

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
July 10, 2019**

**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-19-090 Change of Use from Health Services to Minor Alcohol Sales with a Floor Area of 186.36 m²
12847 - 50 Street NW
Project No.: 308648088-001

II 10:30 A.M. SDAB-D-19-106 Construct an Accessory Building (tree house play structure, 4.87m x 3.65m)
6203 - 109A Street NW
Project No.: 303824659-001

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-19-090

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 308648088-001

APPLICATION TO: Change of Use from Health Services to
Minor Alcohol Sales with a Floor Area of
186.36 m²

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 2, 2019

DATE OF APPEAL: May 22, 2019

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 12847 - 50 Street NW

LEGAL DESCRIPTION: Plan 1522188 Blk 1 Lot 15

ZONE: (CSC) Shopping Centre Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

As the development officer mentioned that one of the liquor stores should be on 2.5 hectares but it is 2.36 hectares, it is only 0.14 hectares less. The building I am opening the store in is a 66 unit apartment building. It is a big building. It needs to have a store in there. It will be the walking distance for residences.

Additional reasons will be provided later.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on June 12, 2019:

"That the appeal hearing be scheduled for July 10 or 11, 2019 at the written request of the Appellant."

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;

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

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 320.3(11), **Minor Alcohol Sales**, on a Site of less than 2 ha is a **Discretionary Use** in the **(CSC) Shopping Centre Zone**.

Under section 7.4(34), **Minor Alcohol Sales** means:

development used for the retail sale of any and all types of alcoholic beverages to the public. This Use may include retail sales of related products such as soft drinks and snack foods. The maximum Floor Area for this Use shall be no more than 275 m² per individual business premises.

Under section 6.1, **Floor Area** means:

the total Floor Area of the building or structure, contained within the outside surface of the exterior and Basement walls, provided that in the case of a wall containing windows, the glazing line of windows may be used.

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

Section 320.1 states that the **General Purpose** of the **(CSC) Shopping Centre Zone** is “to provide for larger shopping centre developments intended to serve a community or regional trade area. Residential, office, entertainment and cultural uses may also be included within such shopping complexes.”

Section 85 – Major Alcohol Sales and Minor Alcohol Sales

1. Any Major Alcohol Sales or Minor Alcohol Sales shall not be located less than 500 m from any other Major Alcohol Sales or Minor Alcohol Sales.
2. Notwithstanding subsection 85(1), a Major Alcohol Sales or Minor Alcohol Sales may be located less than 500 m from any other Major Alcohol Sales or Minor Alcohol Sales if all the following regulations are met:
 - a. the Major Alcohol Sales or Minor Alcohol Sales are located on separate Sites;
 - b. the Major Alcohol Sales or Minor Alcohol Sales are located outside the boundary shown in Appendix 1 to Section 85; and
 - c. at least one of the Major Alcohol Sales or Minor Alcohol Sales 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.

...

Development Officer’s Determination

1. A Minor Alcohol Sales business shall not be located less than 500 m from any other Major Alcohol Sales or Minor Alcohol Sales. (Reference Section 85.1)


The proposed development is located less than 500 m from two existing Minor Alcohol Sales, contrary to section 85.1.

