

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Wednesday, 9:00 A.M.
December 12, 2018

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

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

TO BE RAISED

I 9:00 A.M. SDAB-D-18-140 Install (1) Freestanding On-premises Sign
(Wilfred's Restaurant)

WITHDRAWN

11904 - 104 Avenue NW
Project No.: 288510987-001

TO BE RAISED

II 10:30 A.M. SDAB-D-18-208 Construct a Semi-detached House with front
attached Garages, fireplaces, rear uncovered
decks, and Basement developments (NOT to be
used as an additional Dwellings)

9919 - 87 Street NW
Project No.: 276136177-001

III 1:30 P.M. SDAB-D-18-209 Change the Use from a General Retail Use to a
Cannabis Retail Sales store and to construct
interior alterations

503 – Griesbach Parade NW
Project No.: 295328576-001

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

TO BE RAISED

ITEM I: 9:00 A.M.

FILE: SDAB-D-18-140

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 288510987-001

APPLICATION TO: Install (1) Freestanding On-premises Sign
(Wilfred's Restaurant)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 30, 2018

DATE OF APPEAL: August 16, 2018

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 11904 - 104 Avenue NW

LEGAL DESCRIPTION: Plan 1425753 Blk 21 Lot 2

ZONE: DC1 Direct Development Control
Provision (Bylaw 18099)

OVERLAY: N/A

STATUTORY PLAN: 104 Avenue Corridor Area
Redevelopment Plan

WITHDRAWN

TO BE RAISED
ITEM II: 10:30 A.M.

FILE: SDAB-D-18-208

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

APPELLANT:

APPLICATION NO.: 276136177-001

APPLICATION TO: Construct a Semi-detached House with front attached Garages, fireplaces, rear uncovered decks, and Basement developments (NOT to be used as an additional Dwellings)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: October 18, 2018

DATE OF APPEAL: November 15, 2018

NOTIFICATION PERIOD: October 25, 2018 through November 15, 2018

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9919 - 87 Street NW

LEGAL DESCRIPTION: Plan 0521200 Blk 18 Lot 27

ZONE: (RF2) Low Density Infill Zone

OVERLAY(S): (FPO) Floodplain Protection Overlay
Mature Neighbourhood Overlay

STATUTORY PLAN: Riverdale Area Redevelopment Plan

Grounds for Appeal

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

Please importantly note, that our home at 9917-87 street rests on a brick only basement, and, as a historical home, is non-conforming and on the

property line. Any development at 9919-9921 87 street NW must take this into consideration.

Please note there are basement egress windows (note there is a basement bedroom where we sleep) in our basement on the property line. We would also like assurance that any construction/easement allows for safe egress from our home in the event of fire.

Supporting documents which we can provide (the website only offered us error messages when we attempted the "upload document" option):

1) Structural Engineers report that the dig line needs to be 3 meters from our basement or special construction techniques used. Note the current building plan approved is closer than this, with no assurances rendered to us of special construction techniques. If proper techniques and/or distance not used, this can pose a safety threat to the builders/workers, ourselves, and the structure of our home at 9917 87 street.

2) Email from City worker showing that the City and first buyers from the City were aware of our non conforming home and gave a multiple thousand dollar price reduction on the lot at 9921-87 street because of the situation of our home on the property line/ special consideration that implies for building.

3) email noting documentation that the current owners were made aware by the Real Estate Agent prior to their purchase of the land at 9919-9921-87 street

Note we wish assurance in writing that any development will not damage our brick only foundation, and will allow for safe egress from our basement.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on November 22, 2018:

"That the appeal hearing be scheduled for December 12, 2018 at the written request from the Respondent."

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

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,

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

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

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

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
 - or
 - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;

- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;
- ...
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 120.2(6), **Semi-detached Housing** is a **Permitted Use** in the **(RF2) Low Density Infill Zone**.

Under Section 7.2(7), **Semi-detached Housing** means:

a development consisting of a building containing two principal Dwellings joined in whole or in part at the side or rear with neither of those Dwellings being placed over another in whole or in part. Each principal Dwelling has separate, individual, and direct access to ground level.

