

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 10:30 A.M.
July 17, 2019**

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

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

I 10:30 A.M. SDAB-D-19-109

Construct exterior alterations to an existing
Commercial development (add vehicular access
onto 50 Street NW, amend approved
landscaping plan)

5003 - 55 Avenue NW,
Project No.: 130365833-048

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

ITEM I: 10:30 A.M.

FILE: SDAB-D-19-109

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 130365833-048

APPLICATION TO: Construct exterior alterations to an existing Commercial development (add vehicular access onto 50 Street NW, amend approved landscaping plan)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 13, 2019

DATE OF APPEAL: June 24, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 5003 - 55 Avenue NW

LEGAL DESCRIPTION: Plan 1025566 Blk 3 Lot 9, Plan 1025566 Blk 3 Lot 9

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:

1. Our initial application was submitted in 2014 and was approved and this was not a condition at that time. We didn't pursue any further, as it was a requirement to build a slow down lane from 55th avenue and 50th Street to the Whitemud Freeway. We had been in the process of selling the south parcel and it was very expensive to build a very long slow down lane.
2. It is acceptable to EPCOR
3. We are willing to provide any additional safeguard in front of the pole.

4. Since the pole is going to be beside a slow down lane instead of main street, the variance to 1 meter should be allowed.
5. In the past our development contributed 50% of the cost of the lights at 55th ave and 50st street.
6. The above ground power line is temporary and it will be buried when the 50th street concept plan is implemented north of 55 avenue.

<i>General Matters</i>

Appeal Information:

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

Permitted and discretionary uses

642(3) A decision of a development authority on an application for a development permit must be in writing, and a copy of the decision, together with a written notice specifying the date on which the written decision was given and containing any other information required by the regulations, must be given or sent to the applicant on the same day the written decision is given.

(4) If a development authority refuses an application for a development permit, the decision must include the reasons for the refusal.

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*:

Section 320.1 states that the **General Purpose** of (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.

Access to Site

Section 53.1 states “All access locations and curb crossings shall require the approval of Transportation Services.”

Section 53.2 states:

No person shall construct an access or egress for vehicles from a Site to a public roadway, if the public roadway, in the opinion of Transportation Services, carries or shall carry a heavy traffic volume or such access or egress would create an unnecessary traffic hazard, unless there is no other practical method of vehicular access to the Site and a turning space is provided on the Site connected to the access or egress, so that every vehicle leaving the Site by the egress shall face the public roadway which the access or egress enters.

Development Officer’s Determination

1) All access locations and curb crossings shall require the approval of Transportation Services. (Ref. Section 53.1).

Subdivision Planning has objected to the proposed road access in their technical response dated 25 April 2019.

2) No person shall construct an access or egress for vehicles from a Site to a public roadway, if the public roadway, in the opinion of Transportation Services, carries or shall carry a heavy traffic volume or such access or egress would create an unnecessary traffic hazard. (Ref. Section 53.2).

Subdivision Planning states that the proposed access would conflict with adjacent power lines, in their technical response dated 25 April 2019. The Development Officer concurs with their response.

It is noted by the Development Officer that Subdivision Planning had discussed alternatives for the proposed road access with the applicant. Subdivision Planning indicated in their technical response that “the applicant has not pursued these other options further”.


[unedited]

Previous Subdivision and Development Appeal Board Decisions

Application Number	Description	Decision
SDAB-D-16-088	To change the Use from a General Retail Stores to a Minor Alcohol Sales and to construct an interior alterations.	April 21, 2016; The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The development is GRANTED.
SDAB-D-00-335	Construct a freestanding business identification sign (Double sided facing North/South)	September 21, 2000; the appeal be DENIED and the development REFUSED.

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: 130365833-048 Application Date: JUN 01, 2017 Printed: June 25, 2019 at 8:15 AM Page: 1 of 2
This document is a Development Permit Decision for the development application described below.		
Applicant	Property Address(es) and Legal Description(s) 5003 - 55 AVENUE NW Plan 1025566 Blk 3 Lot 9 5003 - 55 AVENUE NW Plan 1025566 Blk 3 Lot 9	
Scope of Application To construct exterior alterations to an existing Commercial development (add vehicular access onto 50 Street NW, amend approved landscaping plan).		
Permit Details		
Class of Permit: Gross Floor Area (sq.m.): 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: May 13, 2019 Development Authority: WELCH, IMAI Reason for Refusal 1) All access locations and curb crossings shall require the approval of Transportation Services. (Ref. Section 53.1). Subdivision Planning has objected to the proposed road access in their technical response dated 25 April 2019. 2) No person shall construct an access or egress for vehicles from a Site to a public roadway, if the public roadway, in the opinion of Transportation Services, carries or shall carry a heavy traffic volume or such access or egress would create an unnecessary traffic hazard. (Ref. Section 53.2). Subdivision Planning states that the proposed access would conflict with adjacent power lines, in their technical response dated 25 April 2019. The Development Officer concurs with their response. It is noted by the Development Officer that Subdivision Planning had discussed alternatives for the proposed road access with the applicant. Subdivision Planning indicated in their technical response that "the applicant has not pursued these other options further". 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		
THIS IS NOT A PERMIT		