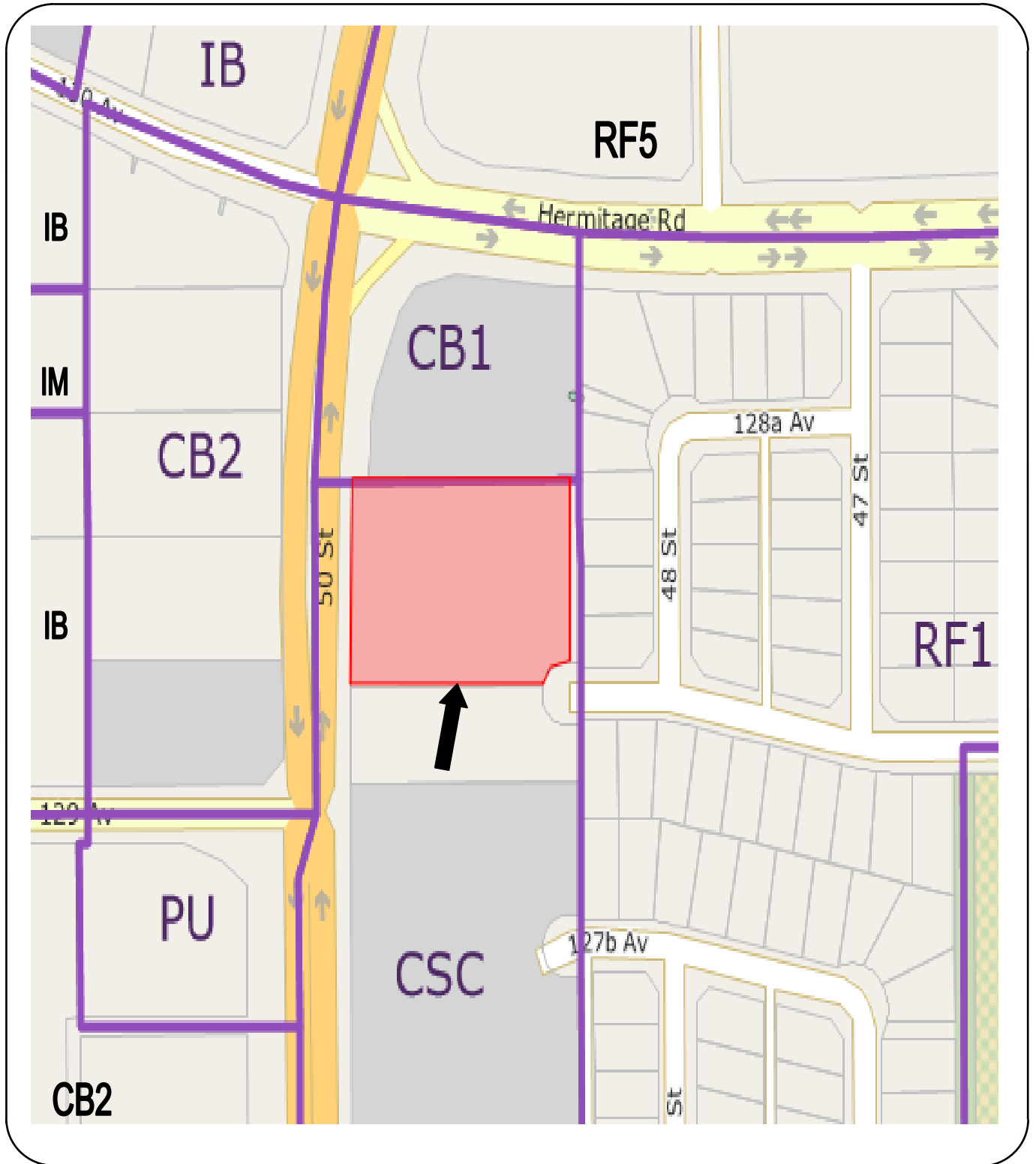
- It is 182 m from an existing liquor store at 12727 - 50 Street NW.
- It is 330 m from an existing liquor store at 13030 - 50 Street NW.

The proposed development does not meet the criteria to consider a variance to this regulation as outlined in Section 85.2. [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: 308648088-001 Application Date: MAR 19, 2019 Printed: May 2, 2019 at 4:51 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.																					
Applicant	Property Address(es) and Legal Description(s) 12847 - 50 STREET NW Plan 1522188 Blk 1 Lot 15 Specific Address(es) Suite: 12859 - 50 STREET NW Entryway: 12859 - 50 STREET NW Building: 12847 - 50 STREET NW																				
Scope of Application The change of Use from Health Services to Minor Alcohol Sales with a Floor Area of 186.36 m ² .																					
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 7460.21 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 7460.21	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)																		
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I/We certify that the above noted details are correct. Applicant signature: _____																					
Development Application Decision Refused Issue Date: May 02, 2019 Development Authority: KENNEDY, CLARK Reason for Refusal 1. A Minor Alcohol Sales business shall not be located less than 500 m from any other Major Alcohol Sales or Minor Alcohol Sales. (Reference Section 85.1) The proposed development is located less than 500 m from two existing Minor Alcohol Sales, contrary to section 85.1. - It is 182 m from an existing liquor store at 12727 - 50 Street NW. - It is 330 m from an existing liquor store at 13030 - 50 Street NW. The proposed development does not meet the criteria to consider a variance to this regulation as outlined in Section 85.2. 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="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>Major Dev. Application Fee</td> <td style="text-align: right;">\$518.00</td> <td style="text-align: right;">\$518.00</td> <td>05724803</td> <td>Mar 19, 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;">\$518.00</td> <td style="text-align: right; border-top: 1px solid black;">\$518.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$518.00	\$518.00	05724803	Mar 19, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$518.00	\$518.00		
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THIS IS NOT A PERMIT																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-090



