

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Tuesday, 9:00 A.M.
December 10, 2019**

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

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

I	9:00 A.M.	SDAB-D-19-193	Change the use from a General Retail Store to a Liquor Store, limited to 275 square metres (Proposed Floor Area 165 square metres) 10615 - 82 Avenue NW, 10631 - 82 Avenue NW Project No.: 325661133-002
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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-19-193

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 325661133-002

APPLICATION TO: Change the use from a General Retail Store to a Liquor Store, limited to 275 square metres (Proposed Floor Area 165 square metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 20, 2019

DATE OF APPEAL: October 11, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10615 / 10631 - 82 Avenue NW

LEGAL DESCRIPTION: Plan 5809KS Blk 64 Lot 6, Plan 5809KS Blk 64 Lot 7

ZONE: DC1 Direct Development Control Provision (Bylaw 17848)

OVERLAY: N/A

STATUTORY PLAN: Strathcona Area Redevelopment Plan

Grounds for Appeal

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

We are solicitors for ONE Properties Inc., whose application for a development permit (made through their agent, Stantec Consulting Ltd.) for a Change of Use from General Retail Store to a Liquor Store at the above captioned address was refused by the Development Authority. We hereby appeal the refusal of our client's development permit application on the grounds that:

- Major and Minor Alcohol Sales (now Liquor Stores) are Permitted Uses within Areas 3 and 4 of the DC1 District;

- The proposed Liquor Store Use is appropriate at the subject location;
- The proposed Liquor Store Use will not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land; and
- Such further and other grounds as may be presented at the hearing of the within appeal.

<i>General Matters</i>

The Subdivision and Development Appeal Board made and passed the following motion on November 6, 2019:

"That the appeal hearing be scheduled for December 10 or 11, 2019, at the verbal request of Legal Counsel for the Appellant."

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, [...]

685(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

- (a) ...
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board

finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

General Provisions from the DC1 (Bylaw 17848) Direct Development Control Provision ("DC1"):

Under section 3, **Uses (Areas 3 and 4):**

- ...
- p. Major Alcohol Sales
- ...
- r. Minor Alcohol Sales
- ...

Under section 1, the **General Purpose** of the **DC1** is:

To provide the opportunity for high density development that accommodates a wide variety of uses including pedestrian oriented commercial, high rise and ground oriented residential that contributes to an inviting "Whyte Avenue" pedestrian environment.

General Provisions from the Edmonton Zoning Bylaw:

Section 3.2 provides the following with respect to **Provisions for existing Development Permits and Direct Control Provisions:**

- 1. For the purpose of any Development Permit of Direct Control Provision:
 - ...
 - l. Major Alcohol Sales is deemed to be Liquor Stores.
 - m. Minor Alcohol Sales is deemed to be Liquor Stores, limited to 275 m².

...

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

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

<i>Section 85 – Liquor Stores</i>

1. **Any Liquor Store shall not be located less than 500 m from any other Liquor Store.**
2. Notwithstanding subsection 85(1), a Liquor Store may be located less than 500 m from any other Liquor Store if located:
 - a. outside the boundary shown in Appendix 1 to Section 85, provided:
 - i. the Liquor Stores are located on separate Sites, and
 - ii. at least one Liquor Store is located on a Site greater than 2.5 ha in size that is zoned CSCa, UVCa, GVC, TC-C, DC1, DC2, CSC, CB1, CB2, CHY, CO or CB3.
3. For the purposes of Section 85, the 500 m separation distance shall be measured from the closest point of the Liquor Store to the closest point of any other approved Liquor Store.
4. Any Site containing a Liquor Store shall not be located less than 100 m from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Liquor Store. Sites that are greater than 2.0 ha in size and zoned either CSC or DC2, are exempt from this restriction. For the purposes of this subsection only:
 - a. the 100 m separation distance shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;
 - b. the term "community or recreation activities" is limited to Community Recreation Services, as defined in subsection 7.8(1) of this Bylaw, which includes community league buildings and facilities, and children's playgrounds and play areas. This term does not include arenas or other public assembly Uses, Child Care Services, Public Libraries and Cultural Exhibits, or Religious Assembly;

