

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
November 21, 2018**

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

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

I	9:00 A.M.	SDAB-D-18-192	Change the Use from General Industrial to an Automotive and Equipment Repair Shop 5605 - 99 Street NW Project No.: 294520166-001
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II	10:30 A.M.	SDAB-D-18-193	Change the Use from General Retail to a Cannabis Retail Store 4625 - 118 Avenue NW Project No.: 286793970-001
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III	1:30 P.M.	SDAB-D-18-194	Change the Use from a General Retail Store to Cannabis Retail Sales. 11431 - 40 Avenue NW Project No.: 287035734-001
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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-18-192

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

APPELLANT:

APPLICATION NO.: 294520166-001

APPLICATION TO: Change the Use from General Industrial to an Automotive and Equipment Repair Shop

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: October 5, 2018

DATE OF APPEAL: November 2, 2018

NOTIFICATION PERIOD: October 16, 2018 through November 6, 2018

RESPONDENT: Racks For Cars Inc.

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 5605 - 99 Street NW

LEGAL DESCRIPTION: Plan 3447TR Blk 12 Lot 1A

ZONE: (IM) Medium Industrial 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:

We are Solicitors for Condominium Corporation No. 1024965 (located adjacent to the subject property).

Our client is appealing the approval of the proposed development for the following reasons:

1. It is not compatible with the neighbouring properties and uses.
2. It will create a nuisance to the Condominium Corporation.
3. It will negatively affect the use, enjoyment, and value of neighbouring properties.
4. Such further and other reasons as may be presented at the hearing of this appeal.

<i>General Matters</i>

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.

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 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 420.3(2), **Automotive and Equipment Repair Shops** is a **Discretionary Use** in the (IM) Medium Industrial Zone.

Under section 7.4(4), **Automotive and Equipment Repair Shops** means:


development used for the servicing and mechanical repair of automobiles, motorcycles, snowmobiles and similar vehicles or the sale, installation or servicing of related accessories and parts. This Use Class includes transmission shops, muffler shops, tire shops, automotive glass shops, and upholstery shops. This Use does not include body repair and paint shops.

