

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
May 23, 2019**

**Hearing Room No. 2  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

**Members Scheduled**

Winston Tuttle, Presiding Officer  
Mark Young  
Elaine Solez  
James Wall  
Kavita Thind

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 2**

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I	9:00 A.M.	SDAB-D-19-070	R. Virani
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Construct exterior alterations to a Single Detached House, existing without permits (Driveway extension, 2.34 m x 8.0 m)

609 - Layton Court NW  
Project No.: 308986310-001

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II	10:30 A.M.	SDAB-D-19-071	Ogilvie Law LLP
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Change the Use from a Personal Service Shop to Cannabis Retail Sales use and to construct interior alterations.

3303 - 118 Avenue NW  
Project No.: 309362915-001

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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-19-070

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:	R. Virani
APPLICATION NO.:	308986310-001
APPLICATION TO:	Construct exterior alterations to a Single Detached House, existing without permits (Driveway extension, 2.34 m x 8.0 m)
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	April 10, 2019
DATE OF APPEAL:	April 10, 2019
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	609 - Layton Court NW
LEGAL DESCRIPTION:	Plan 9826312 Blk 150 Lot 27
ZONE:	(RF1) Single Detached Residential Zone
OVERLAY:	N/A
STATUTORY PLAN:	Leger Neighbourhood Area Structure Plan

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***Grounds for Appeal***

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

The permit to widen our driveway was rejected by the city as they reject every and all permits pertaining to the widening of the driveway. The city's hands are tied due to the bylaws.

The permit officer recommended that I initiate an SDAB Appeal whereby I can outline the reasons for the permit. I've received permission from the 3 neighbours that the widening of the driveway has no bearing on them, and in fact it's preferred.

I'll also explain that there is no negative impact on the neighbourhood and how it may even be a benefit. There is also more than sufficient landscaping on either side of the driveway.

<b><i>General Matters</i></b>
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**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, [...]

**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*:**

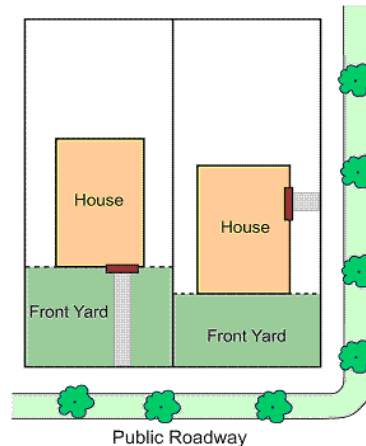
Under section 110.2(5), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

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, **Driveway** means “an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”

Under section 6.1, **Front Yard** means:

the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



Under section 6.1, **Garage** means “an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.”

Under section 6.1, **Parking Area** means “an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.”

Under section 6.1, **Walkway** means “a path for pedestrian circulation that cannot be used for vehicular parking.”

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.

***Off-street Parking and Loading Regulations***

Section 54.1(4) states:

The Front Yard of any ground level Dwelling in any Residential Zone, or in the case of a corner Site, either the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The Driveway shall:

- a. **lead directly from the roadway to the Garage or Parking Area;**
- b. for a Garage or Parking Area with one parking space, have a maximum width of 4.3 m, or the width of the Garage or Parking Area, whichever is the lesser;

- c. **For a Garage or Parking Area with two or more parking spaces, have a maximum width that shall be calculated as the product of 3.7 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or Parking Area, or the width of the Garage or Parking Area, whichever is the lesser; and**
- d. for a Site Zoned RF1 and less than 10.4 m wide, have a maximum width of 4.3 m.

**Development Officer's Determination**

- 1. Driveway extension leads to the front of the house not to a Garage or Parking Area. (Reference Section 54.1(4)(a))**
- 2. The width of the Driveway and Driveway extension is 2.34 m greater than the width of the Garage.(Reference Section 54.1(4)(c))**  
[unedited]

***Location of Vehicular Parking Facilities***

Section 54.2(2) states:

...

- e. Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, shall be located in accordance with the following:
  - i. parking spaces shall not be located within a Front Yard in a Residential Zone;**
  - ii. on a Corner Lot in a Residential Zone, parking spaces, in addition to complying with the other provisions of this Bylaw, shall not be located within the Side Setback Abutting the flanking public roadway, other than a Lane; and
  - iii. ...