- c. the term "public or private education facilities" is limited to elementary through to high schools inclusive only, and does not include dance schools, driving schools or other Commercial Schools; and
 - d. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.
5. Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 85(4).
- 6. Notwithstanding Section 11 of this Bylaw, a Development Officer shall only grant a variance to subsection 85(1) or subsection 85(2) as outlined in subsections 85(7), 85(8) and 85(9).**
7. When the Development Officer receives an application for a Development Permit that is for the purpose of accommodating the temporary relocation of an approved Liquor Store within 500 m of its original location, a variance to subsection 85(1) or subsection 85(2) may be granted where:
 - a. the application for the Development Permit is for a Temporary Development, in order to limit the introduction of an additional Liquor Store within 500 m of the original approved Development Permit;
 - b. the temporary location for any Liquor Store is not within 500 m of any legally conforming Liquor Store; and
 - c. the application for a Development Permit will not result in a total Floor Area for a Liquor Store that is 10.0% greater than the Floor Area of the existing approved Liquor Store, to a maximum increase of 50 m².
8. When a Development Officer receives an application for a Development Permit that is for the purpose of accommodating the reversion of an existing approved Liquor Store back to its original location on a Site, a variance of subsection 85(1) or subsection 85(2) may only be granted where the application for the reversion is submitted to the Development Officer within 5 years of the date of vacating the original location and the application will not result in a total Floor Area that is greater than the original approved Liquor Store.
9. The issuance of a Development Permit which contains a variance pursuant to subsection 85(7) shall be issued as a Temporary Development for a duration of up to 5 years or less, to be determined by the Development Officer.
10. The Development Officer may require lighting, signage or screening measures that ensure the proposed development is compatible with adjacent or nearby Residential Uses or Commercial Uses.

11. Liquor Stores shall include the following to allow for natural surveillance to promote safe surroundings:

- a. Customer access is oriented to:
 - i. a public or internal roadway, other than a Lane;
 - ii. a shopping centre parking lot in front of the store; or
 - iii. a mall access that allows visibility from the interior of the mall into the store.
- b. Premises located at ground level shall include:
 - i. Ample transparency to maintain sight lines into and out of the premises. To ensure transparency and sight lines are maintained:
 1. Not more than 10% of the windows may be covered by Signs, the remainder shall be clear, untinted, and free from obstruction.
 - ii. Outdoor lighting is required to provide a well-lit environment for pedestrians entering and exiting the premises and to illuminate the property. The Development Officer shall require the applicant to provide a plan showing the location and details of perimeter lighting to ensure adequate lighting.
 - iii. Landscaping shall be located such that it does not obstruct sight lines into the premises.

Appendix 1: Liquor Stores Non-exemption Area to 500 m Separation Distance

Development Officer's Determination

1) Section 85(1) - Any Liquor Store shall not be located less than 500 m from any other Liquor Store.


Proposed: 284m away from an existing Liquor Store location (10768 - 82 Avenue NW, Project no:661483-001).