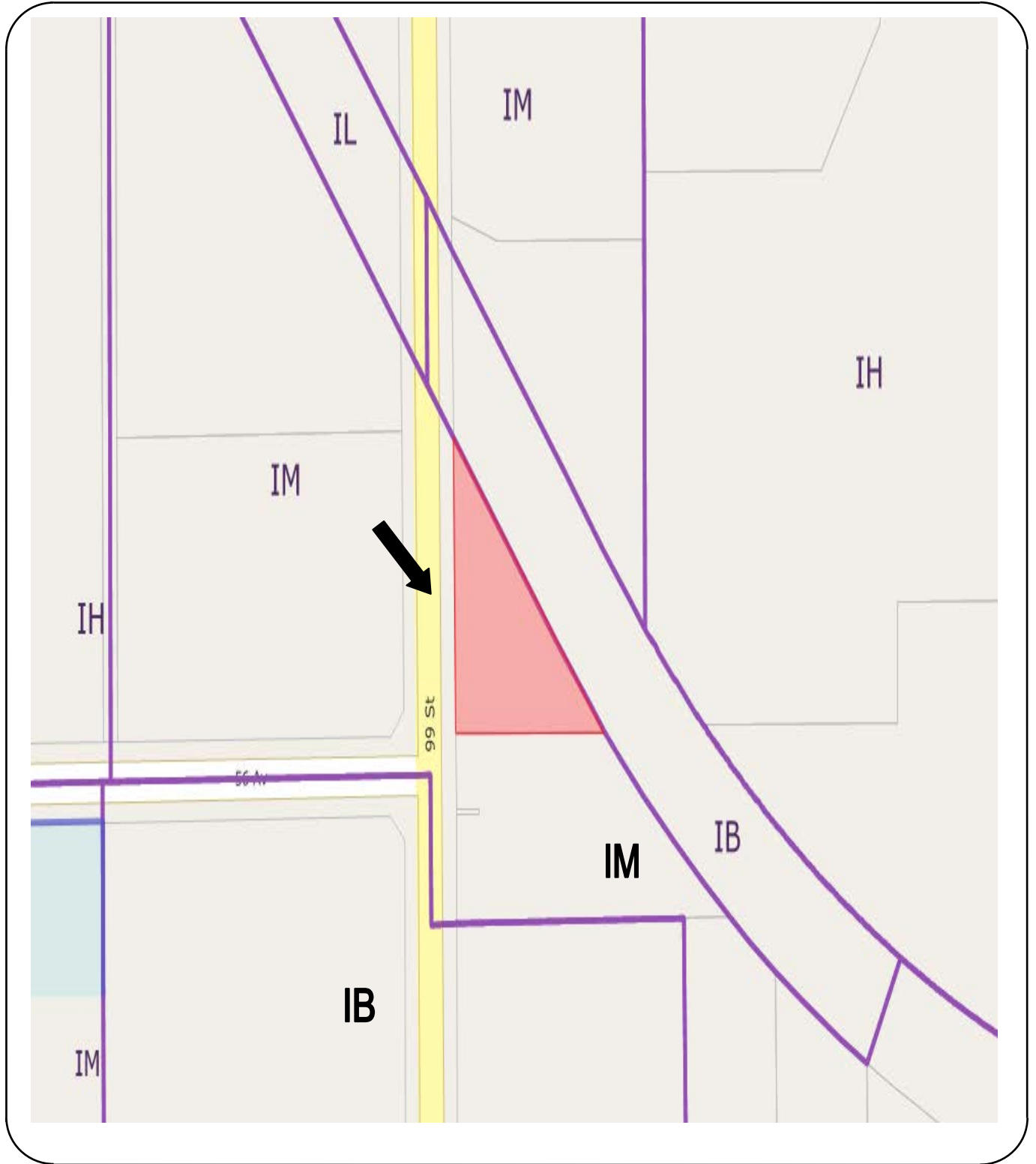
Section 420.1 states that the **General Purpose** of the (IM) **Medium Industrial Zone** is:

to provide for manufacturing, processing, assembly, distribution, service and repair Uses that carry out a portion of their operation outdoors or require outdoor storage areas. Any nuisance associated with such Uses should not generally extend beyond the boundaries of the Site. This Zone should normally be applied on the interior of industrial areas adjacent to collector and local industrial public roadways such that Uses are separated from any adjacent residential areas by a higher quality Industrial or Commercial Zone.

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.

	Project Number: 294520166-001 Application Date: OCT 05, 2018 Printed: November 2, 2018 at 3:25 PM Page: 1 of 1																				
Major Development Permit																					
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.																					
Applicant	Property Address(es) and Legal Description(s) 5605 - 99 STREET NW Plan 3447TR Blk 12 Lot 1A Specific Address(es) Entryway: 5605 - 99 STREET NW Building: 5605 - 99 STREET NW																				
Scope of Permit To change the Use from General Industrial to an Automotive and Equipment Repair Shop.																					
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I/We certify that the above noted details are correct. Applicant signature: _____																					
Development Permit Decision Approved Issue Date: Oct 05, 2018 Development Authority: KOWAL, PAUL Subject to the Following Conditions 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. Notes: - 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. - This Development Permit is not a Business Licence. A separate application must be made for a Business Licence. - Signs require separate Development Applications.																					
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. Notice Period Begins: Oct 16, 2018 Ends: Nov 06, 2018																					
Fees <table style="width: 100%; border: none;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 15%; text-align: right;">Fee Amount</th> <th style="width: 15%; text-align: right;">Amount Paid</th> <th style="width: 10%; text-align: right;">Receipt #</th> <th style="width: 10%; text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$510.00</td> <td style="text-align: right;">\$510.00</td> <td style="text-align: right;">05394778</td> <td style="text-align: right;">Oct 05, 2018</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;">\$510.00</td> <td style="text-align: right; border-top: 1px solid black;">\$510.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$510.00	\$510.00	05394778	Oct 05, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$510.00	\$510.00		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-192



