

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
November 8, 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-18-189	Firestone Cannabis Change the use from General Industrial Uses to Cannabis Retail Sales 9835 - 63 Avenue NW Project No.: 287646729-001
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II	11:00 A.M.	SDAB-D-18-190	Alcanna Cannabis Stores Limited Partnership Change the use from Minor Alcohol Sales to Cannabis Retail Sales 14161 - 23 Avenue NW Project No.: 287023706-001
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III	2:00 P.M.	SDAB-S-18-011	Exclusive Construction Inc. Create (1) additional Single Detached Residential Lot 10954 - 135 Street NW Project No.: 288507897-001
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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-18-189

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:	Firestone Cannabis
APPLICATION NO.:	287646729-001
APPLICATION TO:	Change the use from General Industrial Uses to Cannabis Retail Sales
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	October 11, 2018
DATE OF APPEAL:	October 18, 2018
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	9835 - 63 Avenue NW
LEGAL DESCRIPTION:	Plan 3554RS Blk 3 Lot 4
ZONE:	IB-Industrial Business Zone
OVERLAY:	N/A
STATUTORY PLAN:	N/A

<i>Grounds for Appeal</i>

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

(Appellant’s Reasons for Appeal attached as Appendix A)

<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 400.2(3), **Cannabis Retail Sales** is a **Permitted Use** in the **(IB) Industrial 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 400.1 states that the **General Purpose** of the **(IB) Industrial Business Zone** is:

to provide for industrial businesses that carry out their operations such that no nuisance is created or apparent outside an enclosed building and such that the Zone is compatible with any adjacent non-industrial Zone, and to accommodate limited, compatible non-industrial businesses. This Zone should normally be located on the periphery of industrial areas and adjacent to arterial or major collector roadways.