This type of development is designed and constructed as two Dwellings at the time of initial construction of the building. This Use does not include Duplexes.

Section 120.1 states that 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 812.1 states that the **General Purpose** of the **(FPO) Floodplain Protection Overlay** is:

to provide for the safe and efficient use of lands which may be within the defined floodplains of the North Saskatchewan River and its tributaries within the City of Edmonton. The Overlay regulates building Height, the location and geodetic elevation of openings into buildings, the Use in portions of buildings, the design Grade of the Site, and Landscaping, to mitigate the potential negative effects of a flood event.

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.

<i>Location Criteria</i>

Section 120.4(4) states:

Semi-detached Housing shall be located:

- a. on Corner Sites;
- b. on Sites abutting an arterial or service road;
- c. where both Side Lot Lines abut existing Duplex or Semi-detached Housing; or
- d. where a minimum of one Side Lot Line:
 - i. abuts a Site where Row Housing, Apartment Housing, or a commercial Use is a Permitted Use; or


- ii. is not separated from a Site where Row Housing, Apartment Housing or a commercial Use is a Permitted Use by a public roadway, including a Lane, more than 10.0 m wide.

Development Officer's Determination

Location Criteria - The proposed semi-detached house is located on an interior lot (Section 120.4.4). [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: 276136177-001 Application Date: MAR 02, 2018 Printed: October 26, 2018 at 8:17 AM Page: 1 of 5
<h2 style="margin: 0;">Minor Development Permit</h2>	
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.	
Applicant	Property Address(es) and Legal Description(s) 9919 - 87 STREET NW Plan 0521200 Blk 18 Lot 27
	Specific Address(es) Entryway: 9919 - 87 STREET NW Entryway: 9921 - 87 STREET NW Building: 9919 - 87 STREET NW
Scope of Permit To construct a Semi-Detached House with front attached Garages, fireplaces, rear uncovered decks, and Basement developments (NOT to be used as an additional Dwellings).	
Permit Details	
# of Dwelling Units Add/Remove: 2 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: Class of Permit: Class B Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Permit Decision Approved Issue Date: Oct 18, 2018 Development Authority: YEUNG, KENNETH	
(Empty space for additional notes or comments)	



Project Number: **276136177-001**
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Minor Development Permit

Subject to the Following Conditions

This Development Permit is not valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

This Development Permit authorizes the development of a Semi-Detached House with front attached Garages, fireplaces, rear uncovered decks, and Basement developments (NOT to be used as an additional Dwellings).

WITHIN 14 DAYS OF APPROVAL, prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.2)

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

The maximum Height shall not exceed 8.9m, in accordance with Section 52 of the Edmonton Zoning Bylaw 12800.

Platform Structures located within a Rear Yard or interior Side Yard, and greater than 1.0 m above the finished ground level, excluding any artificial embankment, shall provide Privacy Screening to prevent visual intrusion into Abutting properties. (Reference Section 814.3(9))

The maximum number of Dwellings per Site shall be as follows: a maximum of one Single Detached Dwelling per Site, and, where the provisions of this Bylaw are met, up to one Secondary Suite, Garage Suite or Garden Suite. (Reference Section 140.4(17)(a))

Single Detached Housing/Semi-detached housing requires 1 parking spaces per dwelling; parking may be in tandem as defined in Section 6.1(112) (Reference Schedule 1 of Section 54.2).

For Single-detached Housing, Semi-detached Housing and Duplex Housing, a minimum Private Outdoor Amenity Area shall be designated on the Site plan. Neither the width nor length of the Private Outdoor Amenity Area shall be less than 4.0 m. The Private Outdoor Amenity Area may be located within any Yard, other than a Front Yard, and shall be permanently retained as open space, unencumbered by an Accessory Building or future additions. (Reference Section 47)

Landscaping shall be installed and maintained in accordance with Section 55.

Frosted or opaque glass treatment shall be used on windows as indicated on the drawings to minimize overlook into adjacent properties (Reference Section 814.3(8)).

The proposed Basement development(s) shall NOT be used as an additional Dwelling. An additional Dwelling shall require a separate Development Permit application.

