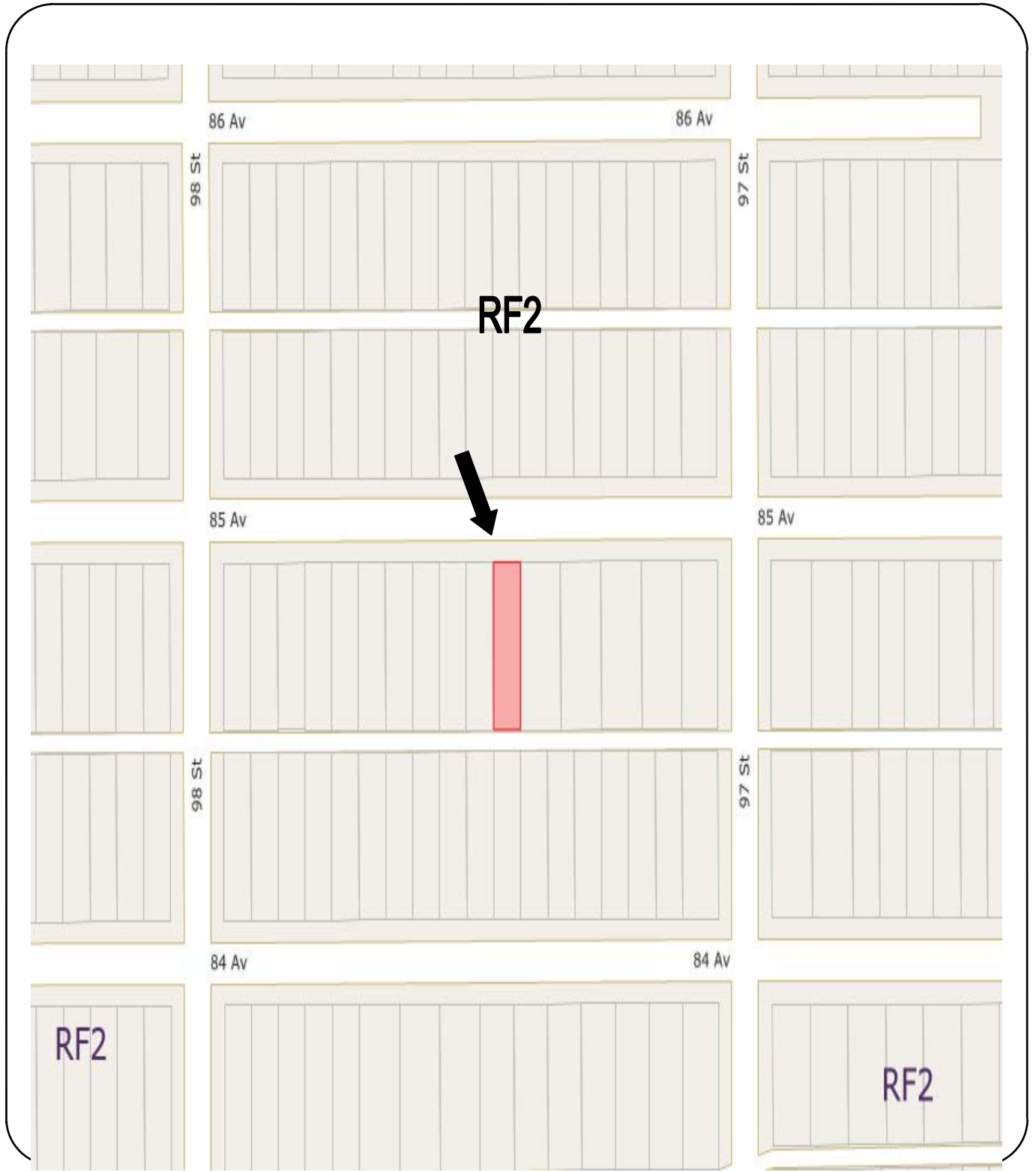


Project Number: **263481709-002**  
Application Date: SEP 06, 2018  
Printed: November 6, 2018 at 12:21 PM  
Page: 2 of 2

