

**SUBDIVISION**  
**AND**  
**DEVELOPMENT APPEAL BOARD**  
**AGENDA**

**Friday, 9:00 A.M.**  
**June 21, 2019**

**River Valley Room**  
**City Hall**  
**1 Sir Winston Churchill Square**  
**Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
RIVER VALLEY ROOM, CITY HALL**

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I	9:00 A.M.	SDAB-D-19-094	Demolish a Pedestrian Bridge across 170 Street and construct exterior alterations (West Edmonton Mall)  8882 - 170 Street NW, 16940 - 87 Avenue NW Project No.: 276654077-003
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ITEM I: 9:00 A.M.

FILE: SDAB-D-19-094

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 276654077-003

APPLICATION TO: Demolish a Pedestrian Bridge across 170 Street and construct exterior alterations (West Edmonton Mall)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: June 21, 2018

DATE OF APPEAL: July 11, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8882 - 170 Street NW, 16940 - 87 Avenue NW

LEGAL DESCRIPTION: Plan 8421891 Blk 28 Lot 6, Plan 8421891 Blk 28 Lot 5, Plan 8322082 Blk 22 Lot 7, Plan 8421542 Blk 22 Lot 6A, Plan 0726880 Blk 3 Lot 5

ZONE: DC2.1012 Site Specific Development Control Provision (September 5, 2018), (US) Urban Services Zone

OVERLAY: N/A

STATUTORY PLAN: Summerlea Neighbourhood Area Structure Plan (applies to DC2.1012 only)

***Grounds for Appeal***

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

Nature of Application and Relief Sought:

The Appellant appeals the conditions of Development Permit 276654077-003, issued on June 21, 2018.

The Appellant seeks to remove condition 3 on Development Permit 276654077-003.

Grounds for making this application:

1. This matter relates to the Pedestrian Overpass Bridge across 170 Street (the “Overpass”) in Edmonton, Alberta.
2. The Appellant and the City of Edmonton (the “City”) entered into a contractual agreement (the “Agreement”) on May 27, 1985 whereby the Appellant was to construct, install and maintain the Overpass. The Overpass was erected; the Appellant bore the costs (the “Costs”) in erecting the Overpass.
3. The Agreement provided that the Appellant may be reimbursed by the City for the Costs associated with erecting the Overpass.
4. The City appears to have reimbursed the Appellant for some or all of the Costs, but to date has refused or neglected to confirm the same.
5. The Overpass was no longer structurally sound.
6. The Appellant held a meeting (the “Meeting”) with the City on June 12, 2018.
7. The Appellant and the City agreed at the Meeting that the Overpass was a public safety hazard and that the Overpass should be removed forthwith.
8. It was agreed at the Meeting that the need for a replacement of the Overpass would be addressed at a later date, as the City had no studies or surveys of use for the Overpass.
9. By contrast, the Appellant’s own informal surveys suggest that the Overpass is not widely used by the public, with the exception of skateboarders.
10. The Appellant applied for a Development Permit to have the Overpass removed.
11. A Development Permit (the “Permit”) was issued on June 21, 2018. The Permit allowed for the removal of the Overpass subject to conditions. Condition 3 (the “Rebuild Condition”) was not discussed at the Meeting.
12. The Development Authority who issued the Permit erred in placing conditions on the Permit.
13. The Overpass was removed by the Appellant on June 26, 2018.
14. There is no public need for the Overpass.

15. If there is deemed to be a need for the Overpass, the Appellant should not bear the costs of replacement and reconstruction of the Overpass.

***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**

**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.

**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.

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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.

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	Project Number: <b>276654077-003</b> Application Date: JUN 19, 2018 Printed: July 11, 2018 at 3:02 PM Page: 1 of 2
<h2 style="margin: 0;">Major Development Permit</h2>	
This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.	
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 8882 - 170 STREET NW Plan 8421891 Blk 28 Lot 6 8882 - 170 STREET NW Plan 8421891 Blk 28 Lot 5 8882 - 170 STREET NW Plan 8322082 Blk 22 Lot 7 8882 - 170 STREET NW Plan 8421542 Blk 22 Lot 6A 16940 - 87 AVENUE NW Plan 0726880 Blk 3 Lot 5
	<b>Specific Address(es)</b> Entryway: 8882 - 170 STREET NW Building: 8882 - 170 STREET NW
<b>Scope of Permit</b> To demolish a Pedestrian Bridge across 170 Street and construct exterior alterations (West Edmonton Mall).	
<b>Permit Details</b>	
Class of Permit: Class A Gross Floor Area (sq.m.): New Sewer Service Required: N/A Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
I/We certify that the above noted details are correct.  Applicant signature: _____	
<b>Development Permit Decision</b> Approved	



Project Number: **276654077-003**  
 Application Date: JUN 19, 2018  
 Printed: July 11, 2018 at 3:02 PM  
 Page: 2 of 2

## Major Development Permit

**Subject to the Following Conditions**

- 1) Approval for demolition is for the portion of the 170 Street Pedestrian Bridge Overpass within City Road right-of-way. Immediately upon demolition of the Pedestrian Bridge, all areas of the 170 Street Road right-of-way, shall be cleared of all debris.
  
- 2) The pedestrian path termination points on the east and west sides of the 170 Street Pedestrian Bridge Overpass must be closed to all pedestrian traffic, to the satisfaction of the Development Officer, and the City of Edmonton, City Operations, Bridges, Structures and Open Space Maintenance Engineer.
  
