

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
November 29, 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-18-198	Operate a Major Home Based Business. (Administration office for contracting business and storage of commercial vehicle on driveway - FINISHING THE UNFINISHED)  12310 - 109 Avenue NW Project No.: 289438583-001
---	-----------	---------------	--

---

---

II	10:30 A.M.	SDAB-D-18-199	Change the use from a Health Services to a Cannabis Retail Sales and construct Interior Alterations  10117 - 82 Avenue NW Project No.: 286758265-001
----	------------	---------------	---

---

---

III	1:30 P.M.	SDAB-D-18-188	Develop a Cannabis Retail Sales.  10125 - 104 Street NW Project No.: 287278928-001
-----	-----------	---------------	---

---

**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-18-198

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 289438583-001

APPLICATION TO: Operate a Major Home Based Business.  
(Administration office for contracting  
business and storage of commercial  
vehicle on driveway - FINISHING THE  
UNFINISHED)

DECISION OF THE  
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 26, 2018

DATE OF APPEAL: October 3, 2018

MUNICIPAL DESCRIPTION  
OF SUBJECT PROPERTY: 12310 - 109 Avenue NW

LEGAL DESCRIPTION: Plan RN39B Blk 57 Lot 1

ZONE: RF3-Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

---

*Grounds for Appeal*

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

Changes to weight of vehicle, no customers, no outdoor storage

*General Matters*

**Appeal Information:**

**The Appellant requested the matter be heard on November 29, 2018.**

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,  
within 21 days after the date on which the written decision is given under section 642, or
    - (A) 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*:**

Section 140.3(5) states a **Major Home Based Business** is a **Discretionary Use** in the **(RF3) Small Scale Infill Development Zone**.

Under Section 7.3(7), **Major Home Based Business** means:

a development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may

be used as a workplace by a non-resident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution.

Section 110.1, the **General Purpose** of the **(RF3) Small Scale Infill Development Zone** is:

is to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four principal Dwellings under certain conditions, including Secondary Suites and Garden Suites.

***Major Home Based Business regulations – Section 75***

A Major Home Based Business shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. **there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;**
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;
7. a Bed and Breakfast Operation, operating as a Major Home Based Business shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;
8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and

9. **the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.**
10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

***Parking***

Section 54.2 Schedule 1(A)(8) stipulates that a Major Home Based Business requires 1 parking space in addition to parking required for principal Dwelling.

**Development Officer's Determination**

Discretionary Use - A Major Home Based Business is a Discretionary Use in the RF3 Zone (Section 140.3(5)).

Outdoor Storage - There is outdoor storage of material associated with the business (Section 75.5).

Compatibility of Use - Business activities involve the storage of materials that would be more appropriately located in an industrial zone (Reference Section 75.9).

Parking - The site has 1 parking space, instead of 2 (Section 54.2 and Schedule 1(A)).

***Objects Prohibited or Restricted in Residential Zones – Section 45***

Section 45:

1. No person shall keep in any part of a Site in any Residential Zone:
  - a. any commercial vehicle, loaded or unloaded, having a maximum gross vehicle weight (G.V.W.R.) exceeding [4 600 kg](#);
  - b. more than one commercial vehicle having a maximum gross vehicle weight (G.V.W.R.) of [4 600 kg](#) or less, for longer than reasonably necessary while loading or unloading such vehicle.
2. For the purpose of subsection 45(1) a commercial vehicle means a vehicle that:
  - a. is intended or designed for commercial purposes; or
  - b. is used for commercial purposes.

**Development Officer's Determination**

Commercial Vehicle - A commercial vehicle, loaded or unloaded, having a maximum gross vehicle weight (G.V.W.R.) exceeding 4,600 kg is being kept on the site (Section 45.1).