ITEM II: 10:30 A.M.

FILE: SDAB-D-19-106

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 303824659-001

APPLICATION TO: Construct an Accessory Building (tree house play structure, 4.87m x 3.65m)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 27, 2019

DATE OF APPEAL: June 18, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6203 - 109A Street NW

LEGAL DESCRIPTION: Plan 2609HW Blk 22 Lot 19

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

I feel that the tree hosts that needs to be in a tree if it only be at the height of 14 feet is kind of ridiculous and I'd like to speak in front of the tribunal and see if I can keep the treehouse it is only a temporary structure that I clean keep up in the trees for another five years that it will come down below.

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

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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;
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- (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 110.2(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 6.1, **Accessory** means “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.”

Under section 6.1, **Height** means “a vertical distance between two points.”

Section 110.1 states that the **General Purpose** of **(RF1) Single Detached Residential Zone** is:

to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.

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.

Accessory Buildings in Residential Zones - Height

Section 50.3(3) states “an Accessory building or structure shall not exceed 4.3 m [...]”

Development Officer’s Determination

Height (to the midpoint of roof) - Accessory building shall not exceed 4.3m in height (Section 50.3.3).

Maximum: 4.3m

Proposed: 7.0m

Exceeds by 2.7m [unedited]

Height and Grade

Section 52.2(c) states:

In determining whether a development conforms to the maximum Height permissible in any Zone, the following regulations shall apply:

...

- c. Where the maximum Height as determined by Section 52.1 is measured to the midpoint, the ridge line of the roof shall not extend more than 1.5 m above the maximum permitted building Height of the Zone or overlay, or in the case of a Garden Suite the maximum permitted building Height in accordance with Section 87 of this Bylaw.

Development Officer’s Determination

Height (to the top of roof) - The ridge line of the roof shall not extend more than 1.5m above the maximum permitted building height of 4.3m (Section 52.2.c).

Maximum: 5.8m

Proposed: 7.8m

Exceeds by 2.0m [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: **303824659-001**
 Application Date: JAN 30, 2019
 Printed: May 27, 2019 at 11:08 AM
 Page: 1 of 2

Application for Accessory Building Permit

This document is a Development Permit Decision for the development application described below.

Applicant	Property Address(es) and Legal Description(s) 6203 - 109A STREET NW Plan 2609HW Blk 22 Lot 19 Location(s) of Work Entryway: 6203 - 109A STREET NW Building: 6203 - 109A STREET NW
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Scope of Application
 To construct an Accessory Building (tree house play structure, 4.87m x 3.65m).

Permit Details Class Of Permit: Class A Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 777.95
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I/We certify that the above noted details are correct.
 Applicant signature: _____

Development Application Decision
 Refused

Issue Date: May 27, 2019 **Development Authority:** YEUNG, KENNETH

Reason for Refusal
 Height (to the midpoint of roof) - Accessory building shall not exceed 4.3m in height (Section 50.3.3).

 Maximum: 4.3m
 Proposed: 7.0m
 Exceeds by 2.7m

 Height (to the top of roof) - The ridge line of the roof shall not extend more than 1.5m above the maximum permitted building height of 4.3m (Section 52.2.c).

 Maximum: 5.8m
 Proposed: 7.8m
 Exceeds by 2.0m

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.