GEOTECHNICAL CONDITIONS:

The developer and owner should be aware that this property is located within the flood plain or alluvial terrace of the North Saskatchewan River Valley. Based on a review of flood risk mapping studies, this site appears to be bisected by the projected 100 year return period flood line and situated below the elevation for historical floods of record. The developer and owner should therefore be aware of the potential flood related risks to the proposed development.

The applicant should also be aware that the former Chinook Mine encompassed much of the land area comprising the Riverdale Neighbourhood. In addition, in the past, parts of the neighbourhood had been used for borrow material for the brick making process of the former J.B. Little Brickyard. Therefore, it would be reasonable to assume that there may be areas of uncontrolled fill within the subject property, and abandoned coal mine workings could also potentially be present below this property. A site-specific geotechnical investigation would be required to fully address this as a potential risk to the proposed development.

The developer and owner must be aware that there remains some residual risk of instability of the slopes below and within the subject property that could lead to a loss of property within the life span of the proposed development. The owner must also recognize that the City of Edmonton will assume all erosion and regression of the slopes to be of natural origin and that we will not undertake any remedial repairs, irrespective of the ownership of the land between the development and the North Saskatchewan River Valley slopes.



Project Number: **276136177-001**
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Minor Development Permit

Based on the surrounding existing development, the site would appear to be generally suitable for development and I would therefore not recommend that a geotechnical investigation be required in order to approve this development application in accordance with Section 14.1 of the Zoning Bylaw. However, the applicant should be made aware that geotechnical investigation and inspections by qualified geotechnical personnel would reduce uncertainty and related risk relative to the design and construction of foundations for the proposed residence.

If the builder does encounter any soft or unexpected ground conditions or significant amounts of fill on the site, they are strongly encouraged to consider the engagement of a Professional Engineer to properly address the related technical issues and to design suitable foundations for the soil conditions encountered.

A relatively large residence with basement development is proposed within a constrained site footprint relative to adjacent properties and existing residences. Should development be approved to proceed, the applicant must be aware that they are fully responsible to mitigate all geotechnical risks to the development and surrounding properties and structures. Notably, all design and construction measures including retaining structures and any proposed temporary shoring to support the basement excavation must suitably protect neighbouring properties and structures from any adverse impacts, both during and after construction.

The submitted Plot Plan provides information on the requirement of retaining walls on the property, however it does not provide any information on the heights of the walls. The proposed retaining walls are considered to be an integral part of this development and properly designed and constructed walls are also required in order to ensure no adverse impacts to the adjacent properties. Depending on the proposed wall heights, sealed engineering drawings may also be required for this development to be approved.

TRANSPORTATION CONDITIONS:

The proposed 12.1 m below grade driveway from the site to 87 Street, located 1.5 m from the south property line, is acceptable to Subdivision Planning, as shown on Enclosure I.

The proposed driveway slope must not exceed 10% for a minimum distance of 5 m inside the property line and the ramp must be at grade at the property line, as shown on Enclosure II. The applicant must contact Loli Fernandez of Development Inspections at 780-944-7683 of Development Inspections for inspection 48 hours prior to and following construction of the driveway and to confirm that the driveway slope is located entirely on private property.

No portion of the sloped driveway will be permitted within legal road right-of-way.

Heated driveways are not permitted within road right-of-way.

The proposed retaining walls bordering the underground driveway must not exceed a height of 0.3 m for a distance of 3 m from the property line and no portion of the wall may encroach onto road right-of-way, as shown on Enclosure I.

Guard rails located on the driveway retaining walls must not obstruct sight lines of vehicles backing out of the driveway, and must not encroach onto road right-of-way.

There is an existing power pole with Telus facilities in close proximity to the proposed driveway, as shown on Enclosure I.

All proposed residential driveways, located in close proximity to any surface utility, do not have city enforced at grade offsets and therefore must be located to meet the at grade offset requirements of the associated utility company. All costs associated with relocation of the surface utility will be borne by the owner/applicant. The applicant should contact Ron Hewitt (780-412-3128) of EPCOR Customer Engineering and Soon Chung of Telus (780-446-4913) regarding minimum clearance to be maintained from the existing power pole located adjacent to the proposed driveway.

