

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Wednesday, 9:00 A.M.
June 2, 2021

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-21-083

Change the Use of a General Retail Store to a
Liquor Store and construct interior alterations.

8170 - 50 Street NW
Project No.: 381815337-002

II 10:30 A.M. SDAB-D-21-084

WITHDRAWN

Construct Exterior Alterations to a General
Industrial Use building (new equalization tank)

1930 - 121 Avenue NE
Project No.: 392669139-002

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-21-083

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 381815337-002

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

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 13, 2021

DATE OF APPEAL: May 3, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8170 - 50 Street NW

LEGAL DESCRIPTION: Plan 7521677 Lot E

ZONE: (CB2) General Business 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:

I, Nahom Weldemariam, am the owner and applicant in the above noted matter.

On December 24, 2020 I applied for a Development permit for Minor Alcohol Sales (Liquor Store) to The City of Edmonton. The Development permit was refused. Although the Application for Development permit was refused because of the reason stated on section 85.1 "Any Major Alcohol

Sales or Minor Alcohol sales shall not be located within 500 meters from any other Major Alcohol or Minor Alcohol Sales”. somewhat further distant from the whose Permit causes our location to be offside the Regulation. Notwithstanding the obvious merit in a variance being granted to Grounds for Appeal I am required to approach the Board for assistance. Accordingly, I hereby appeal the referenced refusal on the following grounds:

1. It remains the case that:
 - a. The proposed development is a Permitted Use in General Business zone (CB2).
 - b. The site of the proposed development is on the edge of the boundary that is listed on section 85, and the other site is completely outside of the boundary that is listed on section 85.
 - c. The proposed development is separated from the other liquor store by a big highway Sherwood Park Freeway.
 - d. The proposed development cannot and will not unduly interfere with the amenities of the neighborhood, or materially interfere with or affect the use, enjoyment, or value of neighboring parcels of land.
2. The distance between the proposed development location and the other liquor store is around 263 meters apart according the City’s measuring system (boundary to boundary). However according to GPS, the actual distance between the properties is 550 m.
3. 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.
4. As noted above, the proposed development is in a separate site than the other Liquor Store. I also reviewed the boundary referenced in Appendix 1 to Section 85 and identified that the existing Liquor Store is outside this boundary. Finally, at least the proposed development

permit for Alcohol Sales Use – is located on a Site greater than 2.5 hectares in size and is zoned CB2.

5. As the proposed development is a Permitted Use, the only issue before this Board is whether the proposed application complies with the applicable development regulations, and if not, whether a variance to any of those regulations should be granted.
6. In reference to the maps that will be attached later on for some of liquor stores around the city, confirms that a Minor Alcohol Sales or Major Alcohol Sales facility at approximately 200 – 300 meters apart from each other.
7. 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
- (c) issues an order under section 645,

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

(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 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 clause (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 340.3(11), a **Liquor Store** is a **Discretionary Use** in the **(CB2) General Business Zone**.

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.

Section 330.1 states that the **General Purpose** of the **(CB2) General Business Zone** is:

to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways. This zone also accommodates limited Residential-related uses

Section 85 - Liquor Stores

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.