Building Permit Decision
 Refused

Fees

THIS IS NOT A PERMIT



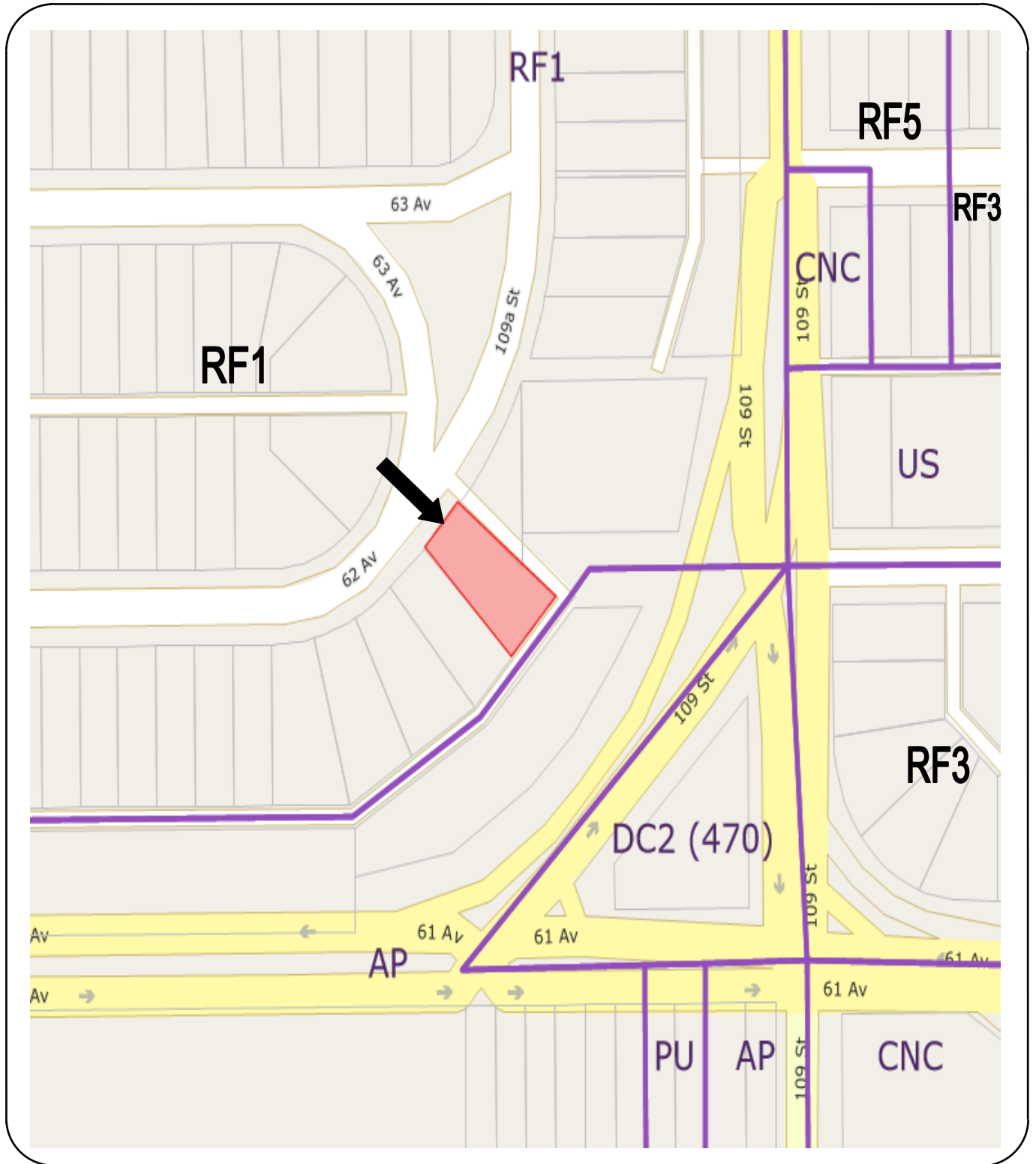
Application for Accessory Building Permit

Project Number: **303824659-001**
Application Date: JAN 30, 2019
Printed: May 27, 2019 at 11:08 AM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Application Fee	\$118.00	\$118.00	8014330935610010	Jan 30, 2019
Safety Codes Fee	\$4.50	\$4.50	8014330935610010	Jan 30, 2019
Building Permit Fee (Accessory Building)	\$110.00	\$110.00	8014330935610010	Jan 30, 2019
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$232.50</u>	<u>\$232.50</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-106