### Accessory Building Permit

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Safety Codes Fee	\$4.50	\$4.50	05316542	Sep 06, 2018
Existing Without Permit Building Penalty Fee	\$108.00	\$108.00	05316542	Sep 06, 2018
Building Permit Fee (Accessory Building)	\$108.00	\$108.00	05316542	Sep 06, 2018
Dev Application Fee	\$116.00	\$116.00	05316542	Sep 06, 2018
Existing Without Permit Dev Application Penalty Fee	\$116.00	\$116.00	05316542	Sep 06, 2018
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	<u>\$452.50</u>	<u>\$452.50</u>		



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-200



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-201

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 287222895-001

APPLICATION TO: Change the use from General Retail Stores to Cannabis Retail Sales

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 26, 2018

DATE OF APPEAL: November 15, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4303 - 167 AVENUE NW

LEGAL DESCRIPTION: Plan 1421576 Blk 25 Lot 4

ZONE: CB2-General Business Zone

OVERLAY: N/A

STATUTORY PLAN: Brintnell Neighbourhood Structure Plan/Pilot Sound Area Structure Plan

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*Grounds for Appeal*

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

The proposed development will not unduly interfere with the amenities of the neighborhood.

The proposed development will not materially interfere with or affect the use, enjoyment or value of neighboring parcels of land.

The proposed development conforms with the use prescribed for the subject land or building in the zoning bylaw. The subject site is zoned CB2 and within that zoning the proposed development is a permitted use.

The proposed development complies with Section 105 (3) of the Gaming, Liquor and Cannabis Regulation.

The Court of Appeal has determined the board has the power to vary a general regulation

*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.

**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 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;

(e) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

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

Section 340.2(6) states **Cannabis Retail Sales** is a **Permitted Use** in the **(CB2) General Business Zone**.

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

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

Under Section 6.1, Cannabis means a cannabis plant and anything referred to in subsection (a) of this definition but does not include anything referred to in subsection (b) of this definition:

a. Cannabis includes:

i. any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a part of the plant referred to in subsection (b) of this definition.

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

Under section 7.8(12), **Public Libraries and Cultural Exhibits** means:

means development for the collection of literary, artistic, musical and similar reference materials in the form of books, manuscripts, recordings and films for public Use; or a development for the collection, preservation and public exhibition of works or objects of historical, scientific or artistic value. Typical Uses include libraries, museums and public, not-for-profit art galleries.

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

<b><i>Section 70 – Cannabis Retail Sales Regulations</i></b>
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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 a Cannabis Retail Sales shall not be located less than 200 m from any Site being used for a public library, or for public or private education at the time of the application for the Development Permit for the 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 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 in the form of books, manuscripts, recordings and films for public use, and does not include private libraries, museums or art galleries; and
  - c. the term "public or private education" is limited to elementary through to high schools inclusive only, and does not include dance schools, driving schools or other Commercial Schools.
3. Any Site containing a Cannabis Retail Sales shall not be located less than 100 m from any Site being used for Community Recreation Services Use, a community recreation facility, a provincial health care facility, as public lands, or any Site that is designated as school reserve or municipal and school reserve at the time of the application for the Development Permit for the Cannabis Retail Sales. 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 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
    - c. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.
  4. **Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 70(2) or 70(3).**
  5. 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 store front that is visible from the street other than a Lane, or a shopping centre parking lot, or a 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.
  6. The Development Officer shall impose a condition on any Development Permit issued for Cannabis Retail Sales requiring that the development:



- a. shall not commence until authorized by and compliant with superior legislation; and
  - b. must commence within nine (9) months of the date of approval of the Development Permit.
7. For the purposes of Section 70(6), development commences when the Cannabis Retail Sales Use is established or begins operation.

**Development Officer’s Determination**

The proposed Cannabis Retail Store does not comply with the minimum setback requirement from a site containing a public library (Section 70.2):

Required Setback: 200 m  
 Proposed Setback: 0 m  
 Deficient by 200 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]**

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***Previous Subdivision and Development Appeal Board Decision***


<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
SDAB-D-15-218	To construct a Restaurant (376 square metres of Public Space; including outdoor patio)	October 15, 2015; The appeal is ALLOWED and the decision of the Development Authority is Revoked. The development is GRANTED as applied for to the Development Authority.