---

**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 Home Occupation</h2>	Project Number: <b>289438583-001</b> Application Date: AUG 07, 2018 Printed: September 26, 2018 at 9:05 AM Page: 1 of 2										
This document is a Development Permit Decision for the development application described below.												
<b>Applicant</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;"> <b>Property Address(es) and Legal Description(s)</b>                      12310 - 109 AVENUE NW                      Plan RN39B Blk 57 Lot 1                 </td> </tr> <tr> <td style="padding: 5px;"> <b>Specific Address(es)</b>                      Suite: 12310 - 109 AVENUE NW                      Entryway: 12310 - 109 AVENUE NW                      Building: 12310 - 109 AVENUE NW                 </td> </tr> </table>		<b>Property Address(es) and Legal Description(s)</b> 12310 - 109 AVENUE NW Plan RN39B Blk 57 Lot 1	<b>Specific Address(es)</b> Suite: 12310 - 109 AVENUE NW Entryway: 12310 - 109 AVENUE NW Building: 12310 - 109 AVENUE NW								
<b>Property Address(es) and Legal Description(s)</b> 12310 - 109 AVENUE NW Plan RN39B Blk 57 Lot 1												
<b>Specific Address(es)</b> Suite: 12310 - 109 AVENUE NW Entryway: 12310 - 109 AVENUE NW Building: 12310 - 109 AVENUE NW												
<b>Scope of Application</b> To operate a Major Home Based Business. (Administration office for contracting business and storage of commercial vehicle on driveway - FINISHING THE UNFINISHED).												
<b>Permit Details</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px; vertical-align: top;">                     # of business related visits/day: 0                      Administration Office Only?: N                      Class of Permit: Class B                       Do you live at the property?: Y                      Outdoor storage on site?: Y                 </td> <td style="width: 50%; padding: 5px; vertical-align: top;">                     # of vehicles at one time: 0                      Business has Trailers or Equipment?: N                      Description of Business: Administration office for contracting business. Storing tools and materials in garage. Storing a cube van on the driveway of the property.                      Expiry Date: 2023-08-28 00:00:00                 </td> </tr> </table>			# of business related visits/day: 0 Administration Office Only?: N Class of Permit: Class B  Do you live at the property?: Y Outdoor storage on site?: Y	# of vehicles at one time: 0 Business has Trailers or Equipment?: N Description of Business: Administration office for contracting business. Storing tools and materials in garage. Storing a cube van on the driveway of the property. Expiry Date: 2023-08-28 00:00:00								
# of business related visits/day: 0 Administration Office Only?: N Class of Permit: Class B  Do you live at the property?: Y Outdoor storage on site?: Y	# of vehicles at one time: 0 Business has Trailers or Equipment?: N Description of Business: Administration office for contracting business. Storing tools and materials in garage. Storing a cube van on the driveway of the property. Expiry Date: 2023-08-28 00:00:00											
I/We certify that the above noted details are correct. Applicant signature: _____												
<b>Development Application Decision</b> Refused <b>Issue Date:</b> Sep 26, 2018 <b>Development Authority:</b> POTTER, CHRISTINA  <b>Reason for Refusal</b> The proposed development is refused for the following reasons: <ol style="list-style-type: none"> <li>1. Discretionary Use - A Major Home Based Business is a Discretionary Use in the RF3 Zone (Section 140.3(5)).</li> <li>2. Outdoor Storage - There is outdoor storage of material associated with the business (Section 75.5).</li> <li>3. Commercial Vehicle - A commercial vehicle, loaded or unloaded, having a maximum gross vehicle weight (G.V.W.R.) exceeding 4,600 kg is being kept on the site (Section 45.1).</li> <li>4. Compatibility of Use - Business activities involve the storage of materials that would be more appropriately located in an industrial zone (Reference Section 75.9).</li> <li>5. Parking - The site has 1 parking space, instead of 2 (Section 54.2 and Schedule 1(A)).</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>Fees</b> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;"></th> <th style="width: 20%;">Fee Amount</th> <th style="width: 20%;">Amount Paid</th> <th style="width: 20%;">Receipt #</th> <th style="width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td colspan="5" style="text-align: center; padding: 5px;"><b>THIS IS NOT A PERMIT</b></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	<b>THIS IS NOT A PERMIT</b>				
	Fee Amount	Amount Paid	Receipt #	Date Paid								
<b>THIS IS NOT A PERMIT</b>												