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

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

Required Setback: 200 m


Proposed Setback: 172 m

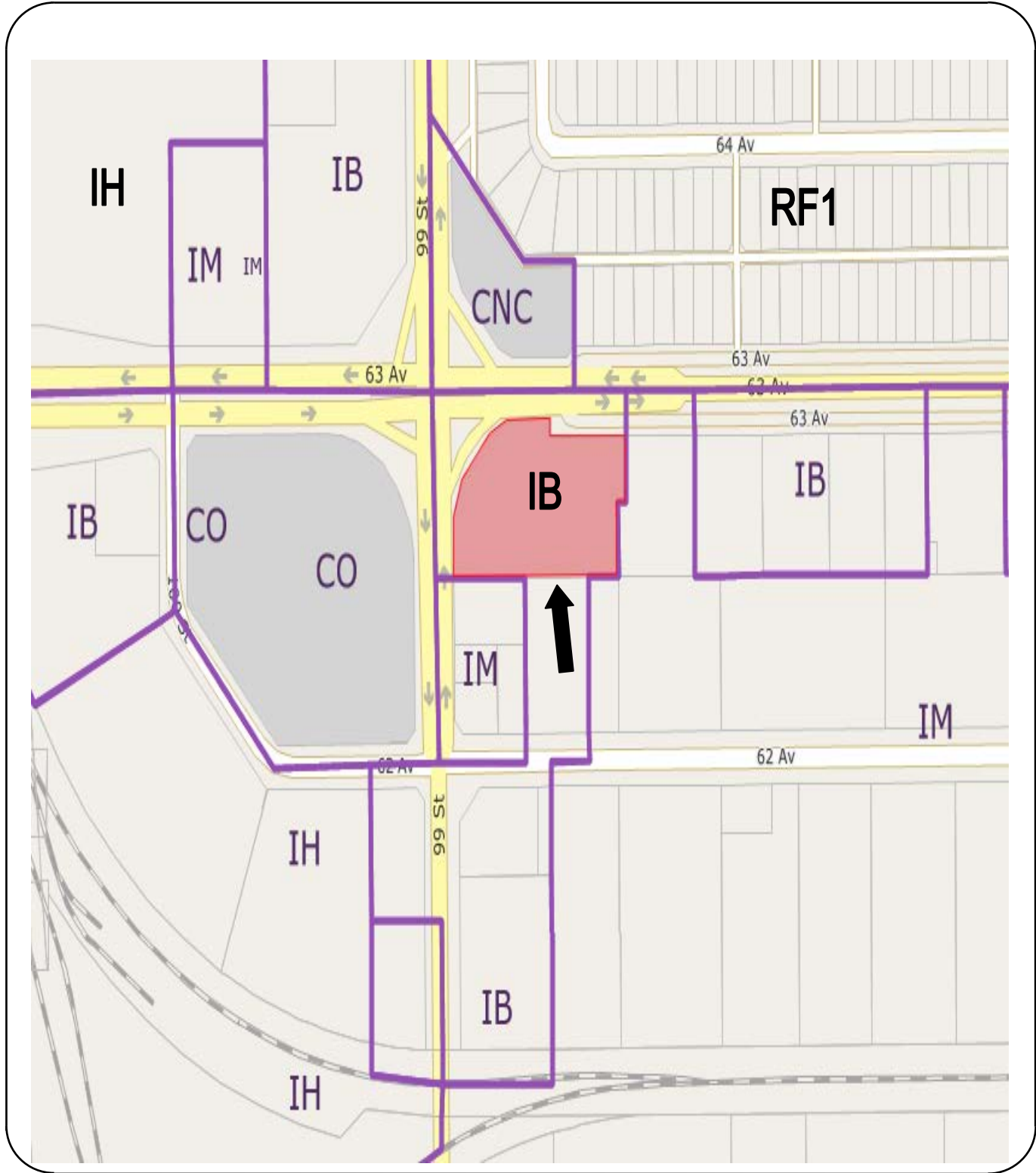
Deficient by 28 m

Under Section 70.1(b) 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: 287646729-001 Application Date: JUL 16, 2018 Printed: October 19, 2018 at 7:57 AM Page: 1 of 1																				
This document is a Development Permit Decision for the development application described below.																						
Applicant <div style="border: 1px solid black; height: 50px; width: 100%;"></div>	Property Address(es) and Legal Description(s) 9835 - 63 AVENUE NW Plan 3554RS Blk 3 Lot 4 Specific Address(es) Suite: 9851 - 63 AVENUE NW Entryway: 9851 - 63 AVENUE NW Building: 9835 - 63 AVENUE NW																					
Scope of Application To change the use from General Industrial Uses to Cannabis Retail Sales.																						
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): </td> <td style="width: 50%; border: none; vertical-align: top;"> 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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I/We certify that the above noted details are correct. Applicant signature: _____																						
Development Application Decision Refused Issue Date: Oct 11, 2018 Development Authority: WELCH, IMAI Reason for Refusal The proposed Cannabis Retail Store does not comply with the minimum setback requirement from an approved Cannabis Retail Sales (Section 70.1): Required Setback: 200 m Proposed Setback: 172 m Deficient by 28 m Under Section 70.1(b) 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 <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"></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>05187724</td> <td>Jul 16, 2018</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$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;">\$5,600.00</td> <td style="text-align: right; border-top: 1px solid black;">\$5,600.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$5,600.00	\$5,600.00	05187724	Jul 16, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$5,600.00	\$5,600.00		
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THIS IS NOT A PERMIT																						



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-189





Date: October 18, 2018

Re: 2102181 Alberta Ltd. d/b/a “Firestone Cannabis”
Appeal to Edmonton SDAB for a Retail Cannabis Sales Development Permit
Project Number: 287646729-001

Introduction to 2102181 Alberta Ltd. d/b/a “Firestone Cannabis”

- [1] 2102181 Alberta Ltd. (the “Appellant”) is an Alberta Corporation incorporated for the purposes of operating a retail cannabis store at 9851-63 Avenue, Edmonton, T6E 0G7. The Applicant is wholly-owned by Angeliki Boozetos, a longstanding businessperson of Edmonton. Kyle Murphy and Brett Lojczyc, through their cannabis holding company “Firestone Cannabis Corporation” have the right to purchase 75% of the outstanding stock of the Appellant. Firestone Cannabis Corporation holds equity in several retail cannabis corporations all of which operate under the “Firestone Cannabis” brand. Kyle Murphy and Brett Lojczyc have been duly authorized by the Appellant and Angeliki Boozetos to make this appeal as provided for in **Exhibit A**.