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**Notice to Applicant/Appellant**

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

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	Project Number: <b>287222895-001</b> Application Date: JUL 11, 2018 Printed: November 15, 2018 at 3:04 PM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Major Development Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 4303 - 167 AVENUE NW Plan 1421576 Blk 25 Lot 4																				
<b>Scope of Application</b> To change the use from General Retail Stores to Cannabis Retail Sales.																					
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">                     Class of Permit:                      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:                      Staf. 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: Staf. 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: Staf. Plan Overlay/Annex Area: (none)																				
I/We certify that the above noted details are correct. Applicant signature: _____																					
<b>Development Application Decision</b> Refused <b>Issue Date:</b> Oct 26, 2018 <b>Development Authority:</b> WELCH, IMAI  <b>Reason for Refusal</b> The proposed Cannabis Retail Store does not comply with the minimum setback requirement from a site containing a public library (Section 70.2):  Required Setback: 200 m Proposed Setback: 0 m Deficient by 200 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.  <b>Rights of Appeal</b> The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.																					
<b>Fees</b> <table style="width: 100%; border: none;"> <thead> <tr> <th style="width: 40%;"></th> <th style="width: 15%; text-align: right;">Fee Amount</th> <th style="width: 15%; text-align: right;">Amount Paid</th> <th style="width: 15%; text-align: right;">Receipt #</th> <th style="width: 15%; text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$5,600.00</td> <td style="text-align: right;">\$5,600.00</td> <td style="text-align: right;">05175711</td> <td style="text-align: right;">Jul 11, 2018</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	05175711	Jul 11, 2018	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	05175711	Jul 11, 2018																	
Total GST Amount:	\$0.00																				
Totals for Permit:	\$5,600.00	\$5,600.00																			
<b>THIS IS NOT A PERMIT</b>																					



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-201



ITEM III: 1:30 P.M.

FILE: SDAB-D-18-202

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT PROPERTY OWNER

APPELLANT:

APPLICATION NO.: 270831691-008

APPLICATION TO: Construct a third-storey addition with a roof patio and interior alterations to a Health Service (Cannabis Counselling)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: October 25, 2018

DATE OF APPEAL: November 21, 2018

NOTIFICATION PERIOD: Nov. 1, 2018 through Nov. 22, 2018

RESPONDENT: Permit Experts

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9629 - 82 Avenue NW

LEGAL DESCRIPTION: Plan 4575S Blk 12 Lot 9

ZONE: CB2-General Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan

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*Grounds for Appeal*

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

I wish to thank you for the opportunity to voice our opinions on this matter.

- I. First, I would like to note that this development permit has been requested and issued for "a third-story addition with a roofpatio and interior alterations to a Health Service (Cannabis Counselling)"... due to recent decisions by the appeals board to change the use of the subject property (see SDAB-D-18-171), this is inaccurate, misleading and is no longer the case and I request that it be DENIED.

- a. The development permit that has been approved is for "a third-story addition with a roof patio and interior alterations to a Health Service (Cannabis Counselling)".
- b. The subject property has recently applied for a "change in use from a Health Service to Cannabis Retail Sales". This request to the Subdivision & Development Appeal Board has already been "Approved with Conditions" (see SDAB-D-I8-171). The change in use and the original appeal process were all based on the existing structure... parking/security/lighting requirements, alley traffic etc., were all based on that process.
- c. The request to add "a third-story addition with a roof patio and interior alterations to a Health Service (Cannabis Counselling)" in itself is misleading to all parties notified in this notice, including City of Edmonton Development Services, the Subdivision & Development Appeal Board as well as the general public and immediate neighbours due to the fact the business/building will no longer be used for a "Health Service (Cannabis Counselling)" and will instead be utilized as a "Cannabis Retail Sales" location.
- d. If this development permit is allowed to stand then the change in use should be reverted from "Cannabis Retail Sales" back to a "Health Service (Cannabis Counselling)" so as not to confuse any of the parties involved. One might think that the original change of use request was denied when the development notice was received. A second option would be to revisit the initial change in use request, include the proposed developmental changes, so that everyone is on the same page and move forward from that point.., had the community and neighbours been aware that the new "Cannabis Retail Sales" location was forging ahead with developmental changes (under the guise of "a Health Service (Cannabis Counselling)"), perhaps the outcome of the appeal process would have been different (I know that I would have appealed the change in use had this been the case).
  - i. Parking needs to be revisited.., with parking in the back reserved for employees (as previously stated in the change of use) and with back alley side access to the rear of the subject property, where will all the additional customers be parking? No doubt in the rear of the property causing major congestion in an already small alley or on 81 Street where there are already a significant number of walk offs and parking is already at a minimum during the summer? The daycare was required to add additional parking in their original proposal... why not this "Cannabis Retail Sales" location?
- e. It is a little underhanded in how the subject property has gone about this, first with the change of use, then forging ahead with a development permit request under the previous use when the new/current use has already been approved with conditions. I do not know any of the parties associated with the subject property, but with this request it does appear as though they are attempting to undermine the bylaw/development process and double the size of the building without reassessing all other factors of increasing their customer base. In the original change of use request (see SDAB-D-