**Development Officer's Determination**

- 3. Parking spaces shall not be located within a Front Yard in a Residential Zone. (Section 54.2.2.(e)(i))** [unedited]

<i>Previous Subdivision and Development Appeal Board Decision</i>
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Application Number	Description	Decision
SDAB-D-04-041	To construct an addition to a Single Detached House (Covered Deck 10.43 metres by 2.43 metres - 3.44 metres in height)	March 26, 2004; that the appeal be DENIED and the DEVELOPMENT REFUSED


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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 Driveway Extension Permit</h2>	Project Number: <b>308986310-001</b> Application Date: MAR 22, 2019 Printed: April 10, 2019 at 1:43 PM Page: 1 of 1																									
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> 609 - LAYTON COURT NW Plan 9826312 Blk 150 Lot 27																										
<b>Scope of Application</b> To construct exterior alterations to a Single Detached House, existing without permits (Driveway extension, 2.34 m x 8.0 m)																											
<b>Permit Details</b>																											
Class Of Permit: Stat. Plan Overlay/Annex Area: (none)	Site Area (sq. m.): 441.71																										
I/We certify that the above noted details are correct. Applicant signature: _____																											
<b>Development Application Decision</b> Refused <b>Issue Date:</b> Apr 10, 2019 <b>Development Authority:</b> FOLKMAN, JEREMY <b>Reason for Refusal</b> <ol style="list-style-type: none"> <li>1. Driveway extension leads to the front of the house not to a Garage or Parking Area. (Reference Section 54.1(4)(a))</li> <li>2. The width of the Driveway and Driveway extension is 2.34 m greater than the width of the Garage. (Reference Section 54.1(4)(c))</li> <li>3. Parking spaces shall not be located within a Front Yard in a Residential Zone. (Section 54.2.2.(e)(i))</li> </ol> <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>Building Permit Decision</b> Refused																											
<b>Fees</b> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Existing Without Permit Dev Application Penalty Fee</td> <td style="text-align: right;">\$173.00</td> <td style="text-align: right;">\$173.00</td> <td style="text-align: right;">81715802388S001</td> <td style="text-align: right;">Mar 25, 2019</td> </tr> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$173.00</td> <td style="text-align: right;">\$173.00</td> <td style="text-align: right;">81812203472S001</td> <td style="text-align: right;">Mar 22, 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;">\$346.00</td> <td style="text-align: right; border-top: 1px solid black;">\$346.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Existing Without Permit Dev Application Penalty Fee	\$173.00	\$173.00	81715802388S001	Mar 25, 2019	Development Application Fee	\$173.00	\$173.00	81812203472S001	Mar 22, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$346.00	\$346.00		
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<b>THIS IS NOT A PERMIT</b>																											



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-070



ITEM II: 10:30 A.M.

FILE: SDAB-D-19-071

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:	Ogilvie Law LLP
APPLICATION NO.:	309362915-001
APPLICATION TO:	Change the Use from a Personal Service Shop to Cannabis Retail Sales use and to construct interior alterations.
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	April 26, 2019
DATE OF APPEAL:	April 30, 2019
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	3303 - 118 Avenue NW
LEGAL DESCRIPTION:	Plan 7722129 Blk 1 Lot 7
ZONE:	(CSC) Shopping Centre Zone
OVERLAY:	Main Streets Overlay
STATUTORY PLAN:	N/A

***Grounds for Appeal***

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

We are the solicitors for Rundle Centre Ventures Ltd., owners of the above captioned property. On behalf of our clients, we hereby appeal the decision of the Development Authority to refuse an application for a Cannabis Retail Sales Use at the referenced address on the grounds that:

- Cannabis Retail Sales is a Permitted Use in the CSC Shopping Centre Zone;
- Cannabis Retail Sales is an appropriate use of the subject lands;

- The proposed Cannabis Retail Sales use will not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land; and
- Such further and other grounds as may be presented at the hearing of the within appeal.

<b><i>General Matters</i></b>
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**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, [...]

**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 320.2(3), **Cannabis Retail Sales** is a **Permitted Use** in the (CSC) **Shopping Centre Zone**.

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.

Under section 7.4(12), **Public Libraries and Cultural Exhibits** means:

development for the collection of literary, artistic, musical and similar reference materials in the form of books, manuscripts, recordings and films for public Use; or a development for the collection, preservation and public exhibition of works or objects of historical, scientific or artistic value. Typical Uses include libraries, museums and public, not-for-profit art galleries.

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 819.1 states that the **General Purpose** of the **Main Streets Overlay** is:

to encourage and strengthen the pedestrian-oriented character of Edmonton's main street commercial areas that are located in proximity to residential and transit-oriented areas, by providing visual interest, transparent storefront displays, and amenities for pedestrians.

***Section 70 – Cannabis Retail Sales***

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.

**Development Officer's Determination**

**The proposed Cannabis Retail Store does not comply with the minimum setback requirement from a library (Abbotsfield-Penny McKee EPL) (Section 70.2):**

**Required Setback: 200m  
Proposed Setback: 79m  
Deficient by 121m**

**Under Section 70.5 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. [unedited]**

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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: **309362915-001**  
 Application Date: MAR 27, 2019  
 Printed: April 26, 2019 at 12:56 PM  
 Page: 1 of 2

## Application for Major Development Permit

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> 3303 - 118 AVENUE NW Plan 7722129 Blk 1 Lot 7  <b>Specific Address(es)</b> Entryway: 3315 - 118 AVENUE NW Building: 3303 - 118 AVENUE NW
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**Scope of Application**

To change the Use from a Personal Service Shop to Cannabis Retail Sales use and to construct interior alterations.

**Permit Details**

Class of Permit: Gross Floor Area (sq.m.): 125 New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Main Street Overlay
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I/We certify that the above noted details are correct.

