

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
May 15, 2019**

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

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

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I	9:00 A.M.	SDAB-D-19-030	Develop a Cannabis Retail Sales 11641 - Jasper Avenue NW Project No.: 296171324-001
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II	9:00 A.M.	SDAB-D-19-051	Change the use from Health Services (Cannabis Counselling) to Cannabis Retail Sales 11516 - Jasper Avenue NW Project No.: 296172505-001
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**NOTE:** *Unless otherwise stated, all references to “Section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-030

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT PROPERTY OWNER

APPELLANT:

APPLICATION NO.: 296171324-001

APPLICATION TO: Develop a Cannabis Retail Sales

DECISION OF THE DEVELOPMENT AUTHORITY: Approved

DECISION DATE: January 23, 2019

DATE OF APPEAL: February 12, 2019

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11641 - Jasper Avenue NW

LEGAL DESCRIPTION: Plan 2671AN Blk 16 Lot 25

ZONE: DC1 - Direct Development Control Provision (Area 8)

OVERLAY: Main Streets Overlay

STATUTORY PLAN: Oliver Area Redevelopment Plan

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<i>Grounds for Appeal</i>
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The Appellant provided the following reasons for appealing the decision of the Development Authority:

1. The triage process adopted by the Development Authority for the consideration of development permit applications was not authorized by law;
2. The triage process adopted by the Development Authority for the consideration of development permit applications was not reasonably and fairly implemented;

3. The triage process adopted by the Development Authority for the consideration of the development permit application was an improper exercise of the Development Authority's discretion;
4. The Development Authority misled the Appellant with respect to the proper email address to which development applications were to be sent;
5. The development application was wrongly considered by the Development Authority before the development application of the Appellant;
6. The development permit application was non-compliant and incomplete, in particular, it did not include the narrative required under section 710.5 of the Edmonton Zoning Bylaw 12800.
7. Development permit was deemed refused pursuant to Section 684 of the Municipal Government Act by reason of the passage of more than 40 days from the development authority's Notice of Completeness dated October 26, 2018.
8. Such further and other grounds as may be advised following review of the Record

Development permit was deemed refused pursuant to Section 684 of the Municipal Government Act by reason of the passage of more than 40 days from the development authority's Notice of Completeness dated October 26, 2018.

<i>General Matters</i>
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**The Subdivision and Development Appeal Board made and passed the following motion on April 10, 2019.**

"That the appeal hearing be postponed to a date to be determined."

**The Subdivision and Development Appeal Board made and passed the following motion on February 27, 2019:**

"That the appeal hearing be scheduled for April 11, 2019 with the mutual agreement of all parties."

**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 to the subdivision and development appeal board.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted or the application for the development permit was deemed to be refused under section 683.1(8).

(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.

### **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.

**General Provisions of the DC1 (Oliver Area Redevelopment Plan – Area 8) Direct Development Control Provision (the “DC1”):**

Under section 15.9.3(e), **Cannabis Retail Sales** is a **Listed Use** in the **DC1**. Section 15.9.2 states that the **Rationale** of the **DC1** is:

To provide for a range of uses, with the objective of promoting the continuing development of a pedestrian oriented commercial strip in terms of land use activities and design elements. The district also provides opportunity for the inclusion of residential uses above the ground floor level.

**General Provisions from the *Edmonton Zoning Bylaw*:**

Under section 7.4(9), **Cannabis Retail Sales** means:

development used for the retail sale of Cannabis that is authorized by provincial or federal legislation. This Use may include retail sales of Cannabis accessories. This Use does not include Cannabis Production and Distribution.

Under section 6.1, **Cannabis** means:

a cannabis plant and anything referred to in subsection (a) of this definition but does not include anything referred to in subsection (b) of this definition:

- a. Cannabis includes:
  - i. any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a part of the plant referred to in subsection (b) of this definition.
  - ii. any substance or mixture of substances that contains or has on it any part of such a plant;
  - iii. any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained.
- b. Notwithstanding subsection (a) of this definition, Cannabis does not include:

- i. a non-viable seed of a cannabis plant;
- ii. a mature stalk, without any leaf, flower, seed or branch, of such plant;
- iii. fibre derived from a stalk referred in subsection (b)(ii) of this definition; and
- iv. the root or any part of the root of such a plant.

