

SUBDIVISION

AND

DEVELOPMENT APPEAL BOARD

AGENDA

Wednesday, 9:00 A.M.
July 21, 2021

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-21-113

To change the Use from a General Retail Store to a Liquor Store and construct interior alterations

10130 - 105 Street NW
Project No.: 399204080-002

II 11:00 A.M. SDAB-D-21-114

WITHDRAWN

To install one (1) Freestanding Off-Premises Sign (3.1 metres by 6.1 metres facing Southwest) (OUTFRONT | DAYTONA PROPERTIES)

11131 - 109 Street NW
Project No.: 389034487-002

NOTE: *Unless otherwise stated, all references to "Section numbers" in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 399204080-002

APPLICATION TO: Change the Use from a General Retail Store to a Liquor Store and construct interior alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 23, 2021

DATE OF APPEAL: June 23, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10130 - 105 Street NW

LEGAL DESCRIPTION: Plan B2 Blk 5 Lots 191-192

ZONE: (UW) Urban Warehouse Zone

OVERLAY: Special Area Downtown

STATUTORY PLAN: Capital City Downtown Plan

Grounds for Appeal

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

I am a director/tenant for 2329368 AB Ltd. writing on behalf of the Landlord (Greystone Property Management), whose application for a permit to operate a Liquor Store at the above captioned address was refused. I write to request an appeal to refusal on the grounds that:

1. Liquor Stores on a site with (UW) Urban Warehouse fall under Permitted uses;

2. the proposed Liquor Store is appropriate at the subject location;
3. the proposed Liquor Store will not unduly interfere with the amenities of the neighborhoods, nor will it materially interfere with or affect the use, enjoyment and value of neighboring parcels of land;
4. the proposed Liquor store will fill in a current big void for supply and demand in evening and late-night hours by providing service to the Central community population with high quality products;
5. the proposed Liquor store will be diversely different from surrounding wine store, cellar by supporting local goods to support more local businesses; and
6. such further and other grounds as may be presented at the hearing of the appeal.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

the person applying for the permit or affected by the order under section 645 may appeal 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 the decision in accordance with subsection (2.1).

Appeals

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

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

Hearing and Decision

687(3) In determining an appeal, the board hearing the appeal referred to in subsection (1)

...

- (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 (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 910.11(2)(p), a **Liquor Store** is a **Permitted Use** in the **(UW) Urban Warehouse Zone**.

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

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

Section 910.11(1) states that the **General Purpose** of the **(UW) Urban Warehouse Zone** is:

to develop a unique mixed-use business commercial, educational and residential neighbourhood, accommodating a diversity of Uses, including residential, commercial, institutional, light manufacturing and assembly in a safe, walkable, human-scaled built environment that builds on the existing land use pattern and respects the architectural characteristics and functions of the area.

Section 910.1 states that the **General Purpose** of the **Downtown Special Area** is “To designate the Downtown area as a Special Area and to adopt the following land use regulations to achieve the objectives of the Capital City Downtown Plan.”

<i>Liquor Stores</i>

Section 85.1 states “Any Liquor Store shall not be located less than 500 m from any other Liquor Store.”

Section 85.4 states:

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.

Section 85.5 states “Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 85(4).”

Section 85.6 states “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).”

Development Officer’s Determination

- 1. The proposed Liquor Store Use does not comply with the minimum setback requirement from any other Liquor Store (Section 85(1)):**

041818599-001
10111 104 Street NW
Required Setback: 500 m
Proposed Setback: 152 m
Deficient by 348 m

260786370-001
10340 Jasper Ave NW
Required Setback: 500 m
Proposed Setback: 183 m
Deficient by 317 m

000838734-001
10266 103 Street NW
Required Setback: 500 m
Proposed Setback: 338 m
Deficient by 162 m

007258871-001
10155 102 Street NW
Required Setback: 500 m
Proposed Setback: 390 m
Deficient by 110 m

015726935-001
10824 102 Ave NW
Required Setback: 500 m
Proposed Setback: 420 m
Deficient by 80 m

Under Sections 85.6 of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Liquor Store as Section 85(7), 85(8) and 85(9) do not apply.

2. The proposed Liquor Store Use does not comply with the minimum setback requirement from any Liquor Stores Uses (Section 85.4):

10440 Jasper Ave NW (Zoned AP)
Beaver Hill House Park
Required Setback: 100 m

**Proposed Setback: 24 m
Deficient by 76 m**

Under Sections 85(5) of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Liquor Store Use.