18-171), numerous items were addressed, including parking/security/lighting requirements, alley traffic etc.

2. Secondly, if this development permit is allowed to stand, as I live directly south of the subject property, I have several major personal concerns.
  - a. The business (during the change in use appeal) has already stated that they plan to stay open until at least 10:00 at night (with the potential to stay open later). Our bedroom windows, including my 10 year old daughters window, directly face the alley/subject property and an outdoor rooftop patio will significantly increase noise with music/talking/shouting etc. being a "Cannabis Retail Sales" location, there is little doubt that the intent of the use of this patio will be for a potential cannabis lounge and that people will be hanging around until late at night.
  - b. Anyone looking out from the 2nd or 3rd floor windows or the roof patio will be able to see in not only our bedroom windows but DIRECTLY into our backyard. We, including two children, regularly use the backyard and the last thing I want them to be exposed to is cannabis use. A roof patio will make this an ALL DAY, EVERYDAY occurrence. When are our enjoyment, safety and general use of our property going to be taken into account? In essence... I do not want a bunch of spaced out pot heads staring down at my family while we are trying to enjoy our backyard. It's fine if they want to go off and get high but keep it to yourself... my family shouldn't be exposed to the vices of others.
  - c. An outdoor rooftop patio adds the inevitable occurrence of pot smoke during all hours of the day... again effectively reducing our enjoyment and use of our property and backyard oasis that we have created. During the change in use appeal process the business stated that they would do whatever they could to curtail the use of cannabis in the alley to including adding additional security if required. It doesn't make much sense to keep the cannabis use out of the alley if it is just going to move to an outdoor patio... everyone will still be exposed to the use of cannabis, including all of the children at the childcare business next door.
    - i. Security is another major concern that I have, I have two children that will potentially be exposed to cannabis use on a daily basis with high individuals staring directly into our backyard and windows every day.
      1. Is there the possibility of adding window frosting to all South and West facing windows?
      2. Can they add frosting to the roof patio walls?
      3. Can they create a setback to reduce the viewing angle of the patrons on the roof patio?
      4. Can they close up the side access to the front street to the alley? This will assist in keeping individuals out of the alley between our properties and to reduce the possibility of alley parking and increased congestion?

- d. Being that the subject property is directly across the alley from our property, any additional floors will create a massing effect and reduce our views to the North.
- e. This development permit will directly affect property values of all properties behind this business.
  - i. While the appeals committee may conclude that much of our concern is speculation, I would argue that to say that otherwise would also be speculation.
- f. I do not think that it is fair that the enjoyment of our property be compromised and taken away simply so that a business can develop a potential cannabis lounge.

To summarize:

A change in use was granted based on the current structure and has been "Approved with Conditions" (see SDAB-D-18-171)... building alterations are being requested based on previous use of "a Health Service (Cannabis Counselling)" and NOT "Cannabis Retail Sales" as it should be... if the development permit is granted then the original change in use request should be revisited so that ALL parties can be properly notified during the appeal process and to also allow the city departments to make a proper decision on the appeal. As I understand it, there is another property across the street the better suits this use yet has been overlooked simply due to their place in the lottery. Perhaps, with this undermining of the bylaw process and appeals system, the City of Edmonton will deny the structural change and revisit the original change in use... allowing the second company/property to proceed with their project.

We have major concerns with the increased drug use in/on and around the building; the requested proposal poses potential increased risk to families, local residents and the childcare next door and significantly reduces our privacy, security and enjoyment of our property.