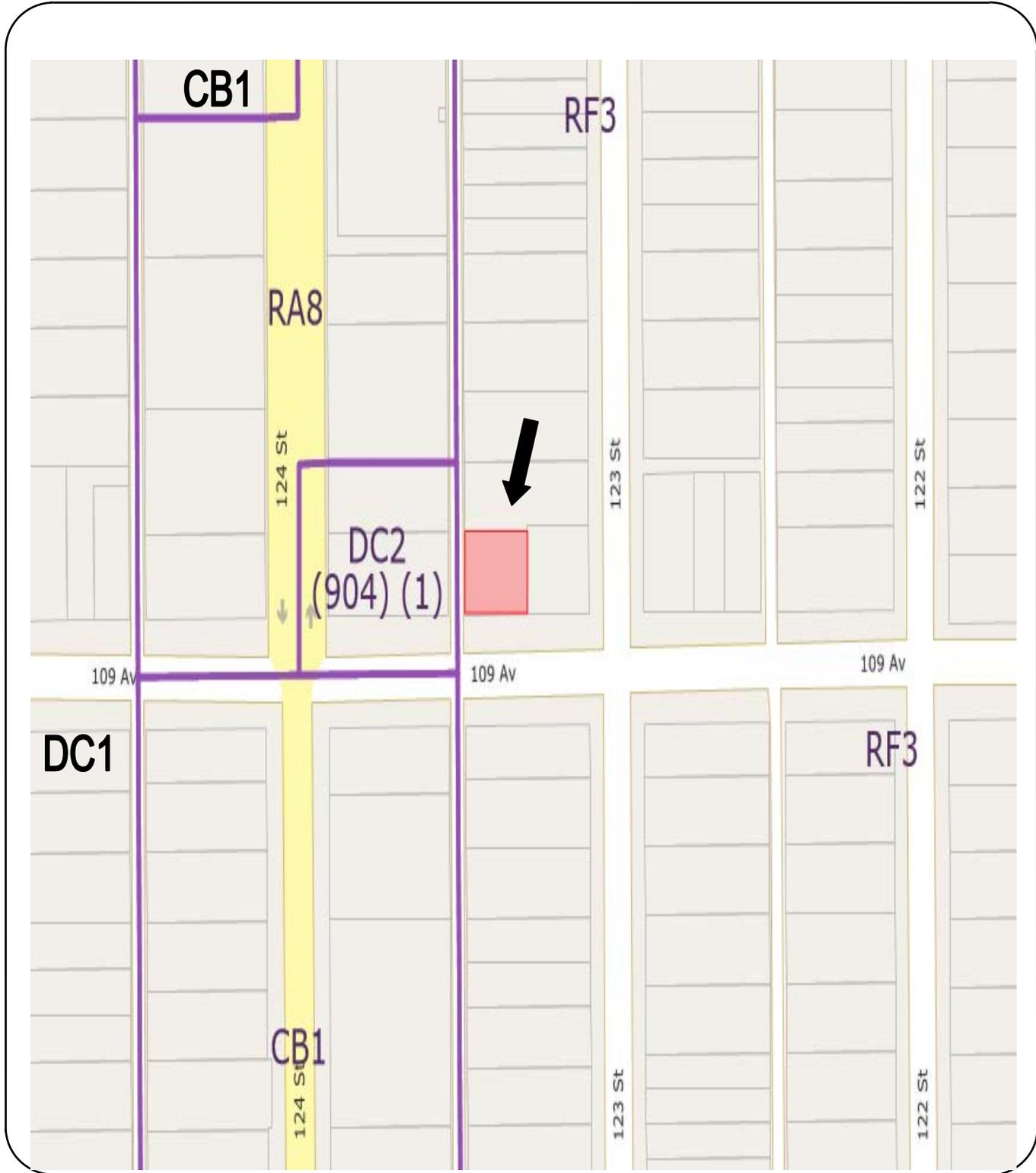
## Application for Home Occupation

Project Number: **289438583-001**  
Application Date: AUG 07, 2018  
Printed: September 26, 2018 at 9:05 AM  
Page: 2 of 2

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Dev. Application Fee	\$316.00	\$125.00	05240746	Aug 07, 2018
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$316.00	<u>\$125.00</u>		
(\$191.00 outstanding)				

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location 

File: SDAB-D-18-198



N

ITEM II: 10:30 A.M.

FILE: SDAB-D-18-199

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 286758265-001

APPLICATION TO: Change the use from a Health Services to a Cannabis Retail Sales and construct Interior Alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 25, 2018

DATE OF APPEAL: November 8, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10117 - 82 Avenue NW

LEGAL DESCRIPTION: Plan I Blk 60 Lot 9

ZONE: CB2-General Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan

*Grounds for Appeal*

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

I like to appeal this on the basis of zoning for white ave. We are in the strong oppression the current separation distance takes away from for the intent of such districts.

We feel that the separation distance in this areas should be "0" like other municipalities

We will be doing a 30 min presentation/ and submitting support letters for our location

**General Matters**

**Appeal Information:**

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

**Grounds for Appeal**

**685(1)** If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

**Appeals**

**686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
  - (i) with respect to an application for a development permit,
    - (A) within 21 days after the date on which the written decision is given under section 642, [...]

**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 340.2(6), **Cannabis Retail Stores** is a **Permitted Use** in the (CB2) General Business Zone.