Section 12.3 provides the following with respect to ***Class A Permitted Developments***:

1. This class includes all developments for which applications are required and are for a Permitted Use or Accessory building or activities and the Development Permit Application complies in all respects to the regulations of this Bylaw. Applications for Signs, Accessory functions and the occupancy of existing buildings on Sites regulated by a Direct Control Provision and conforming to that provision shall also be considered a Class A Permitted Development.

Section 12.4 provides the following with respect to ***Class B Discretionary Developments***:

1. This class includes all developments for which applications are required and are for a Discretionary Use or require a variance to any of the regulations of this Bylaw. This class of Development Permit also includes all applications on Sites designated Direct Control not noted in Section 12.3.

<b><i>Section 70 – Cannabis Retail Sales (amended February 25, 2019)</i></b>
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1. Any Cannabis Retail Sales shall not be located less than 200 m from any other Cannabis Retail Sales. For the purposes of this subsection only:
  - a. the 200 m separation distance shall be measured from the closest point of the Cannabis Retail Sales Use to the closest point of any other approved Cannabis Retail Sales Use;
  - b. A Development Officer shall not grant a variance to reduce the separation distance by more than 20 m in compliance with Section 11; and
  - c. The issuance of a Development Permit which contains a variance to separation distance as described in 70(1)(b) shall be issued as a Class B Discretionary Development.
2. Any Site containing Cannabis Retail Sales shall not be located less than:
  - a. 200 m from any Site being used for a public library, at the time of the application for the Development Permit for the Cannabis Retail Sales; and

- b. 100 m from any Site being used for Community Recreation Services Use, a community recreation facility or as public lands at the time of application for the Development Permit for the Cannabis Retail Sales.
3. For the purposes of subsection 2:
    - a. separation distances 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 “public library” is limited to the collection of literary, artistic, musical and similar reference materials and learning resources in the form of books, electronic files, computers, manuscripts, recordings and films for public use, and does not include private libraries, museums or art galleries.
    - c. the term “community recreation facilities” means indoor municipal facilities used primarily by members of the public to participate in recreational activities conducted at the facilities, as per the Municipal Government Act; and
    - d. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.
  4. Subsection 105(3) of the *Gaming, Liquor and Cannabis Regulation*, is expressly varied by the following:
    - a. any Site containing a Cannabis Retail Sales shall not be located less than:
      - Public or private education***
        - i. 200 m from a Site being used for public or private education, at the time of the application for the Development Permit for the Cannabis Retail Sales;
      - Provincial health care facility***
        - ii. 100 m from a Site being used for a provincial health care facility at the time of the application for the Development Permit for the Cannabis Retail Sales; and
      - School reserve or municipal and school reserve***
        - iii. 100 m from a Site designated as school reserve or municipal and school reserve at the time of the application for the Development Permit for the Cannabis Retail Sales.



***Measurement of Separation Distances***

- b. For the purposes of this subsection, separation distances 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.

***Sites Greater than Two Hectares***

- c. For Sites that are greater than 2.0 ha in size and zoned either CSC or DC2, that do not contain a public library at the time of application for the Development Permit for the Cannabis Retail Sales:
    - i. Subsection 70(2), and 70(4)(a) shall not apply; and
    - ii. the distances referred to in Subsection 105(3) of the *Gaming, Liquor and Cannabis Regulation* shall be expressly varied to 0 m.
  - d. For the purposes of subsection 70(4)(a)(i), the term "public or private education" means a school as defined in subsection (1)(y)(i) and (1)(y)(ii) of the *School Act (as amended from time to time)*.
5. Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 70(2), 70(3)(a) or 70(4).

**Design Requirements**


- 6. Cannabis Retail Sales shall include design elements that readily allow for natural surveillance to promote a safe urban environment, where applicable and to the satisfaction of the Development Officer, including the following requirements:
  - a. customer access to the store is limited to a storefront that is visible from the street other than a Lane, or a shopping centre parking lot, or mall access that allows visibility from the interior of the mall into the store;
  - b. the exterior of all stores shall have ample transparency from the street;
  - c. Any outdoor lighting shall be designed to ensure a well-lit environment for pedestrians and illumination of the property; and
  - d. Landscaping shall be low-growing shrubs or deciduous trees with a high canopy at maturity to maintain natural surveillance.