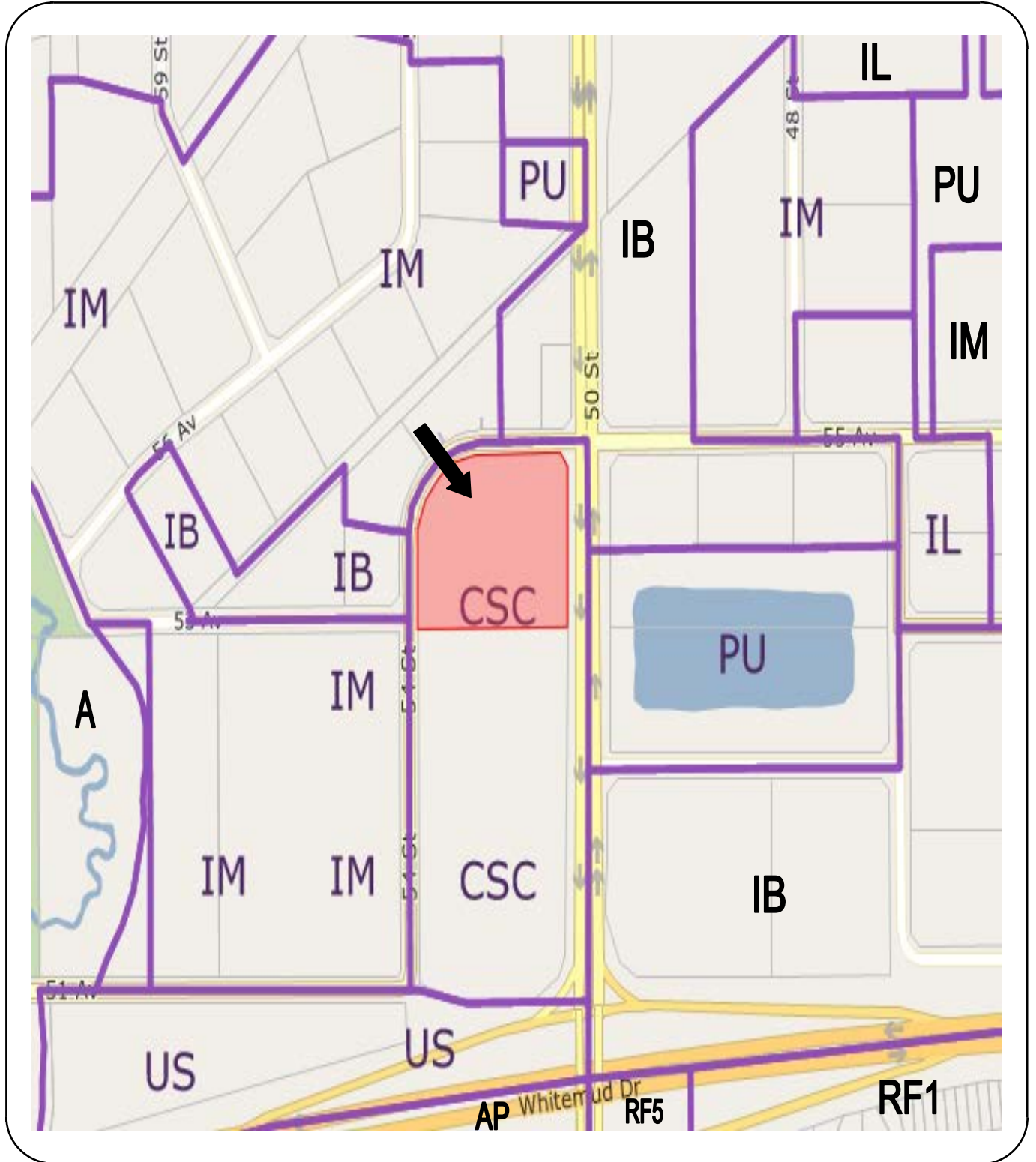
Application for Major Development Permit

Project Number: **130365833-048**
Application Date: JUN 01, 2017
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Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$354.00	\$354.00	04171240	Jun 01, 2017
Development Permit Inspection Fee	\$500.00			
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$854.00</u>	<u>\$354.00</u>		
(\$500.00 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-109