[unedited]

Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-21-029	To change the Use from a General Retail Store to Liquor Store Use and to construct interior alterations	February 18, 2021; Appeal withdrawn/cancelled (late filing - no jurisdiction)

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: 399204080-002 Application Date: JUN 10, 2021 Printed: June 23, 2021 at 4:13 PM Page: 1 of 3		
<h2>Application for Major Development Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
Applicant 	Property Address(es) and Legal Description(s) 10130 - 105 STREET NW Plan B2 Blk 5 Lots 191-192 Specific Address(es) Suite: 10136 - 105 STREET NW Entryway: 10130 - 105 STREET NW Entryway: 10136 - 105 STREET NW Building: 10130 - 105 STREET NW		
Scope of Application To change the Use from a General Retail Store to a Liquor Store and construct interior alterations.			
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> Class of Permit: Gross Floor Area (sq.m.): 135.45 New Sewer Service Required: Site Area (sq. m.): 1391.71 </td> <td style="width: 50%;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Downtown </td> </tr> </table>		Class of Permit: Gross Floor Area (sq.m.): 135.45 New Sewer Service Required: Site Area (sq. m.): 1391.71	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Downtown
Class of Permit: Gross Floor Area (sq.m.): 135.45 New Sewer Service Required: Site Area (sq. m.): 1391.71	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Downtown		
Development Application Decision Refused Issue Date: Jun 23, 2021 Development Authority: CHOW, STEPHEN			
THIS IS NOT A PERMIT			



Project Number: **399204080-002**
Application Date: JUN 10, 2021
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Application for Major Development Permit

Reason for Refusal

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Under Sections 85(5) of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Liquor Store Use.

Rights of Appeal

The Applicant has the right of appeal to the Subdivision and Development Appeal Board (SDAB) within 21 days after the date on which the decision is made as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.

THIS IS NOT A PERMIT



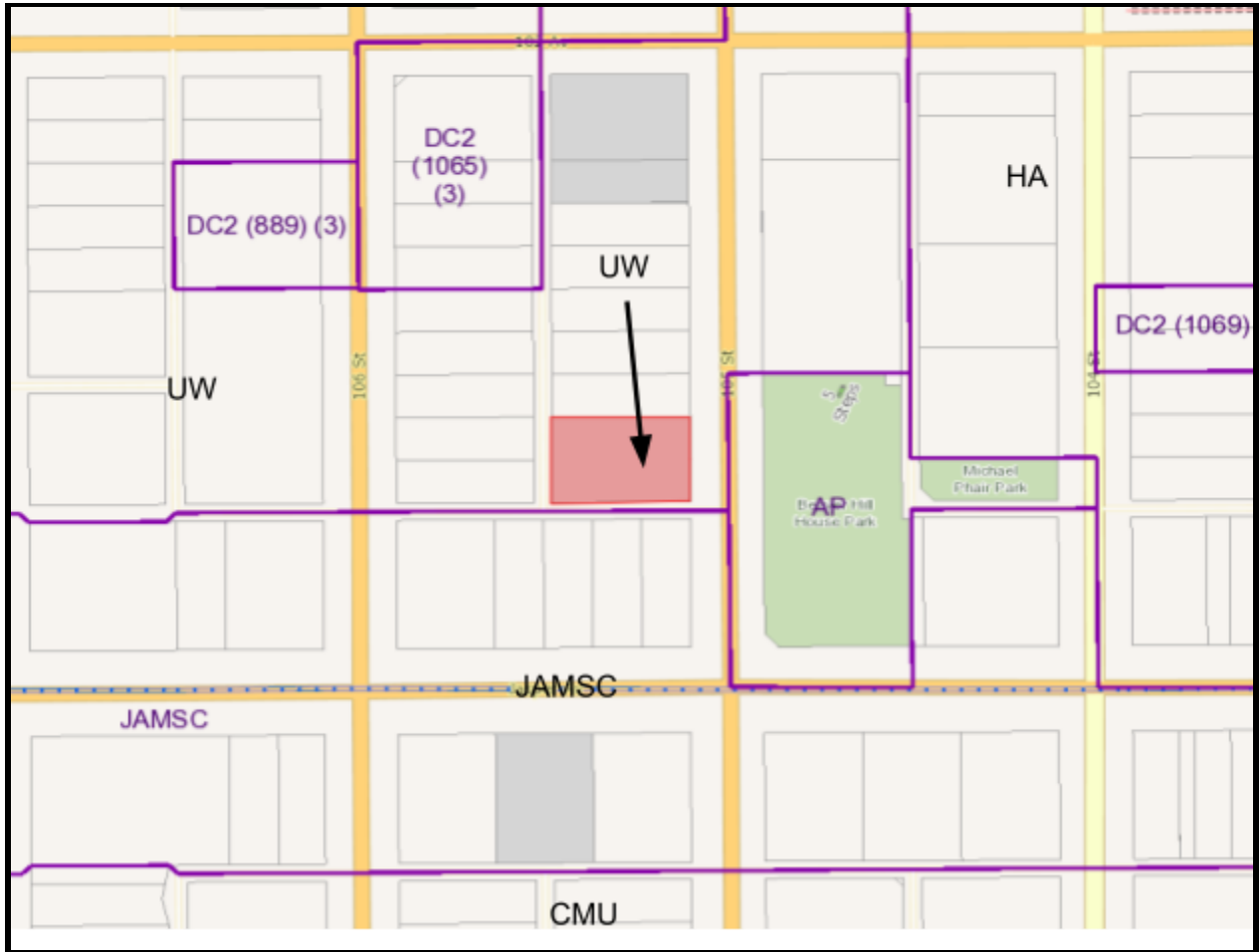
Application for Major Development Permit

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Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$375.00	\$375.00	11361908579F001	Jun 16, 2021
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$375.00</u>	<u>\$375.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ← File: SDAB-D-21-113 ▲
N