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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>296171324-001</b> Application Date: OCT 26, 2018 Printed: January 23, 2019 at 1:00 PM Page: 1 of 2		
<b>Major Development Permit</b>			
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> 11641 - JASPER AVENUE NW Plan 2671AN Blk 16 Lot 25  <b>Specific Address(es)</b> Building: 11639 - JASPER AVENUE NW		
<b>Scope of Permit</b> To develop a Cannabis Retail Sales			
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">                     Class of Permit: Class A                      Gross Floor Area (sq.m.):                      New Sewer Service Required: N                      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: Class A 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)
Class of Permit: Class A 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: _____			
<b>Development Permit Decision</b> Approved  <b>Issue Date:</b> Jan 23, 2019 <b>Development Authority:</b> Chow, Stephen			
(Empty space for additional information or comments)			



Project Number: **296171324-001**  
 Application Date: OCT 26, 2018  
 Printed: January 23, 2019 at 1:00 PM  
 Page: 2 of 2

## Major Development Permit

**Subject to the Following Conditions**

- 1) The Cannabis Retail Sales shall not commence operations until such time as the non-medical sale and distribution of Cannabis is authorised by federal and provincial law.
- 2) The Cannabis Retail Sales must commence operations within nine (9) months of the date of issuance of this Development Permit.
- 3) Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.
- 4) Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51 of the Edmonton Zoning Bylaw 12800).

**NOTES:**

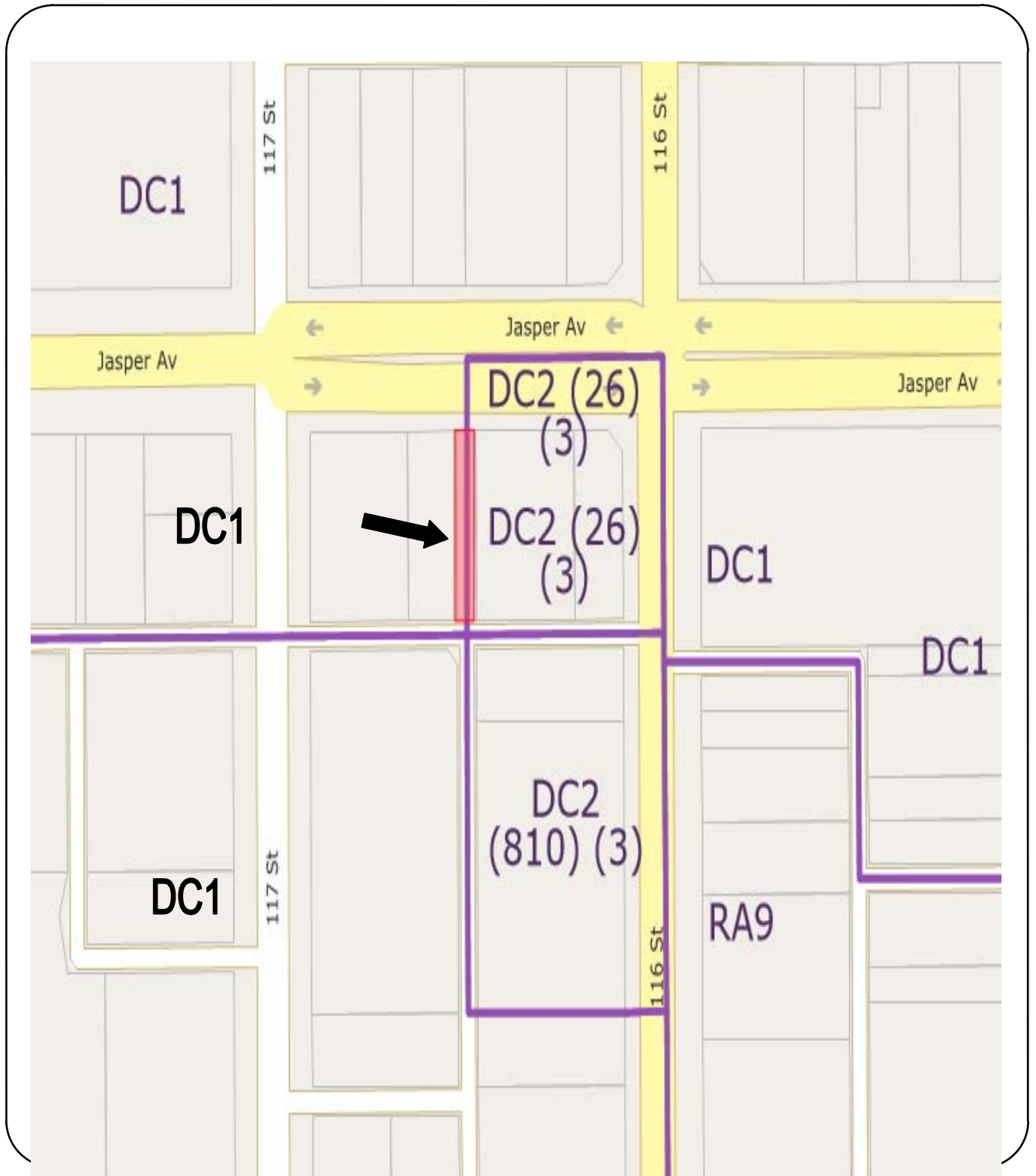
- 1) An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.
- 2) The Development Permit shall not be valid unless and until the conditions of approval, save those of a continuing nature, have been fulfilled; and no notice of appeal from such approval has been served on the Subdivision and Development Appeal Board within the time period specified in subsection 21.1 (Ref. Section 17.1).
- 3) Signs require separate Development Applications.
- 4) The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.
- 5) A Building Permit is required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.
- 6) This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.