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-193

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 286793970-001

APPLICATION TO: Change the Use from General Retail to a Cannabis Retail Store

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 12, 2018

DATE OF APPEAL: October 23, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4625 - 118 Avenue NW

LEGAL DESCRIPTION: Plan 4874KS Blk 2 Lot 11

ZONE: (CB1) Low Intensity Business 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:

Reasons for the Appeal from the Refusal of Development Permit No. 286793970-001:

1. The proposed Retail Cannabis Store is located in Low Intensity Business Zone (CB1). Cannabis Retail Sales is a permitted use in CB1. The development permit was refused because the proposed Retail Cannabis Store does not comply with the minimum setback requirement of 200 m from an approved Cannabis Retail Sales location. The proposed Retail Cannabis Store is located 156 m from 4512 118 Avenue NW, which is an approved Cannabis Retail Sales location.

2. The Development Officer is prohibited from granting a variance to reduce the separation distance by more than 20 m.
3. Section 687 of the *Municipal Government Act* permits the Subdivision Development Appeal Board to issue a development permit for a proposed development even though the proposed development does not comply with the land use bylaw if, in its opinion, 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
 - c. the proposed development conforms with the use prescribed for that land or building in the land use bylaw.
4. The requested variance is minor (22%) and 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. 118 Avenue NW is a busy commercial area which can manage a slightly higher concentration of Cannabis Retail Sales locations than contemplated by the land use bylaw.
5. The planning effects of Cannabis Retail Sales locations are not yet known but the minor requested variance is not anticipated to increase the potential for safety or other social impacts such as increased traffic, increased public impairment, increased access to cannabis or increased crime.
6. The proposed Retail Cannabis Store is located more than one block from the approved Cannabis Retail Sales location and on the other side of the street. This is an area with significant residential density and there will likely enjoy significant walking traffic, as well as driving traffic, which supports stores being located closer together.
7. This variance will not result in a proliferation of liquor stores as no other Cannabis Retail Sales locations have been approved within 200 m from the approved Cannabis Retail Sales location. 118 Avenue NW is a good location for this type of use, given compatibility with the existing uses.
8. The proposed Retail Cannabis Store complies in all other respects with the relevant statutory plans and the land use bylaw and will provide healthy competition and product variety to patrons.
9. Such other grounds as the Appellant may raise at the hearing.

<i>General Matters</i>

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 330.2(3), **Cannabis Retail Sales** is a **Permitted Use** in the (CB1) Low Intensity Business 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 6.1, **Site** means “an area of land consisting of one or more abutting Lots.”

Section 330.1 states that the **General Purpose** of the **(CB1) Low Intensity Business Zone** is:

to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

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.

<p><i>Section 70 - Cannabis Retail Sales regulations</i></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 a Cannabis Retail Sales shall not be located less than 200 m from any Site being used for a public library, or for public or private education at the time of the application for the Development Permit for the 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 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 in the form of books, manuscripts, recordings and films for public use, and does not include private libraries, museums or art galleries; and
 - c. the term "public or private education" is limited to elementary through to high schools inclusive only, and does not include dance schools, driving schools or other Commercial Schools.
3. Any Site containing a Cannabis Retail Sales shall not be located less than 100 m from any Site being used for Community Recreation Services Use, a community recreation facility, a provincial health care facility, as public lands, or any Site that is designated as school reserve or municipal and school reserve at the time of the application for the Development Permit for the Cannabis Retail Sales. 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 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
 - c. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.
4. **Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 70(2) or 70(3).**

5. 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 store front that is visible from the street other than a Lane, or a shopping centre parking lot, or a 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.
6. The Development Officer shall impose a condition on any Development Permit issued for Cannabis Retail Sales requiring that the development:
 - a. shall not commence until authorized by and compliant with superior legislation; and
 - b. must commence within nine (9) months of the date of approval of the Development Permit.
7. For the purposes of Section 70(6), development commences when the Cannabis Retail Sales Use is established or begins operation.