We have major concerns that the views from the rear of the subject property will be directly into our backyard, as well as, the yards of neighbours and into the daycare play area next door.

If all our concerns are denied and overlooked, I respectfully request that an additional setback be applied to the rooftop patio as well as the addition of frosted windows and patio glass to increase the privacy and safety of the local residents and children at the daycare next door. I would also request that back alley access be closed to the front street to reduce the possibility of increased alley traffic (both vehicular and pedestrian).

Again, while the appeals committee may conclude that much of our concern is speculation, I would argue that to say otherwise would also be speculation. This is a new area of business that we have never experienced in our country/province/city/neighbourhood before, and therefore we have no idea where or what the specific outcomes may be. Let's go slow and get this right.

I respectfully request that this request to add "a third-story addition with a roof patio and interior alterations to a Health Service (Cannabis Counselling)" be denied.

*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, [...]
    - (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***

Section 340.2(14) states **Health Services** is a **Permitted Use** in the **(CB2) General Business Zone**.

Under Section 7.4(26), **Health Services** means a development used for the provision of physical and mental Health Services on an out-patient basis. Services may be of a preventive, diagnostic, treatment, therapeutic, rehabilitative, or counseling nature. Typical Uses include medical and dental offices, health clinics and counseling services, and medical Cannabis clinics and counseling services.

Under Section 6.1, **Rooftop Terrace** means an elevated structure intended for use as an outdoor Amenity Area that may be surrounded by guardrails, parapet walls or similar features, and is located above:

- a. the uppermost Habitable Room;
- b. the uppermost Commercial Floor Area intended for occupancy; or
- c. in the case of an Accessory building other than a Garden Suite, any roof.

This definition does not include a Platform Structure.

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

Section 819.1 states that the **General Purpose** of the **Main Streets Overlay** is to encourage and strengthen the pedestrian-oriented character of Edmonton's main street commercial areas that are located in proximity to residential and transit-oriented areas, by providing visual interest, transparent storefront displays, and amenities for pedestrians.

**Loading Space - Variance**

Section 54.4 Schedule 3 states that any development within the Commercial or Industrial Use Classes, excluding Professional, Financial and Office Support Services with a total floor Area of Building between 465 square metres and 2300 square metres require a minimum of 2 loading spaces.

**Development Officer's Determination**

Loading Spaces - There are no loading spaces proposed, instead of at least 2 (Section 54.4, Schedule 3). [unedited]

***Previous Subdivision and Development Appeal Board Decision***


<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
SDAB-D-18-171	To change the use from a Health Service to 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, with CONDITIONS

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Notice to Applicant/Appellant

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

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	Project Number: <b>270831691-008</b> Application Date: JUL 23, 2018 Printed: November 21, 2018 at 3:19 PM Page: 1 of 4		
<b>Major Development Permit</b>			
This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.			
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 9629 - 82 AVENUE NW Plan 4575S Blk 12 Lot 9  <b>Specific Address(es)</b> Entryway: 9629 - 82 AVENUE NW Entryway: 9633 - 82 AVENUE NW Building: 9629 - 82 AVENUE NW		
<b>Scope of Permit</b> To construct a third-storey addition with a roof patio and interior alterations to a Health Service (Cannabis Counselling).			
<b>Permit Details</b>  <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">                             Class of Permit: Class B                              Gross Floor Area (sq.m.): 83                              New Sewer Service Required: Y                              Site Area (sq. m.):                         </td> <td style="width: 50%; border: none;">                             Contact Person:                              Lot Grading Needed?: Y                              NumberOfMainFloorDwellings:                              Stat. Plan Overlay/Annex Area: Main Street Overlay                         </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): 83 New Sewer Service Required: Y Site Area (sq. m.):	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Main Street Overlay
Class of Permit: Class B Gross Floor Area (sq.m.): 83 New Sewer Service Required: Y Site Area (sq. m.):	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Main Street Overlay		
I/We certify that the above noted details are correct.  Applicant signature: _____			
<b>Development Permit Decision</b> Approved  <b>Issue Date:</b> Oct 25, 2018 <b>Development Authority:</b> WELCH, IMAI			
(Empty space for additional notes or signatures)			