**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.

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$5,600.00	\$5,600.00	05445770	Oct 30, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$5,600.00	\$5,600.00		



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-030



N

ITEM II: 9:00 A.M.

FILE: SDAB-D-19-051

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 296172505-001

APPLICATION TO: Change the use from Health Services (Cannabis Counselling) to Cannabis Retail Sales

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 25, 2019

DATE OF APPEAL: February 15, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11516 - Jasper Avenue NW

LEGAL DESCRIPTION: Plan B3 Blk 15 Lot 79

ZONE: DC1 - Direct Development Control Provision (Area 8)

OVERLAY: Main Streets Overlay

STATUTORY PLAN: Oliver Area Redevelopment Plan

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*Grounds for Appeal*

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

1. The direction of Council clearly laid out in several statutory plans, documents, and reports regarding development in the Oliver neighbourhood was not followed by the Development Officer in the refusal of Development Permit application # 296172505-001.

Rationale:

The subject property at 11516 Jasper Avenue is in the Oliver neighbourhood of Edmonton, Alberta. Oliver is designated as a Central Core community within the Edmonton Municipal Development Plan which states that Central Core communities “have different characters and development expectations than mature neighbourhoods”. (p. 111, *The Way We Grow*, 2010).

Oliver and the Downtown neighborhood that abuts it to the east, have the highest populations of any neighbourhoods in Edmonton (Fig 5.2, p. 38, City of Edmonton Growth Monitoring Report, 2017). The West portion of Oliver is one of the densest in Alberta. According to Statistics Canada the density of the immediate area surrounding the property at 11516 Jasper Avenue is 16209.9 persons per square km, while the average density within the City of Edmonton is 1360.9 persons per square km. As well, the City's Edmonton's Urban Neighbourhood Evolution, Evolving Infill report from 2018 stated that "While the population has doubled (1981) and almost tripled (2011) since 1961, the number of families with children has dropped dramatically in Oliver. As a percentage of the total, children have fallen from approximately 18-20% to 4% (2011). Meanwhile, the ages 0-19 population citywide was 23% in 2011." (p.78), which supports the notion that the community is becoming more adult-orientated.

The City of Edmonton 2016 census reported that 21.58% of those living in Oliver used public transit as their main method of transportation, significantly more than the 13.41% average in the city overall. As well, 20.21% of Oliver residents reported that walking as their transportation method of choice, dramatically different than the 3.76% in Edmonton overall. The Capital City Downtown Plan issued by Council in 2017 refers to Jasper Avenue as Edmonton's Main Street and includes this policy statement as the direction of Council: "Strategically increase retail opportunities; attract a diversity of retail and services to meet the needs of a growing residential community and market Downtown as the primary prestige, design-oriented, and the only truly urban retail destination within the metropolitan region. Focus on building outstanding street oriented retail neighbourhoods and completing the necessary initiatives to attract exciting new businesses along special pedestrian-oriented shopping streets, including Jasper Avenue, 101 Street, 104 Street and Rice Howard Way, and support the emergence of complementary local shopping streets." This theme is also referenced in the Edmonton Municipal Development Plan under Policy statement 3.4.1 Create a strong downtown characterized by high density, mixed use, transit and pedestrian orientation and excellent urban design.