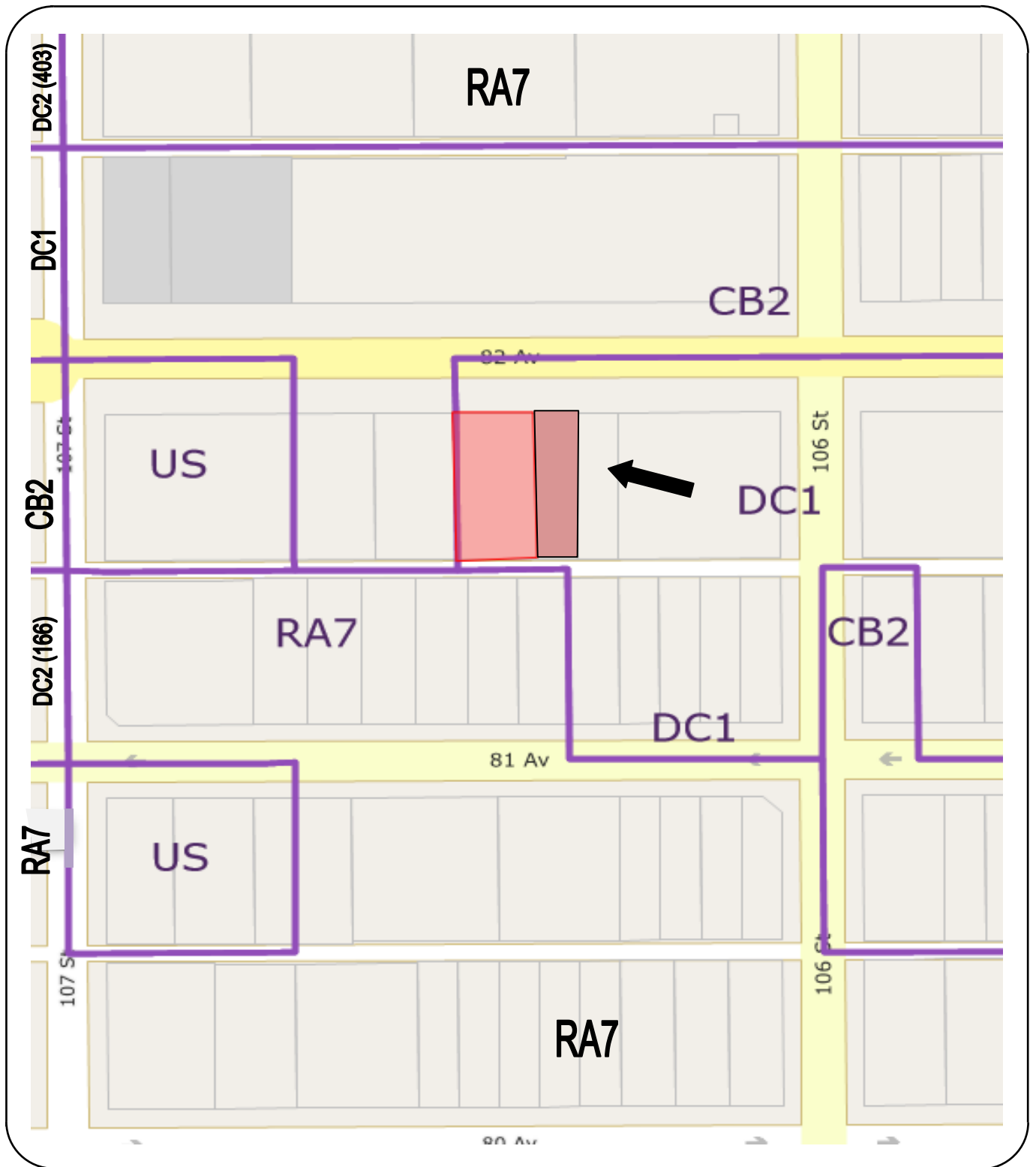
Deficient by: 216m

[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.

	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: 325661133-002 Application Date: JUL 17, 2019 Printed: October 15, 2019 at 10:38 AM Page: 1 of 1																				
This document is a Development Permit Decision for the development application described below.																						
Applicant <div style="border: 1px solid black; height: 80px; width: 100%; margin-top: 10px;"></div>	Property Address(es) and Legal Description(s) 10615 - 82 AVENUE NW Plan 5809KS Blk 64 Lot 6 10631 - 82 AVENUE NW Plan 5809KS Blk 64 Lot 7 <hr/> Specific Address(es) Suite: 10617 - 82 AVENUE NW Entryway: 10617 - 82 AVENUE NW Building: 8122 - 106 STREET NW																					
Scope of Application To change the use from a General Retail Store to a Liquor Store, limited to 275m ² (Proposed Floor Area 165m ²).																						
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 804.8 </td> <td style="width: 50%; border: none; vertical-align: top;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Main Street Overlay </td> </tr> </table>			Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 804.8	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Main Street Overlay																		
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I/We certify that the above noted details are correct. Applicant signature: _____																						
Development Application Decision Refused Issue Date: Sep 20, 2019 Development Authority: SHAH, NIKHIL Reason for Refusal 1) Section 85(1) - Any Liquor Store shall not be located less than 500 m from any other Liquor Store. Proposed: 284m away from an existing Liquor Store location (10768 - 82 Avenue NW, Project no:661483-001). Deficient by: 216m Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.																						
Fees <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$281.00</td> <td style="text-align: right;">\$281.00</td> <td style="text-align: right;">06122455</td> <td style="text-align: right;">Sep 06, 2019</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;">\$281.00</td> <td style="text-align: right; border-top: 1px solid black;">\$281.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$281.00	\$281.00	06122455	Sep 06, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$281.00	\$281.00		
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THIS IS NOT A PERMIT																						



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-193