Project Number: **270831691-008**  
 Application Date: JUL 23, 2018  
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## Major Development Permit

### Subject to the Following Conditions

- 1) This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1).
- 2) WITHIN 14 DAYS OF THE END OF THE NOTIFICATION PERIOD with NO APPEAL and prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.6).
- 3) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Lot Grading Fee of \$232.
- 4) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay the Development Permit Inspection fee of \$510.
- 5) PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay the Sanitary Sewer Trunk Charge (SSTC) fee. SSTC is applicable to the entire property of 0.0403 ha at the rate of \$8,148/ha under the current DP#270831691-008. Payment should be made at the Edmonton Service Centre, 2nd Floor, 10111 – 104 Avenue NW. For information purposes, the 2018 rate is \$8,148/ha. However, the final SSTC is based on the prevailing rate at the time the applicant/owner makes payment.
- 6) Bicycle parking shall be provided in accordance to Section 54.3 and to the satisfaction of the Development Officer.
- 7) The off-street parking, loading and unloading (including aisles or driveways) shall be hardsurfaced, curbed, drained and maintained in accordance with Section 54.6.
- 8) There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.
- 9) Garbage enclosures must be located entirely within private property and gates and/or doors of the garbage enclosure must not open or encroach into road right-of-way, as per the Subdivision Planning memorandum dated 22 October 2018.
- 10) Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. OSCAM permit applications require Transportation Management Plan (TMP) information. The TMP must include:
  - the start/finish date of project;
  - accommodation of pedestrian connectivity during all phases of construction for access to the adjacent roadways and intersections;
  - confirmation of lay down area within legal road right of way if required;
  - and to confirm if crossing the sidewalk and/or boulevard is required to temporarily access the site.

It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at:  
[https://www.edmonton.ca/business\\_economy/licences\\_permits/oscam-permit-request.aspx](https://www.edmonton.ca/business_economy/licences_permits/oscam-permit-request.aspx) and,  
<https://www.edmonton.ca/documents/ConstructionSafety.pdf>
- 11) Any alley, sidewalk or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Development Inspections, as per Section 15.5(f) of the Zoning Bylaw. All expenses incurred for repair are to be borne by the owner.
- 12) Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.
- 13) Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51 of the Edmonton Zoning Bylaw 12800).



Project Number: **270831691-008**  
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## Major Development Permit

**NOTES:**

- 1) An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.
- 2) The Development Permit shall not be valid unless and until the conditions of approval, save those of a continuing nature, have been fulfilled; and no notice of appeal from such approval has been served on the Subdivision and Development Appeal Board within the time period specified in subsection 21.1 (Ref. Section 17.1).
- 3) Signs require separate Development Applications.
- 4) The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.
- 5) A Building Permit is required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.
- 6) This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.

**ADVISEMENTS:**

- 1) Existing access from the site is developed to the adjacent east-west alley, as per the Subdivision Planning memorandum dated 22 October 2018.
- 2) Subdivision Planning does not object to the proposed reduced loading stall and a deficiency of one (1) loading stall. A letter addressing the loading stall deficiency has been provided by the applicant, as per the Subdivision Planning memorandum dated 22 October 2018. Products delivered to this site do not require large delivery trucks as a cargo van would be used.
- 3) Subdivision Planning does not object to the existing 4.5 m drive aisle. A justification for the drive aisle in the parking lot off the alley has been provided, as per the Subdivision Planning memorandum dated 22 October 2018. The alley is approximately 5.5 m wide behind this site so a variance would be required. Angle parking may also be considered due to a reduced drive aisle width.
- 4) Future development applications that propose a parking deficiency will require submission of a parking justification including recent field observations to be submitted to the satisfaction of Subdivision Planning.

**Variations**

Loading Spaces - There are no loading spaces proposed, instead of at least 2 (Section 54.4, Schedule 3).

**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:** Nov 01, 2018

**Ends:** Nov 22, 2018

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$948.00	\$948.00	05204779	Jul 23, 2018
Lot Grading Fee	\$232.00			
Sanitary Sewer Trunk Fund 2012+	\$328.36			
Development Permit Inspection Fee	\$510.00			



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## Major Development Permit

### Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,018.36	\$948.00		
(\$1,070.36 outstanding)				



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-202