All of the above information supports the argument that the neighbourhood of Oliver is special and unique. Thus, the direction of the Edmonton Zoning Bylaw that this area be contained in a Direct Development Control (DC1) District is fair and appropriate. Section 710.1 states that the purpose of the DC1 Provision is to "provide for detailed, sensitive control of the Use, development, siting and design of buildings and disturbance of land where this is necessary to establish, preserve or enhance: a. areas of unique character or special environmental concern, as identified or specified in an Area Structure Plan or Area Redevelopment Plan". Clearly, it is the direction of Edmonton City Council to have development applications for the Oliver area reviewed through the lens of being in an area of unique character.

As well, Council provided direction in the Capital City Downtown Plan through the downtown development context that, "There is a trend away from the strict segregation of land uses and towards a more dynamic mix of residential, institutional, and commercial land uses, especially within the confines of the Downtown...Over the last several years, City Council has been active in sponsoring a number of downtown improvement initiatives. Council has encouraged the administration to address sustainability and quality of life initiatives as part of rezoning and

development applications, and to more thoroughly assess proposed developments in terms of their impact on the built environment.” (p. 17, 2017).

The proposed development at 11516 Jasper Avenue has been denied a development permit by the Development Officer because the development “does not comply with the minimum setback requirements from an approved Cannabis Retail Sales”. The setback requirements set out in section 70 of the Edmonton Zoning Bylaw are that a 200m separation distance shall be in place between Cannabis retail sales use locations. The location at Jasper Avenue is 129m from the proposed location at 11408 Jasper Avenue and 153m from the proposed location at 11639 Jasper Avenue.

It is our belief that applying the setback requirements set out in section 70 for all areas of the City of Edmonton is not consistent with Council’s direction that communities such as Oliver are to be viewed as unique and should be assessed using different criteria. The high population, high density, and pedestrian orientation of the Oliver area, and Jasper Avenue specifically, should be considered. Edmonton City Council has clearly laid out their vision for the area and it is our belief that allowing a variance in the setback requirements at the 11516 Jasper Avenue location would align with Council’s direction and would not impede the quality of life for those that live and work in this unique neighbourhood.

2. The triage process adopted by the Development Authority for the consideration of development permit applications was not authorized by law;
3. The triage process adopted by the Development Authority for the consideration of development permit applications was not reasonably and fairly implemented;
4. The triage process adopted by the Development Authority for the consideration of development permit applications was an improper exercise of the Development Authority's discretion;
5. The Development Authority misled the Appellant with respect to the proper email address to which development applications were to be sent;
6. The Development Authority deemed the development application for 11516 Jasper Avenue complete, even though it did not include all the required information listed in the (DC1) Direct Development Control Provision 710.5.

Rationale:

This section states that “1. In addition to the information normally required for a Development Application under this Bylaw, the applicant shall submit all information specified in an applicable Area Redevelopment Plan or Area Structure Plan and a narrative explaining how the proposed Use or development would be consistent with the intent of the Provision”. The application form for a Development Permit on the City of Edmonton website does not specifically include reference to this section or the requirement to include a narrative document as part of a DC1 application; however, it does state, “Additional drawings or information may be required as considered necessary in accordance with the Edmonton Zoning Bylaw and by the Development Officer”. Upon review of the DC1 provision after our submission had been sent in, we became aware of the 710.5 requirement and



submitted our narrative document on February 14, 2019. We notified the Development Officer that an error had occurred in determining that our application was complete and requested a review of the process and decision.

It is our belief that the Development Permit applications for 11404 Jasper Avenue and 11641 Jasper Avenue that were considered complete were also missing this required piece of information, as identified as mandatory by Council through the Zoning Bylaw, and that with the submission of this requisite information on February 14, 2019 as a part of the application for 11516 Jasper Avenue, our application is the first complete application to be received.