Applicant signature: \_\_\_\_\_

**Development Application Decision**

Refused

**Issue Date:** Apr 26, 2019 **Development Authority:** WELCH, IMAI

**Reason for Refusal**

The proposed Cannabis Retail Store does not comply with the minimum setback requirement from a library (Abbotsfield-Penny McKee EPL) (Section 70.2):

Required Setback: 200m  
 Proposed Setback: 79m  
 Deficient by 121m

Under Section 70.5 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.


**Rights of Appeal**

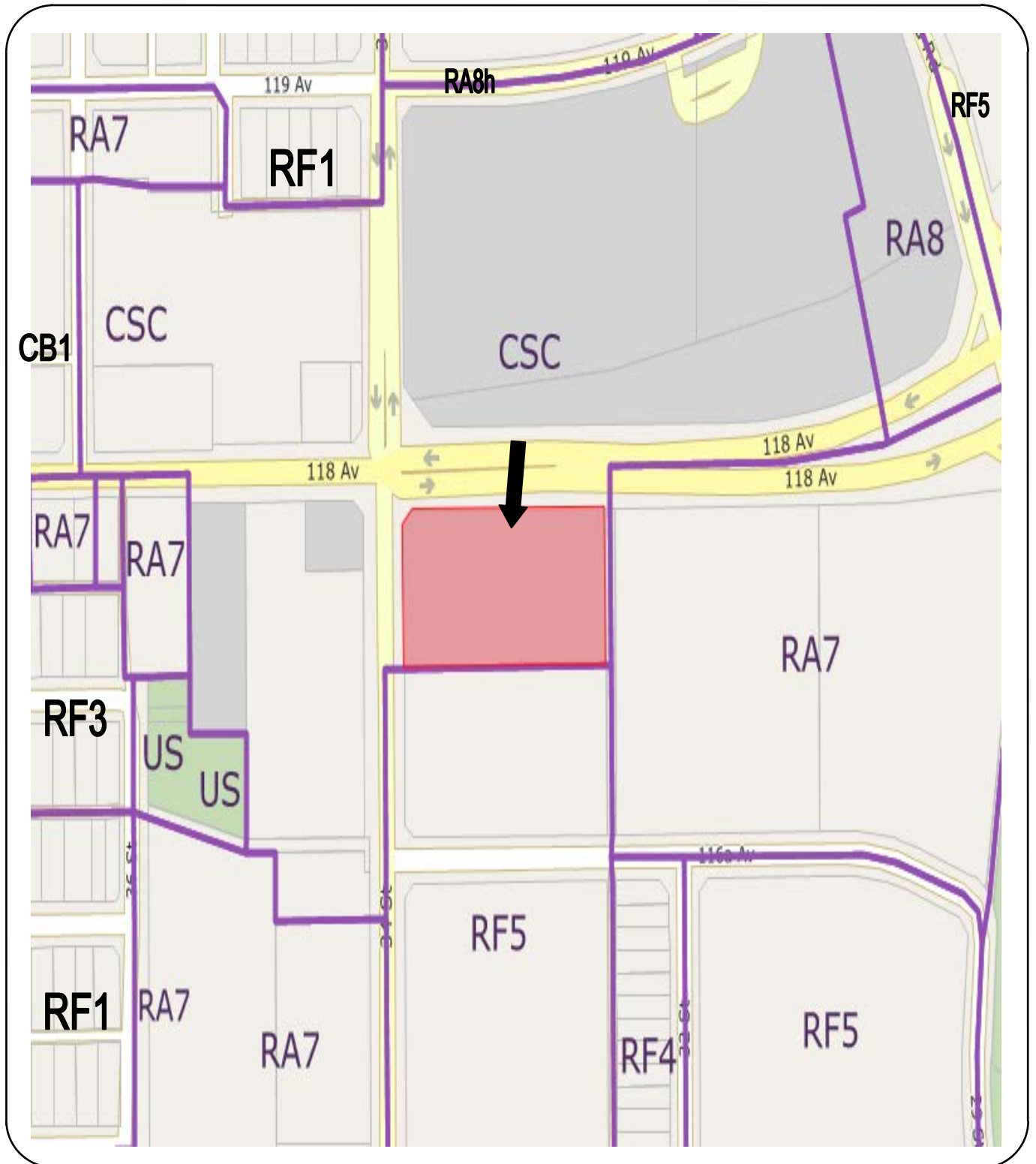
The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$5,600.00	\$5,600.00	05759392	Apr 03, 2019
Development Permit Inspection Fee	\$518.00			

**THIS IS NOT A PERMIT**

	<b>Application for Major Development Permit</b>				Project Number: <b>309362915-001</b> Application Date: MAR 27, 2019 Printed: April 26, 2019 at 12:56 PM Page: 2 of 2
<b>Fees</b>					
Total GST Amount:	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>	
Totals for Permit:	\$0.00	\$6,118.00			
(\$518.00 outstanding)		\$5,600.00			
<b>THIS IS NOT A PERMIT</b>					



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-071