Under section 7.4(9), **Cannabis Retail Stores** 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 340.1 states that the **General Purpose** of the **(CB2) General Business Zone** is:

to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.

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

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: 47 m from 10130 82 Avenue NW

Deficient by 153 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.

---

**Notice to Applicant/Appellant**

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

---

	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: <b>286758265-001</b> Application Date: JUL 05, 2018 Printed: November 8, 2018 at 12:18 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> 10117 - 82 AVENUE NW Plan I Blk 60 Lot 9			
	<b>Specific Address(es)</b> Suite: 10123 - 82 AVENUE NW Entryway: 10123 - 82 AVENUE NW Building: 10117 - 82 AVENUE NW			
<b>Scope of Application</b> To change the use from a Health Services to a Cannabis Retail Sales and construct Interior Alterations				
<b>Permit Details</b>				
Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 130	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> Oct 25, 2018 <b>Development Authority:</b> Chow, Stephen  <b>Reason for Refusal</b> 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: 47 m from 10130 82 Avenue NW Deficient by 153 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.				
<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>Fees</b>				
	<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	05161292	Jul 05, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$5,600.00	\$5,600.00		
<b>THIS IS NOT A PERMIT</b>				



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-199



ITEM III: 1:30 P.M.

FILE: SDAB-D-18-188

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 287278928-001

APPLICATION TO: Develop a Cannabis Retail Sales

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 1, 2018

DATE OF APPEAL: October 15, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10125 - 104 Street NW

LEGAL DESCRIPTION: Plan NB1 Blk 3 Lot 159

ZONE: HA-Heritage Area Zone

OVERLAY: Special Area Downtown

STATUTORY PLAN: Capital City Downtown Plan

---

*Grounds for Appeal*

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

ARMSTRONG BLOCK CANNABIS INC. is requesting an appeal regarding the Development Authority’s refusal of Development permit #287278928-001, to develop a cannabis retail shop at 10129 104 St NW.

Through this appeal, we are requesting three variances from the Subdivision and Development Appeal Board.

- 1) A variance of 76m in section 70.3 of the City of Edmonton Zoning Bylaw – minimum setback requirement from public lands (Michael Phair and Beaver Hill House Parks)

Reason for Appeal:

Our understanding is that the current application of the zoning bylaw does not consider the high density urban setting in which these parks are located. As well, the parks do not contain any playground structures, and are

acceptable locations for cannabis consumption under Edmonton's Public Places Bylaw #14614.

2) A variance of 38m in section 70.2 of the City of Edmonton Zoning Bylaw – minimum setback requirement from a school (Centre High)

Reason for Appeal:

Our understanding is that the Development Authority's measurements are based on 'as the crow flies' distances between property lines and do not account for the physical barriers and required paths of the urban setting. The travel distance when measured door-to-door (via Google Maps) is 210m.

3) A variance of 124m in section 70.2 of the City of Edmonton Zoning Bylaw – minimum setback requirement from a public library (Enterprise Square EPL)

Reason for Appeal:

Our understanding is that, as per the note in #2, the Development Authority's measurements are based on 'as the crow flies' and not door-to-door. The estimated door-to-door distance (via Google Maps) is 290m. As well, the Enterprise Square Edmonton Public Library is a temporary library location and will be closing during the completion of the Stanley A. Milner Library renovations in early 2020.

We would also like to note additional considerations specific to the proposed location, which may inform and support our request for variances. These considerations are:

- The store's entrance is set back through two doors
- The storefront windows are elevated above street level
- The store is accessible via public transit (50m from a Bay Enterprise Square Station entrance with nearby 5 bus stops) and there is no designated parking for customers
- Store is located along the well-lit, busy and safe 104 street promenade

<i>General Matters</i>
------------------------

**The Subdivision and Development Appeal Board made and passed the following motion on November 7, 2018:**

**“That SDAB-D-18-188 be TABLED to November 29, 2018 at the written request of legal counsel for the Appellant and with the consent of the Development Officer.”**

**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 910.7(2)(e), **Cannabis Retail Stores** is a **Permitted Use** in the **(HA) Heritage Area Zone**.

Under section 7.4(9), **Cannabis Retail Stores** 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 7.8(9), **Private Education Services** means:

development for instruction and education which is not maintained at public expense and which may or may not offer courses of study equivalent to those offered in a public school or private instruction as a Home Based Business. This Use includes dormitory and Accessory buildings. This Use does not include Commercial Schools.