7. The Appellant's application was submitted prior to either or both of the development permit applications for 11404 Jasper Avenue, Edmonton, AB and 11641 Jasper Avenue, Edmonton, AB;
8. The Development Authority erred in failing to exercise or consider the exercise of the discretion found in Section 710.4.3.a of the Zoning Bylaw;
9. The privacy glazing proposed by the Appellant is similar to that approved by the Development Authority or the Subdivision and Development Appeal Board on previous development permit applications submitted by the Appellant for other sites.
10. Such further and other grounds as may be advised following review of the Record.

<i>General Matters</i>
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**The Subdivision and Development Appeal Board made and passed the following motion on April 10, 2019.**

"That the appeal hearing be postponed to a date to be determined."

**The Subdivision and Development Appeal Board made and passed the following motion on February 27, 2019:**

"That the appeal hearing be scheduled for April 11, 2019 with the mutual agreement of all parties."

**Appeal Information:**

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**Grounds for Appeal**

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- (b) issues a development permit subject to conditions, or

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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 to the subdivision and development appeal board.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted or the application for the development permit was deemed to be refused under section 683.1(8).

(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

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(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.

### **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, 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.

**General Provisions of the DC1 (Oliver Area Redevelopment Plan – Area 8) Direct Development Control Provision (the “DC1”):**

Under section 15.9.3(e), **Cannabis Retail Sales** is a **Listed Use** in the **DC1**.

Section 15.9.2 states that the **Rationale** of the **DC1** is:

To provide for a range of uses, with the objective of promoting the continuing development of a pedestrian oriented commercial strip in terms of land use activities and design elements. The district also provides opportunity for the inclusion of residential uses above the ground floor level.

**General Provisions from the *Edmonton Zoning Bylaw*:**

Under section 7.4(9), **Cannabis Retail Sales** means:

development used for the retail sale of Cannabis that is authorized by provincial or federal legislation. This Use may include retail sales of Cannabis accessories. This Use does not include Cannabis Production and Distribution.

Under section 6.1, **Cannabis** means:

a cannabis plant and anything referred to in subsection (a) of this definition but does not include anything referred to in subsection (b) of this definition:

- a. Cannabis includes:
  - i. any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a part of the plant referred to in subsection (b) of this definition.
  - ii. any substance or mixture of substances that contains or has on it any part of such a plant;

- iii. any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained.

Notwithstanding subsection (a) of this definition, Cannabis does not include:

- i. a non-viable seed of a cannabis plant;
- ii. a mature stalk, without any leaf, flower, seed or branch, of such plant;
- iii. fibre derived from a stalk referred in subsection (b)(ii) of this definition; and
- iv. the root or any part of the root of such a plant.

<p><b><i>Section 70 – Cannabis Retail Sales (amended February 25, 2019)</i></b></p>
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1. Any Cannabis Retail Sales shall not be located less than 200 m from any other Cannabis Retail Sales. For the purposes of this subsection only:
  - a. the 200 m separation distance shall be measured from the closest point of the Cannabis Retail Sales Use to the closest point of any other approved Cannabis Retail Sales Use;
  - b. A Development Officer shall not grant a variance to reduce the separation distance by more than 20 m in compliance with Section 11; and
  - c. The issuance of a Development Permit which contains a variance to separation distance as described in 70(1)(b) shall be issued as a Class B Discretionary Development.
2. Any Site containing Cannabis Retail Sales shall not be located less than:
  - a. 200 m from any Site being used for a public library, at the time of the application for the Development Permit for the Cannabis Retail Sales; and
  - b. 100 m from any Site being used for Community Recreation Services Use, a community recreation facility or as public lands at the time of application for the Development Permit for the Cannabis Retail Sales.
3. For the purposes of subsection 2:
  - a. separation distances 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 “public library” is limited to the collection of literary, artistic, musical and similar reference materials and learning resources in the form of books, electronic files, computers, manuscripts, recordings and films for public use, and does not include private libraries, museums or art galleries.
  - c. the term “community recreation facilities” means indoor municipal facilities used primarily by members of the public to participate in recreational activities conducted at the facilities, as per the Municipal Government Act; and
  - d. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.
4. Subsection 105(3) of the *Gaming, Liquor and Cannabis Regulation*, is expressly varied by the following:
- a. any Site containing a Cannabis Retail Sales shall not be located less than:

***Public or private education***

- i. 200 m from a Site being used for public or private education, at the time of the application for the Development Permit for the Cannabis Retail Sales;

***Provincial health care facility***

- ii. 100 m from a Site being used for a provincial health care facility at the time of the application for the Development Permit for the Cannabis Retail Sales; and

***School reserve or municipal and school reserve***

- iii. 100 m from a Site designated as school reserve or municipal and school reserve at the time of the application for the Development Permit for the Cannabis Retail Sales.