Development Officer's Determination

The proposed Cannabis Retail Store does not comply with the minimum setback requirement from an approved Cannabis Retail Sales location (Section 70.1):

Required Setback: 200 m

Proposed Setback: 156 m from 4512 118 Ave NW

Deficient by 44 m


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.
[unedited]

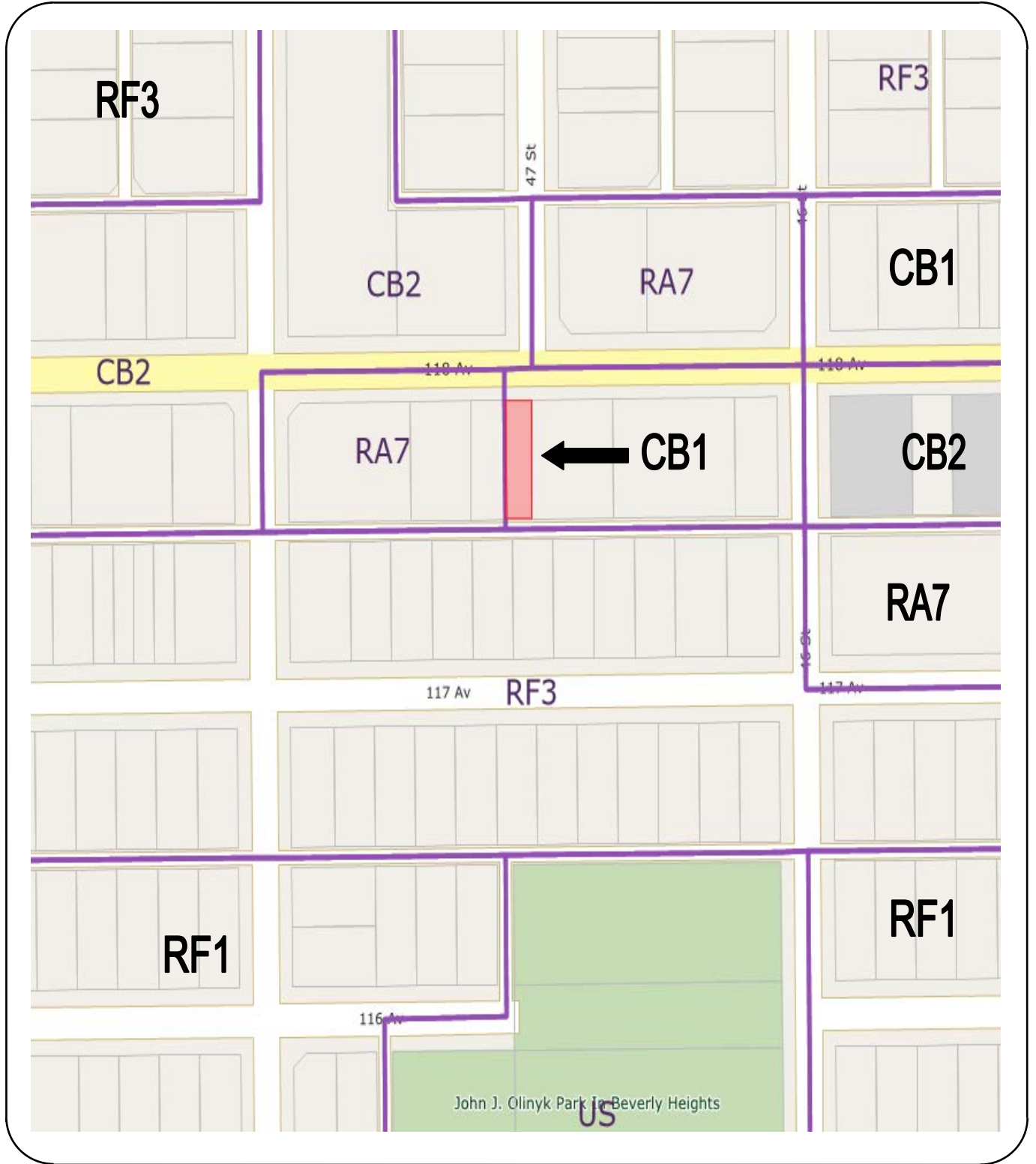
<i>Previous Subdivision and Development Appeal Board Decision</i>