Under section 7.8(11), **Public Education Services** means:

development which is publicly supported or subsidized involving public assembly for educational, training or instruction purposes, and includes the administration offices required for the provision of such services on the same Site. This Use includes public and separate schools, community colleges, universities, and technical and vocational schools, and their administrative offices. This Use does not include Private Education Services and Commercial Schools.

Under section 7.8(12), **Public Libraries and Cultural Exhibits** means:

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 910.7 states that the **General Purpose** of the **(HA) Heritage Area Zone** is:

to establish a special heritage character Zone, in which the existing concentration of historical resources shall be preserved, rehabilitated and reused, and to ensure new developments are pedestrian friendly and compatible in scale, function, built

form and design continuity with the historical, architectural and urban village character of the area.

***Section 70 - Cannabis Retail Sales regulations***

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**

1) The proposed Cannabis Retail Sales does not comply with the minimum setback requirement from public lands (Michael Phair and Beaver Hill House Parks) (Section 70.3):

Required Setback: 100 m

Proposed Setback: 24 m

Deficient by 76 m

2) The proposed Cannabis Retail Sales does not comply with the minimum setback requirement from a school (Centre High) (Section 70.2):

Required Setback: 200 m

Proposed Setback: 162 m

Deficient by 38 m

3) The proposed Cannabis Retail Sales does not comply with the minimum setback requirement from a public library (Enterprise Square EPL) (Section 70.2):

Required Setback: 200 m

Proposed Setback: 76m

Deficient by 124 m

Under Section 70.4 of the Zoning Bylaw, the Development Officer is prohibited from granting variances to the minimum setbacks to allow for the proposed Cannabis Retail Store.

---

**Notice to Applicant/Appellant**

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

---

	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: <b>287278928-001</b> Application Date: JUL 11, 2018 Printed: October 1, 2018 at 11:17 AM 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> 10125 - 104 STREET NW Plan NB1 Blk 3 Lot 159	
	<b>Specific Address(es)</b> Suite: 10129 - 104 STREET NW Entryway: 10129 - 104 STREET NW Building: 10125 - 104 STREET NW	
<b>Scope of Application</b> To develop a 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: Downtown	
I/We certify that the above noted details are correct.  Applicant signature: _____		
<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Oct 01, 2018 <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 public lands (Michael Phair and Beaver Hill House Parks) (Section 70.3):  Required Setback: 100 m Proposed Setback: 24 m Deficient by 76 m		
2) The proposed Cannabis Retail Sales does not comply with the minimum setback requirement from a school (Centre High) (Section 70.2):  Required Setback: 200 m Proposed Setback: 162 m Deficient by 38 m		
3) The proposed Cannabis Retail Sales does not comply with the minimum setback requirement from a public library (Enterprise Square EPL) (Section 70.2):  Required Setback: 200 m Proposed Setback: 76m Deficient by 124 m		
Under Section 70.4 of the Zoning Bylaw, the Development Officer is prohibited from granting variances to the minimum setbacks to allow for the proposed Cannabis Retail Store.		
<b>THIS IS NOT A PERMIT</b>		

	<h2>Application for Major Development Permit</h2>	<p>Project Number: <b>287278928-001</b> Application Date: JUL 11, 2018 Printed: October 1, 2018 at 11:17 AM Page: 2 of 2</p>																									
<p><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.</p>																											
<p><b>Fees</b></p> <table border="1"><thead><tr><th></th><th style="text-align: right;">Fee Amount</th><th style="text-align: right;">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 style="text-align: right;">\$5,600.00</td><td style="text-align: right;">\$5,600.00</td><td>05176699</td><td>Jul 11, 2018</td></tr><tr><td>Development Permit Inspection Fee</td><td style="text-align: right;">\$510.00</td><td></td><td></td><td></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;">\$6,110.00</td><td style="text-align: right; border-top: 1px solid black;">\$5,600.00</td><td></td><td></td></tr></tbody></table> <p>(\$510.00 outstanding)</p>				Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$5,600.00	\$5,600.00	05176699	Jul 11, 2018	Development Permit Inspection Fee	\$510.00				Total GST Amount:	\$0.00				Totals for Permit:	\$6,110.00	\$5,600.00		
	Fee Amount	Amount Paid	Receipt #	Date Paid																							
Major Dev. Application Fee	\$5,600.00	\$5,600.00	05176699	Jul 11, 2018																							
Development Permit Inspection Fee	\$510.00																										
Total GST Amount:	\$0.00																										
Totals for Permit:	\$6,110.00	\$5,600.00																									
<p><b>THIS IS NOT A PERMIT</b></p>																											



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-188



N