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; vwww.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.



Project Number: **276136177-001**
 Application Date: MAR 02, 2018
 Printed: October 26, 2018 at 8:17 AM
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Minor Development Permit

Any 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.

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 pedestrians and vehicles during construction;
- confirmation of lay down area within legal road right of way if required; and
- confirmation 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
 and <https://www.edmonton.ca/documents/ConstructionSafety.pdf>

ADVISEMENT:

This neighbourhood was constructed with roll faced curb, therefore a Curb Crossing Permit is not required for this access. However, should the applicant/owner wish to cut the curb in the future, a curb crossing permit will be required, available from Development Services, 2nd floor, Edmonton Tower, 10111-104 Avenue.

The owner/applicant is advised that more than 12% difference in the ramp slope (28.3%) may result in vehicles "bottoming out" at the break-over point, as shown on Enclosure II.

Any future deck development greater than 0.6m (2ft) in height will require development and building permit approvals.

Any future deck enclosure or cover requires a separate development and building permit approval.

Any future additional dwelling such as Secondary Suite shall require a separate development permit application.

Dwelling means a self contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household.

Household means: (1) one or more persons related by blood, adoption, foster care, marriage relationship; or (2) a maximum of three unrelated persons; all living together as a single social and economic housekeeping group and using cooking facilities shared in common.


For the purposes of this definition, two people living together in an adult interdependence relationship shall be deemed to be in a marriage relationship and each of the relatives of the parties to an adult interdependence relationship shall be considered to be related to the partners and to the other relatives thereof. One domestic worker or one boarder may be deemed the equivalent of a blood relative.

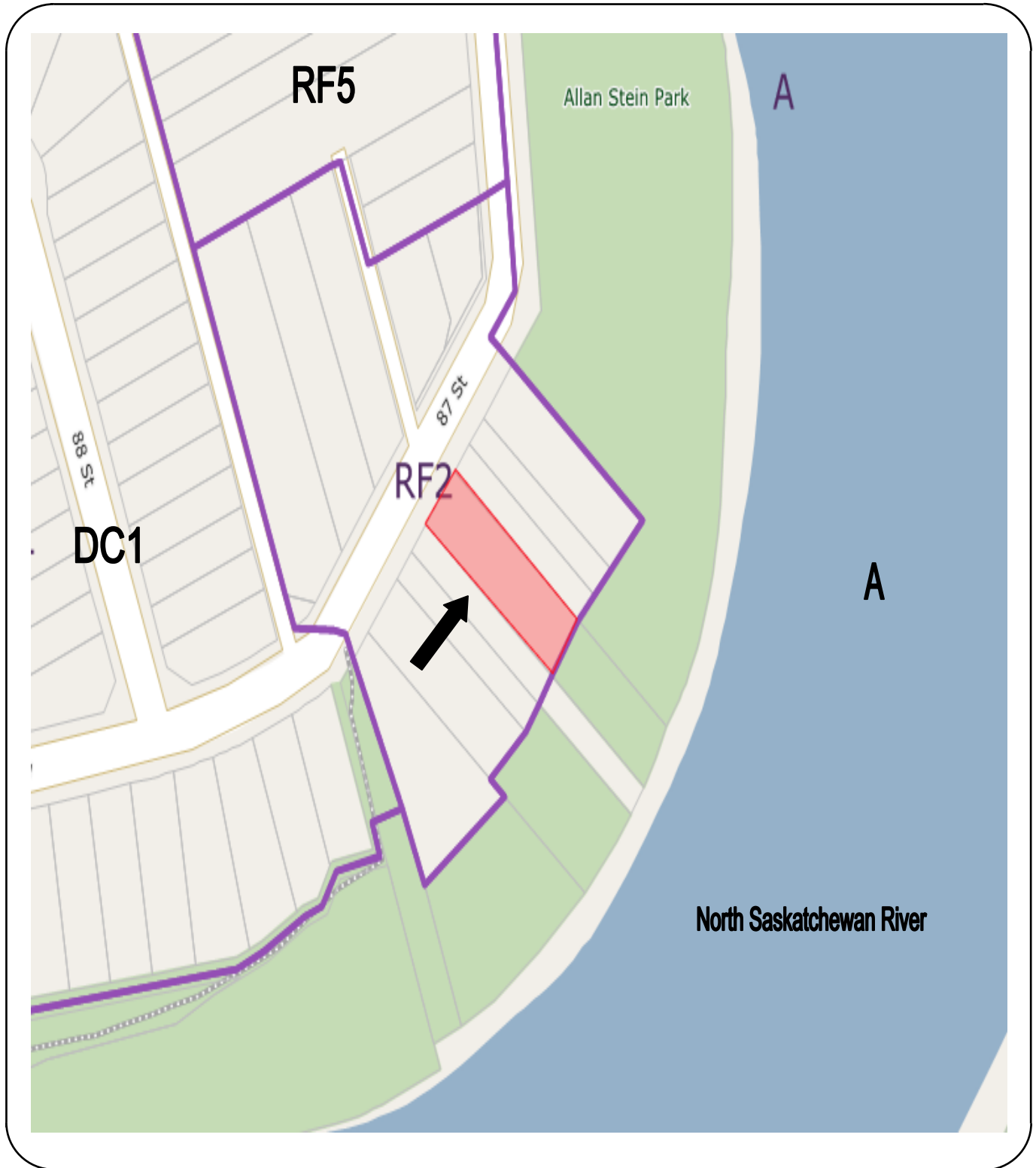
The driveway access must maintain a minimum clearance of 1.5m from the service pedestal and all other surface utilities.