Application Number	Description	Decision
SDAB-D-96-066	Change the use of a Retail Store to a Major Secondhand Store and a Personal Service Shop (Used Furniture Sales/Beauty Salon).	April 18, 1996; Refused.

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

	<h2 style="margin: 0;">Application for Major Development Permit</h2>	<p>Project Number: 286793970-001 Application Date: JUL 05, 2018 Printed: October 23, 2018 at 3:52 PM Page: 1 of 1</p>																				
<p>This document is a Development Permit Decision for the development application described below.</p>																						
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 4625 - 118 AVENUE NW Plan 4874KS Blk 2 Lot 11</p> <p>Specific Address(es) Suite: 4625 - 118 AVENUE NW Entryway: 4625 - 118 AVENUE NW Building: 4625 - 118 AVENUE NW</p>																					
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<p>Permit Details</p> <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: N Site Area (sq. m.): 120.9 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table> <p>I/We certify that the above noted details are correct. Applicant signature: _____</p>			Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 120.9	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)																		
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<p>Development Application Decision Refused</p> <p>Issue Date: Oct 12, 2018 Development Authority: Chow, Stephen</p> <p>Reason for Refusal The proposed Cannabis Retail Store does not comply with the minimum setback requirement from an approved Cannabis Retail Sales location (Section 70.1):</p> <p>Required Setback: 200 m Proposed Setback: 156 m from 4512 118 Ave NW Deficient by 44 m</p> <p>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.</p> <p>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.</p>																						
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<p>THIS IS NOT A PERMIT</p>																						



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-193



ITEM III: 1:30 P.M.

FILE: SDAB-D-18-194

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.:	287035734-001
APPLICATION TO:	Change the Use from a General Retail Store to a Cannabis Retail Sales.
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	October 12, 2018
DATE OF APPEAL:	November 1, 2018
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	11431 - 40 Avenue NW
LEGAL DESCRIPTION:	Plan 3614NY Blk 63 Lot 24A
ZONE:	(CSC) Shopping Centre Zone
OVERLAY:	N/A
STATUTORY PLAN:	N/A

Grounds for Appeal

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

It is submitted that:

- 1) The development officer measured all distances from the wrong property;
- 2) The site proposed for the development of a cannabis store meets all of the requirements of Alberta Regulation 143/96 Gaming, Liquor and Cannabis Act Gaming, Liquor and Cannabis Regulation as amended by AR 180/2018;

- 3) While it is accepted that the subject site appears to be within the 200 meter limit as set forth in Section 70.2 of City of Edmonton By-law 12800, it is submitted the site meets all of the tests required under Section 687 of the Municipal Government Act, so that the Development Appeal Board should exercise their discretion to either vary the distance requirement or waive Section 70.2 of the city by-law.
- 4) It is believed that the proposed site meets the requirements of section 70.3 if you measure from the correct property however, even if this section is not met, it is submitted that the site meets the requirements of Section 687 of the Municipal Government Act so as to allow the Development Appeal Board to either vary the distance requirement or waive section 70.3 of the city by-law.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

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- (a) fails or refuses to issue a development permit to a person,
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- (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 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.