***Measurement of Separation Distances***

- b. For the purposes of this subsection, separation distances 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.

***Sites Greater than Two Hectares***

- c. For Sites that are greater than 2.0 ha in size and zoned either CSC or DC2, that do not contain a public library at the time of application for the Development Permit for the Cannabis Retail Sales:

- i. Subsection 70(2), and 70(4)(a) shall not apply; and
  - ii. the distances referred to in Subsection 105(3) of the *Gaming, Liquor and Cannabis Regulation* shall be expressly varied to 0 m.
- d. For the purposes of subsection 70(4)(a)(i), the term "public or private education" means a school as defined in subsection (1)(y)(i) and (1)(y)(ii) of the *School Act (as amended from time to time)*.
5. Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 70(2), 70(3)(a) or 70(4).

**Design Requirements**

6. Cannabis Retail Sales shall include design elements that readily allow for natural surveillance to promote a safe urban environment, where applicable and to the satisfaction of the Development Officer, including the following requirements:
- a. customer access to the store is limited to a storefront that is visible from the street other than a Lane, or a shopping centre parking lot, or mall access that allows visibility from the interior of the mall into the store;
  - b. the exterior of all stores shall have ample transparency from the street;
  - c. Any outdoor lighting shall be designed to ensure a well-lit environment for pedestrians and illumination of the property; and
  - d. Landscaping shall be low-growing shrubs or deciduous trees with a high canopy at maturity to maintain natural surveillance.

<i>Setback</i>
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**Development Officer's Determination**

1) The proposed Cannabis Retail Sales does not comply with the minimum setback requirement from an approved Cannabis Retail Sales (11408 Jasper Avenue) (Section 70.1(a)):

Required Setback: 200 m  
Proposed Setback: 129 m  
Deficient by 71 m

2) The proposed Cannabis Retail Sales does not comply with the minimum setback requirement from an approved Cannabis Retail Sales (11639 Jasper Avenue) (Section 70.1(a)):

Required Setback: 200 m

Proposed Setback: 153 m  
Deficient by 47 m

***Privacy Glazing***

**Development Officer's Determination**

3) Based on the drawings and photographs provided to the Development Officer, the proposed privacy glazing for the proposed Cannabis Retail Sales does not provide ample transparency from the street (Section 70.5).


Under Sections 70.1(b) and 70.4 of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Cannabis Retail Store.

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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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	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: <b>296172505-001</b> Application Date: OCT 26, 2018 Printed: February 15, 2019 at 1:32 PM Page: 1 of 2
This document is a Development Permit Decision for the development application described below.		
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 11516 - JASPER AVENUE NW Plan B3 Blk 15 Lot 79	
	<b>Specific Address(es)</b> Entryway: 11512 - JASPER AVENUE NW Entryway: 11514 - JASPER AVENUE NW Building: 11516 - JASPER AVENUE NW	
<b>Scope of Application</b> To change the use from Health Services (Cannabis Counselling) to Cannabis Retail Sales.		
<b>Permit Details</b>		
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: _____		
<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Jan 25, 2019 <b>Development Authority:</b> WELCH, IMAI  <b>Reason for Refusal</b> 1) The proposed Cannabis Retail Sales does not comply with the minimum setback requirement from an approved Cannabis Retail Sales (11408 Jasper Avenue) (Section 70.1(a)):  Required Setback: 200 m Proposed Setback: 129 m Deficient by 71 m  2) The proposed Cannabis Retail Sales does not comply with the minimum setback requirement from an approved Cannabis Retail Sales (11639 Jasper Avenue) (Section 70.1(a)):  Required Setback: 200 m Proposed Setback: 153 m Deficient by 47 m  3) Based on the drawings and photographs provided to the Development Officer, the proposed privacy glazing for the proposed Cannabis Retail Sales does not provide ample transparency from the street (Section 70.5).  Under Sections 70.1(b) and 70.4 of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Cannabis Retail Store.		
<b>Rights of Appeal</b> 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.		
<b>THIS IS NOT A PERMIT</b>		