Lot grades must match the Edmonton Drainage Bylaw 16200 and/or comply with the Engineered approved lot grading plans for the area. Contact Drainage Services at 780-496-5576 or lot_grading@edmonton.ca for lot grading inspection inquiries.

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

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.

	<p>Project Number: 276136177-001 Application Date: MAR 02, 2018 Printed: October 26, 2018 at 8:17 AM Page: 5 of 5</p>																																			
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<p>A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.</p>																																				
<p>Variances Location Criteria - The proposed semi-detached house is located on an interior lot (Section 120.4.4).</p>																																				
<p>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.</p>																																				
<p>Notice Period Begins: Oct 25, 2018 Ends: Nov 15, 2018</p>																																				
<p>Fees</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 15%; text-align: right;">Fee Amount</th> <th style="width: 15%; text-align: right;">Amount Paid</th> <th style="width: 10%; text-align: left;">Receipt #</th> <th style="width: 10%; text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Lot Grading Fee</td> <td style="text-align: right;">\$286.00</td> <td style="text-align: right;">\$286.00</td> <td>04830361</td> <td>Mar 02, 2018</td> </tr> <tr> <td>Sanitary Sewer Trunk Fund</td> <td style="text-align: right;">\$1,629.00</td> <td style="text-align: right;">\$1,629.00</td> <td>04830361</td> <td>Mar 02, 2018</td> </tr> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$485.00</td> <td style="text-align: right;">\$485.00</td> <td>04830361</td> <td>Mar 02, 2018</td> </tr> <tr> <td>Development Permit Inspection Fee</td> <td style="text-align: right;">\$204.00</td> <td style="text-align: right;">\$204.00</td> <td>04830361</td> <td>Mar 02, 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;">\$2,604.00</td> <td style="text-align: right; border-top: 1px solid black;">\$2,604.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Lot Grading Fee	\$286.00	\$286.00	04830361	Mar 02, 2018	Sanitary Sewer Trunk Fund	\$1,629.00	\$1,629.00	04830361	Mar 02, 2018	Dev. Application Fee	\$485.00	\$485.00	04830361	Mar 02, 2018	Development Permit Inspection Fee	\$204.00	\$204.00	04830361	Mar 02, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$2,604.00	\$2,604.00		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-208



ITEM III: 1:30 P.M.