<i>Section 70 - Cannabis Retail Sales regulations</i>

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 a Cannabis Retail Sales shall not be located less than 200 m from any Site being used for a public library, or for public or private education at the time of the application for the Development Permit for the 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 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 in the form of books, manuscripts, recordings and films for public use, and does not include private libraries, museums or art galleries; and
 - c. **the term "public or private education" is limited to elementary through to high schools inclusive only, and does not include dance schools, driving schools or other Commercial Schools.**

3. **Any Site containing a Cannabis Retail Sales shall not be located less than 100 m from any Site being used for Community Recreation Services Use, a community recreation facility, a provincial health care facility, as public lands, or any Site that is designated as school reserve or municipal and school reserve at the time of the application for the Development Permit for the Cannabis Retail Sales. 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 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
 - b. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.**
- 4. Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 70(2) or 70(3).**
- 5. 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 store front that is visible from the street other than a Lane, or a shopping centre parking lot, or a 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.
- 6. The Development Officer shall impose a condition on any Development Permit issued for Cannabis Retail Sales requiring that the development:
 - a. shall not commence until authorized by and compliant with superior legislation; and
 - b. must commence within nine (9) months of the date of approval of the Development Permit.
- 7. For the purposes of Section 70(6), development commences when the Cannabis Retail Sales Use is established or begins operation.

Development Officer’s Determination

1) The proposed Cannabis Retail Store does not comply with the minimum setback requirement from public education facilities (St. Stanislaus School) (Section 70.2):

Required Setback: 200 m

Proposed Setback: 19 m
Deficient by 181 m


2) The proposed Cannabis Retail Store does not comply with the minimum setback requirement from public lands (Greenfield Park) (Section 70.3):

Required Setback: 100 m
Proposed Setback: 71 m
Deficient by 29 m

Under Section 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. [unedited]

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>	<p>Project Number: 287035734-001 Application Date: JUL 09, 2018 Printed: October 12, 2018 at 3:54 PM Page: 1 of 2</p>								
<p>This document is a Development Permit Decision for the development application described below.</p>										
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 11431 - 40 AVENUE NW Plan 3614NY Blk 63 Lot 24A</p> <hr/> <p>Specific Address(es) Suite: 11435 - 40 AVENUE NW Entryway: 11435 - 40 AVENUE NW Building: 11431 - 40 AVENUE NW</p>									
<p>Scope of Application To change the use from a General Retail Store to a Cannabis Retail Sales.</p>										
<p>Permit Details</p> <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: 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: 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)						
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<p>I/We certify that the above noted details are correct. Applicant signature: _____</p>										
<p>Development Application Decision Refused Issue Date: Oct 12, 2018 Development Authority: WELCH, IMAI</p> <p>Reason for Refusal</p> <p>1) The proposed Cannabis Retail Store does not comply with the minimum setback requirement from public education facilities (St. Stanislaus School) (Section 70.2):</p> <p style="margin-left: 20px;">Required Setback: 200 m Proposed Setback: 19 m Deficient by 181 m</p> <p>2) The proposed Cannabis Retail Store does not comply with the minimum setback requirement from public lands (Greenfield Park) (Section 70.3):</p> <p style="margin-left: 20px;">Required Setback: 100 m Proposed Setback: 71 m Deficient by 29 m</p> <p>Under Section 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.</p> <p>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.</p>										
<p>Fees</p> <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;">Fee Amount</th> <th style="text-align: left;">Amount Paid</th> <th style="text-align: left;">Receipt #</th> <th style="text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td>\$5,600.00</td> <td>\$5,600.00</td> <td>05170438 Jul 09, 2018</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$5,600.00	\$5,600.00	05170438 Jul 09, 2018
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<p>THIS IS NOT A PERMIT</p>										