Development Officer's Determination

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

Required Setback: 500 m

Proposed Setback: 263 m

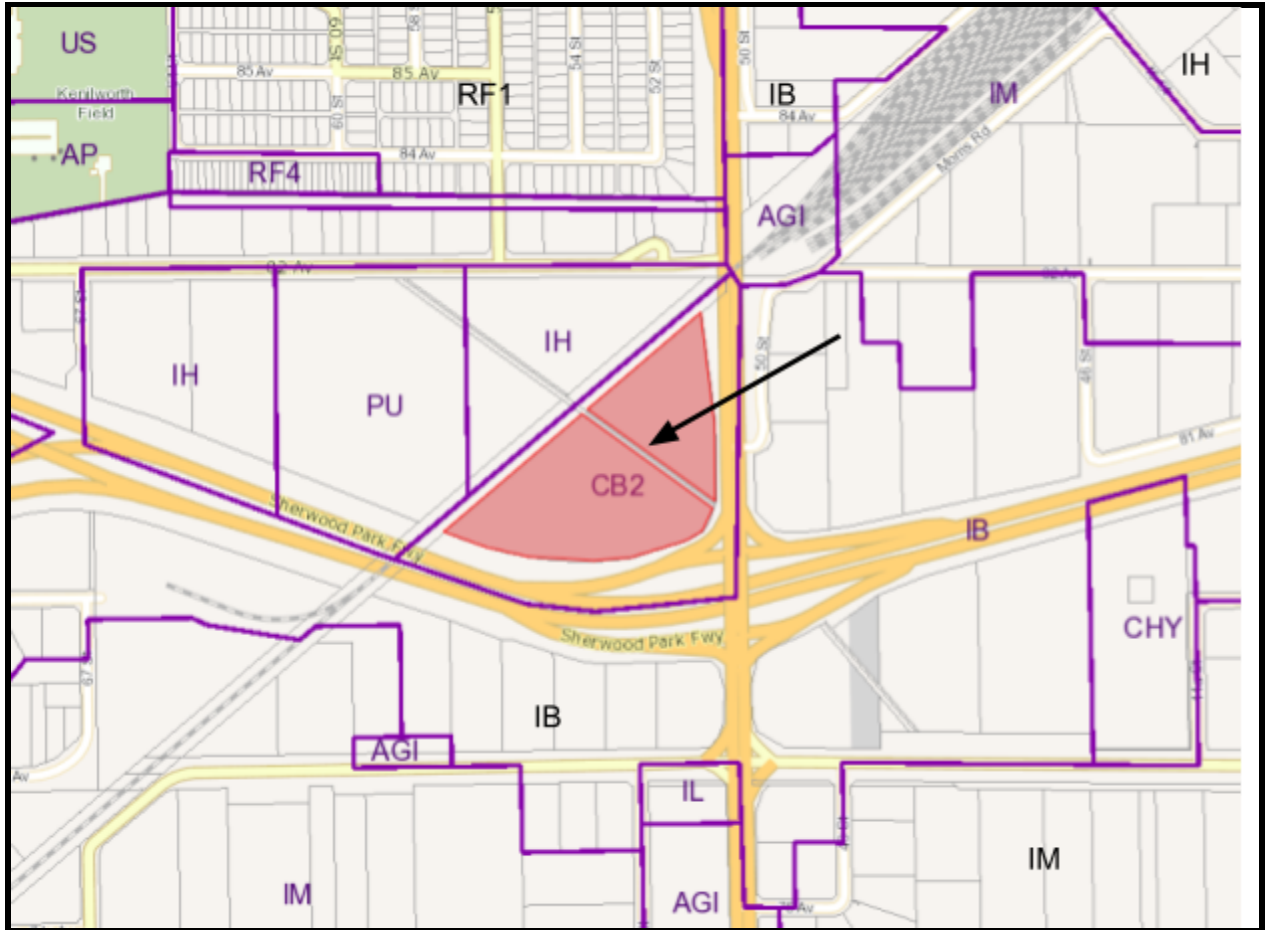
Deficient by 237 m

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.

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: 381815337-002 Application Date: DEC 24, 2020 Printed: April 13, 2021 at 10:24 AM 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) 8170 - 50 STREET NW Plan 7521677 Lot E Specific Address(es) Suite: 404, 8170 - 50 STREET NW Entryway: 404, 8170 - 50 STREET NW Building: 400, 8170 - 50 STREET NW																					
Scope of Application To change the Use of a General Retail Store to a Liquor Store and construct interior alterations.																						
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: Site Area (sq. m.): </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>			Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)																		
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Development Application Decision Refused Issue Date: Apr 13, 2021 Development Authority: CHOW, STEPHEN Reason for Refusal 1. Section 85.1 Any Liquor Store shall not be located less than 500 m from any other Liquor Store. Required Setback: 500 m Proposed Setback: 263 m Deficient by 237 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. 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.																						
Fees <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right; font-weight: normal;">Fee Amount</th> <th style="text-align: right; font-weight: normal;">Amount Paid</th> <th style="text-align: right; font-weight: normal;">Receipt #</th> <th style="text-align: right; font-weight: normal;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$528.00</td> <td style="text-align: right;">\$528.00</td> <td style="text-align: right;">056028011610010</td> <td style="text-align: right;">Feb 02, 2021</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;">\$528.00</td> <td style="text-align: right; border-top: 1px solid black;">\$528.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$528.00	\$528.00	056028011610010	Feb 02, 2021	Total GST Amount:	\$0.00				Totals for Permit:	\$528.00	\$528.00		
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THIS IS NOT A PERMIT																						



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-21-083

▲
N