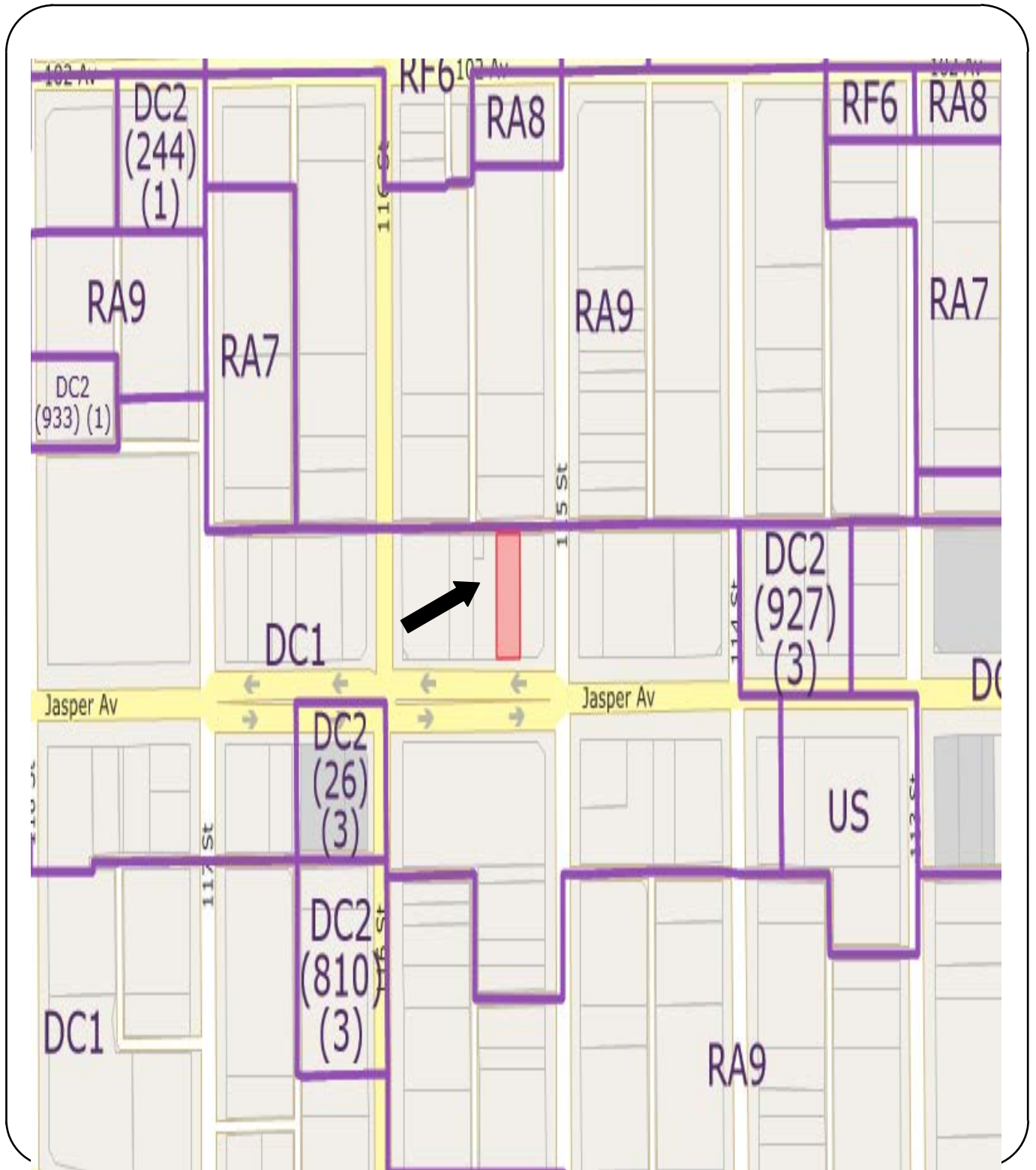
## Application for Major Development Permit

Project Number: **296172505-001**  
Application Date: OCT 26, 2018  
Printed: February 15, 2019 at 1:32 PM  
Page: 2 of 2

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Major Dev. Application Fee	\$5,600.00	\$5,600.00	05438576	Oct 26, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$5,600.00</u>	<u>\$5,600.00</u>		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-051



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