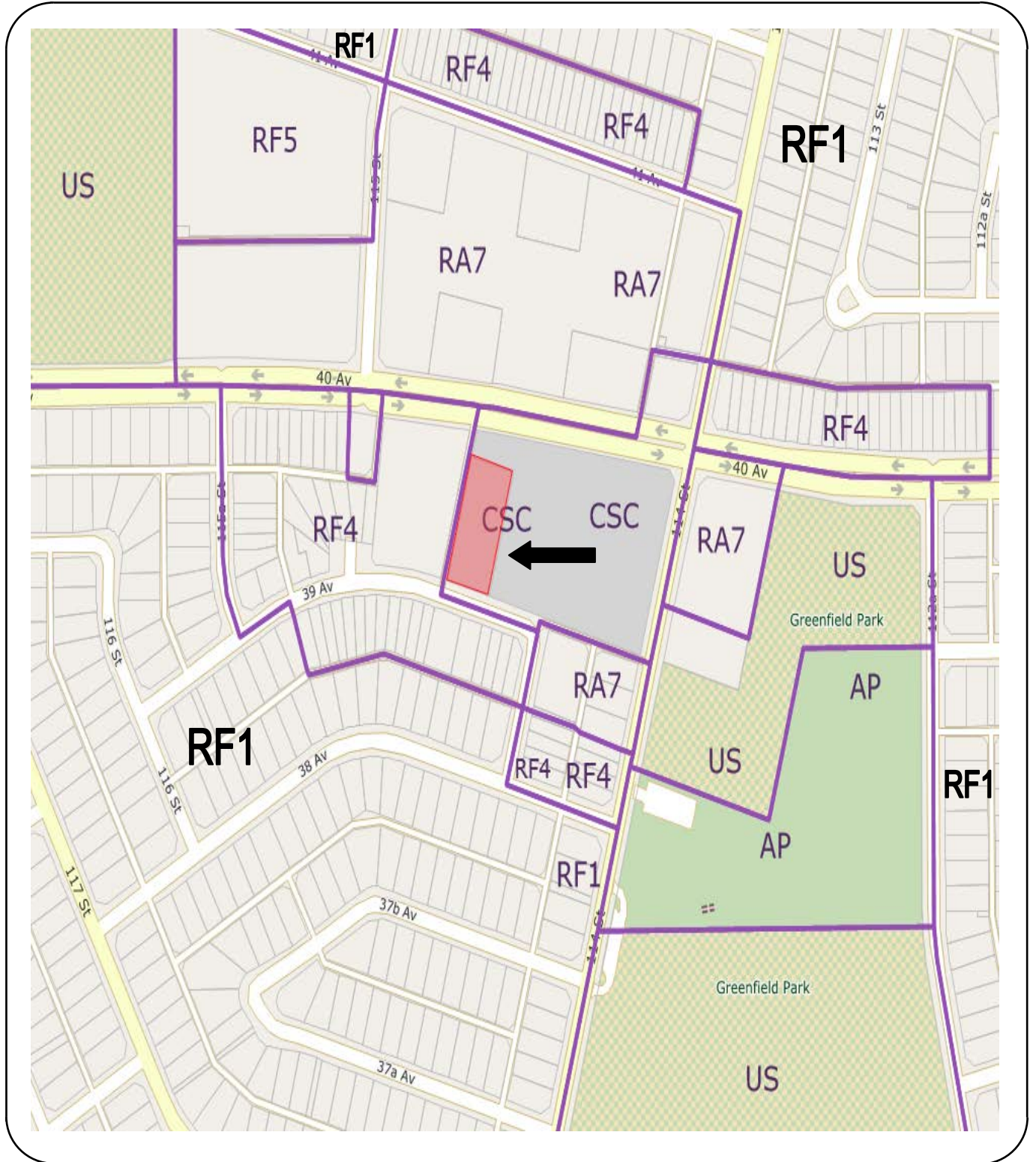
Application for Major Development Permit

Project Number: **287035734-001**
Application Date: JUL 09, 2018
Printed: October 12, 2018 at 3:54 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Total GST Amount:	\$0.00			
Totals for Permit:	\$5,600.00	\$5,600.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-194