FILE: SDAB-D-18-209

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 295328576-001

APPLICATION TO: Change the Use from a General Retail Use to a Cannabis Retail Sales store and to construct Interior Alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 22, 2018

DATE OF APPEAL: November 23, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 503 – Griesbach Parade NW

LEGAL DESCRIPTION: Plan 1523747 Blk 27 Lot 5

ZONE: (GVC) Griesbach Village Centre Zone

OVERLAY: Special Area Griesbach

STATUTORY PLAN: Griesbach Neighbourhood Area Structure Plan

Grounds for Appeal

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

We are solicitors for Brentwood Developments Inc., developers of the Griesbach Village Square Shopping Centre in respect of which the referenced Cannabis Retail sales development permit application was refused. On behalf of our clients and their architects, Dialog, we hereby appeal the refusal on the following grounds:

- 1. The proposed Cannabis Retail Sales use is a permitted use in the Griesbach Village Centre Zone.

2. The referenced setback violation is of a technical nature, only, and, if allowed to bar the current application, would lead to the removal of this Permitted Use from the entire Site.

3. Such further and other reasons as may be presented at the hearing of this appeal.

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

Appeals

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

Hearing and Decision

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

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- (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 940.6(3), **Cannabis Retail Sales** is a **Permitted Use** in the (GVC) Griesbach Village Centre Zone.

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

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

Under section 6.1, **Cannabis** means:

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

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

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

Section 940.1 states that the **General Purpose** of the **Griesbach Special Area** is:

The purpose of this designation is to designate Griesbach as shown on Appendix I to this Section, as a Special Area and to adopt appropriate land use regulations for this Special Area in order to achieve the objectives of the Griesbach Neighbourhood Area Structure Plan, as adopted by Bylaw 12936, as amended.

Section 940.6(1) states that the **General Purpose** of the **(GVC) Griesbach Village Centre Zone** is:

to allow for a mixed Use of businesses, residences, and institutional Uses in a village centre format promoting pedestrian orientation in accordance with the design objectives in the Griesbach Neighbourhood Area Structure Plan.

<i>Section 70 - Cannabis Retail Sales regulations</i>

1. Any Cannabis Retail Sales shall not be located less than 200 m from any other Cannabis Retail Sales. For the purposes of this subsection only:
 - a. the 200 m separation distance shall be measured from the closest point of the Cannabis Retail Sales Use to the closest point of any other approved Cannabis Retail Sales Use;
 - b. A Development Officer shall not grant a variance to reduce the separation distance by more than 20 m in compliance with Section 11; and
 - c. The issuance of a Development Permit which contains a variance to separation distance as described in 70(1)b shall be issued as a Class B Discretionary Development.

2. Any Site containing 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 being used as public lands (Section 70.3.c):

Required Setback: 100 m
Proposed Setback: 70 m
Deficient by 30 m


Under Sections 70.1(b) and 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]