- 3) In accordance to the existing Development Agreement between the City and West Edmonton Mall, which continues to be in force, a Pedestrian Bridge Overpass across 170 Street is required. As such:
  - a) a new Pedestrian Bridge Overpass across 170 Street shall be replaced and reconstructed, connecting the west side to West Edmonton Mall at 8882-170 Street (Lots 5 and 6, Block 28, Plan 842 1891, Lot 6A, Block 22, Plan 842 1542, Lot 7, Block 22, Plan 832 2082 and Lot 4, Block 28, Plan 822 2590) and the east side to Alberta Health Services at 16940-87 Avenue (Lot 5, Block 3, Plan 0726880), to the satisfaction of the City of Edmonton, City Operations, Bridges, Structures and Open Space Maintenance Engineer. All costs of replacement and reconstruction shall be borne by the owners of West Edmonton Mall.
  
  - b) The owners of West Edmonton Mall shall submit a detailed design of a new 170 Street Pedestrian Bridge Overpass, including pedestrian connections on the West Edmonton Mall site and Alberta Health Services site, to the satisfaction of the Development Officer and City of Edmonton, City Operations, Bridges, Structures and Open Space Maintenance Engineer.
  
  - c) The owners of West Edmonton Mall shall provide, in writing, a time line for reconstruction of the Pedestrian Bridge Overpass by September 4, 2018, to the satisfaction of the Development Office and City of Edmonton, City Operations, Bridges, Structures and Open Space Maintenance Engineer.

**Rights of Appeal**

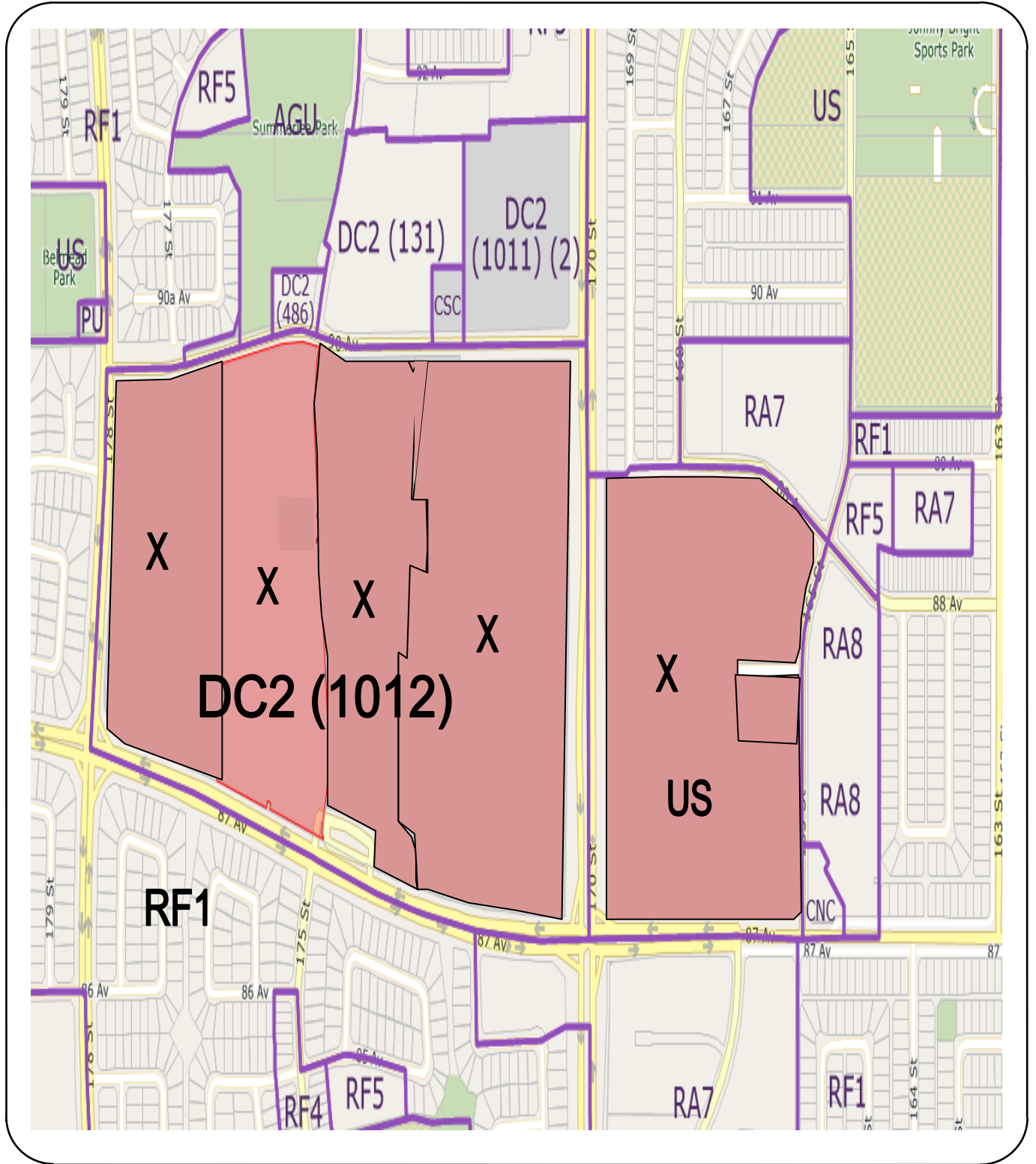
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

**Issue Date:** Jun 21, 2018     **Development Authority:** LUKE, HARRY

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$362.00	\$362.00	05117337	Jun 20, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$362.00	\$362.00		





**SURROUNDING LAND USE DISTRICTS**

Site Location: X

File: SDAB-D-19-094