Refusal of Retail Cannabis Development Permit

- [2] The Appellant applied for a Development Permit to operate a retail cannabis store on July 16, 2018. The application was denied by Development Officer Imai Welch on October 11, 2018 on the following grounds:

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

Required Setback: 200 m

Proposed Setback: 172 m

Deficient by 28 m

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

- [3] The Appellant does not dispute the findings of the Development Officer, including that:
- (a) the Development Officer does not have the authority to grant a variance greater than 20m from the required setback of 200m¹; and

¹ Section 70.1(b) of Edmonton Zoning Bylaw 12800.



(b) the City of Edmonton applies the separation distance as the “crow flies”².

Compliance with all Provincial Regulations

[4] Pursuant to section 687(3)(a.4) of the *Municipal Government Act* [“**MGA**”], the Subdivision and Development Appeal Board (the “**Board**”) must comply with Section 105(3) of the *Alberta Gaming, Liquor and Cannabis Regulations*.³ Section 105(3) requires that any cannabis store must be 100 m away from any provincial health care facility or school. The Appellant is in full compliance with the Provincial setback requirements contained in section 105(3) as provided for in the Development Officer’s report attached hereto as **Exhibit B**.

Non-Compliance with Edmonton Zoning Bylaw 12800

[5] Although the Appellant is in full compliance with Provincial regulations, the Appellant acknowledges that it is not in compliance with section 70 of Edmonton Zoning Bylaw 12800. Section 70 of Edmonton Zoning Bylaw 12800 reads:

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.*

[6] The Appellant agrees with the Development Officer’s calculation that it is 172 m away from another Retail Cannabis Sales Applicant (“**Spirit-Leaf**”)⁴ as shown in **Exhibit B**.

[7] The Appellant also acknowledges that it “must abide by the development regulations set out in section 70 of the Edmonton Zoning Bylaw [but that] those criteria can be varied by the Board if

² Mr. I. Wachowicz, Chairman, SDAB, at paras. 38-40 of SDAB-D-18-143.

³ Mr. I. Wachowicz, Chairman, SDAB, at paras. 65-66 of SDAB-D-18-133.

⁴ Applicant No.: 285844561-001 (“**Spirit-Leaf**”)



the tests set out in section 687(3)(d) [of the MGA] are met.”⁵ The Appellant also refers to *Thomas v Edmonton (City)*, 2016 ABCA 57 [Thomas] wherein the Court of Appeal recognized that strict application of Statutory Plans and land use bylaws can often lead to unreasonable results and therefore, the Board should follow the guidance of section 687(3)(d) in making their determination.

Test to Vary Setback Criteria

[8] Section 687 of the MGA states:

(3) In determining an appeal, the subdivision and development appeal board

(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.

[9] The Appellant is confident that it satisfies the test set out in section 687(3)(d) of the *Municipal Government Act* for the reasons below.

Appellant’s Arguments to be Granted a Development Permit

[10] ***Layout of Intersection:*** The intersection of 99th street and 63rd avenue is one of Edmonton’s busiest intersections with over 77,000 vehicles passing through each day. The commercial areas separated by these major arteries create commercial zone “quadrants” with each quadrant being highly isolated from the other three. For instance, there is a bar⁶ and liquor store⁷ within the

⁵ Mr. I. Wachowicz, Chairman, SDAB at para. 78 of SDAB-D-18-133.

⁶ Rosie’s Bar & Grill.

⁷ Boss Liquor.



south-east corner quadrant and a bar⁸ and liquor store⁹ within the south-west quadrant. In addition to the Spirit-Leaf cannabis store already being 172 m away from the prospective “Firestone Cannabis” store, the large parking lot, busy intersection, and lack of pedestrian friendly infrastructure adds to the physical separation between the two locations. The intent behind Edmonton City Council’s implementation of a 200m buffer zone between cannabis stores is to prevent clustering of cannabis stores, as evidenced by **Exhibit C**. The nature of the 99th street and 63rd avenue intersection clearly provides for separate commercial activity within each quadrant without the occurrence of a clustering of cannabis stores so long as multiple cannabis stores are not permitted within any one quadrant.