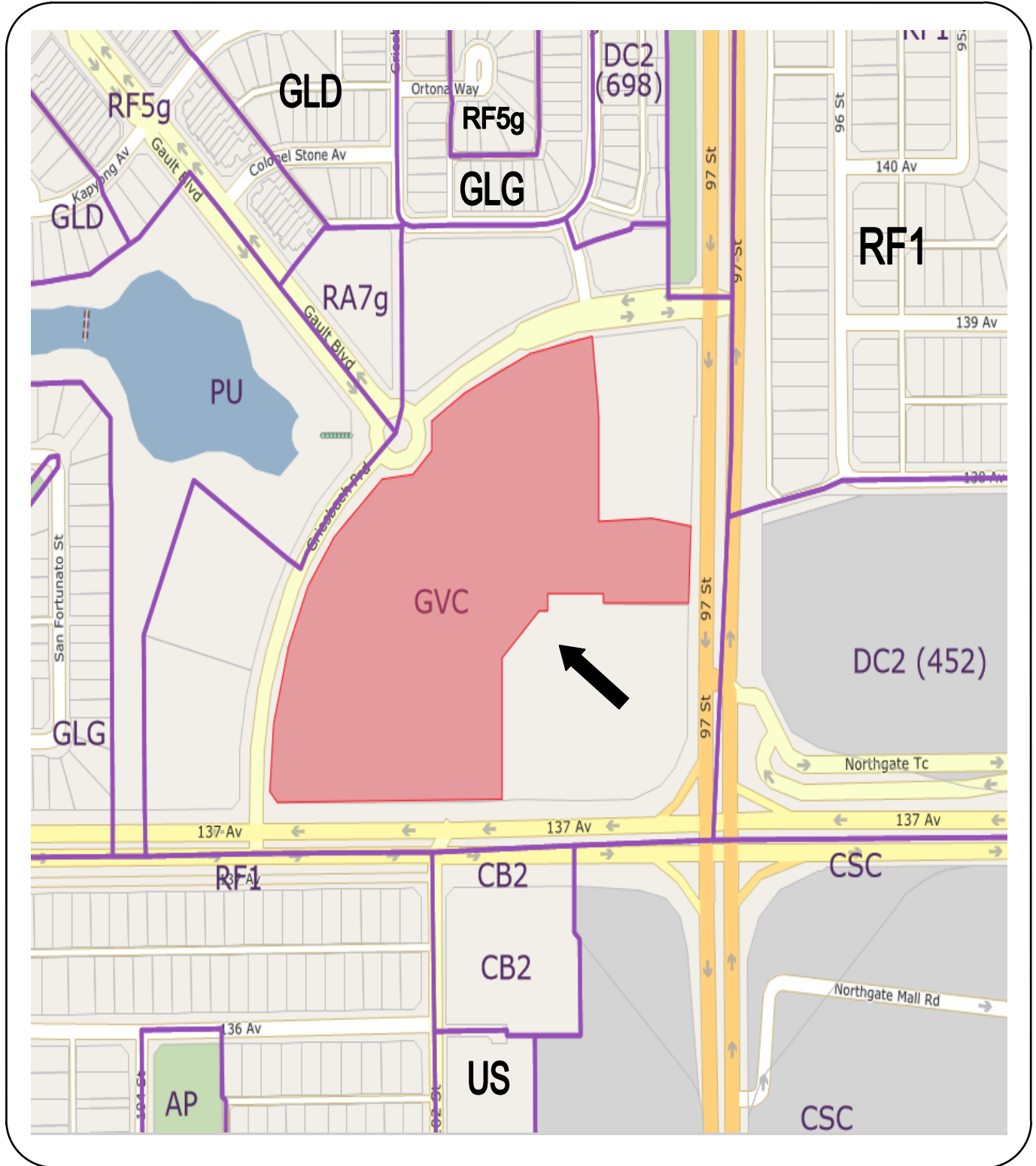
Previous Subdivision and Development Appeal Board Decisions

Application Number	Description	Decision
SDAB-D-18-179	To construct a Major Alcohol Sales building on part of a Site.	November 14, 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.
SDAB-D-18-059	To install (3) Freestanding On-premises Signs (GRIESBACH VILLAGE).	May 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.
SDAB-D-16-146	To install (2) Freestanding On-premises Signs (GRIESBACH VILLAGE).	July 7, 2016; 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.

	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: 295328576-001 Application Date: OCT 16, 2018 Printed: November 22, 2018 at 2:56 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) 503 - GRIESBACH PARADE NW Plan 1523747 Blk 27 Lot 5																					
	Specific Address(es) Suite: 101, 9910 - 137 AVENUE NW Entryway: 101, 9910 - 137 AVENUE NW Building: 101, 9910 - 137 AVENUE NW																					
Scope of Application To change the use from a General Retail use to a Cannabis Retail Sales store and to construct Interior Alterations																						
Permit Details																						
Class of Permit: Gross Floor Area (sq.m.): 325 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: Nov 22, 2018 Development Authority: Chow, Stephen Reason for Refusal The proposed Cannabis Retail Store does not comply with the minimum setback requirement from a site being used as public lands (Section 70.3.c): Required Setback: 100 m Proposed Setback: 70 m Deficient by 30 m Under Sections 70.1(b) and 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 <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right; width: 15%;">Fee Amount</th> <th style="text-align: right; width: 15%;">Amount Paid</th> <th style="text-align: left; width: 10%;">Receipt #</th> <th style="text-align: left; width: 10%;">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>05430094</td> <td>Oct 23, 2018</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$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	05430094	Oct 23, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$5,600.00	\$5,600.00		
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THIS IS NOT A PERMIT																						



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-209