[11] **Traffic Flow Issues:** This 99th street and 63rd avenue intersection has major traffic congestion issues, particularly at rush-hour. Congestion can be further exacerbated when the train travels East-West along 61st avenue which can frustratingly block and back-up traffic for extended periods of time. Consider the current scenario where there is only one cannabis store in the south-west quadrant of the intersection. Northbound and westbound traffic will be forced to make a left-hand turn across traffic to attend the cannabis store. Left-hand turns at busy intersections are both dangerous and disruptive to pedestrians and commuters. Furthermore, such traffic maneuvers are also often impossible for drivers as the laneways remain physically separated via curbs, solid yellow lines, or lack of quadrant access points. See **Exhibit D** for an illustration of the traffic flows and intersection access points to the south-west quadrant. See **Exhibit E** for pictures of the intersection. **As such, this proposed development would not unduly interfere with the amenities of the neighbourhood (and, to the contrary, may even improve the functionality of the neighbourhood) which thereby satisfies section 687(3)(d)(i)(A) of the MGA.**

[12] **Nature of Businesses:** In a similar appeal to the Board it was stated that:

“The proposed Cannabis Retail Sales, which is focused on adult-only customers, is characteristic of other adult-only retail businesses in the area which include alcohol sales, a bar, a pawn shop, and a body rub centre, located between the Learning Store and the subject site along Whyte Avenue.”¹⁰

The above consideration supported the “Spirit-Leaf” appellant’s request to obtain a variance from the Board, which was ultimately granted. This consideration is also highly analogous to this Appeal wherein the Appellant’s proposed location has a liquor store, payday loan and bar immediately adjacent to it. Furthermore, the entire neighbourhood has stereotypical “blue-collar” characteristics with no private or public lands that could reasonably be considered to run contrary to retail cannabis sales. Lastly, to the Appellant’s knowledge, there have been no letters of objection received and no one is set to appear in opposition to the proposed development. **As such, this proposed development would not materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land which thereby satisfies section 687(3)(d)(i)(B) of the MGA.**

⁸ Billy Bud’s Lounge.

⁹ Edmonton Liquor Merchant.

¹⁰ Mr. I. Wachowicz, Chairman, SDAB, at para. 47 of SDAB-D-18-142.



- [13] ***Prescribed Use of Lands:*** The proposed location is in “Industrial Business Zoning”. The prescribed use of Industrial Business Zoning is “to provide for industrial businesses that carry out their operations such that no nuisance is created or apparent outside an enclosed building and such that the Zone is compatible with any adjacent non-industrial Zone, and to accommodate limited, compatible non-industrial businesses.”¹¹ Furthermore, Retail Cannabis Sales is a permitted use in the (IB) Industrial Business Zone.¹² **As such, this proposed development conforms with the use prescribed for the land and building in the land use bylaw which thereby satisfies section 687(3)(d)(ii) of the MGA.**
- [14] The Appellant requests that the Board issues it a development permit to operate a retail cannabis store on the basis that:
- i. the Appellant has met the tests set-out in section 867(3)(d) of the *MGA*; and
 - ii. The Board ought to issue the development permit in accordance with the aforementioned test as per the *Thomas* decision.

¹¹ Edmonton Zoning Bylaw 12800, section 400.1.

¹² Edmonton Zoning Bylaw 12800, section 400.2(3).

ITEM II: 11:00 A.M.

FILE: SDAB-D-18-190

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:	Alcanna Cannabis Stores Limited Partnership
APPLICATION NO.:	287023706-001
APPLICATION TO:	Change the use from Minor Alcohol Sales to Cannabis Retail Sales
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	September 26, 2018
DATE OF APPEAL:	October 16, 2018
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	14161 - 23 Avenue NW
LEGAL DESCRIPTION:	Plan 0625889 Blk 2 Lot 97A
ZONE:	(CSC) Shopping Centre Zone
OVERLAY:	N/A
STATUTORY PLAN:	Magrath Heights Neighbourhood Area Structure Plan

Grounds for Appeal

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

- (a) The proposed development represents an allowable use on the subject lands.
- (b) The provisions of s. 70 of the Edmonton Zoning Bylaw do not limit this Board's authority to approve the proposed development.
- (c) The Site (ie, the portion of the shopping centre) is sufficiently separated from the public lands zoned AP.
- (d) The public lands zoned AP are not visible from the proposed development and the proposed development is not visible from anywhere on the public lands zoned AP.

- (e) The proposed development is located in a large commercial shopping centre Site. There are multiple buildings within the Site which provide a buffer between the proposed development and the lands zoned AP. There are also many residential buildings between the Site and the lands zoned AP that provide an additional buffer.
- (f) Furthermore, the proposed development is sufficiently separated from the lands zoned AP.
- (g) The proposed development will not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring properties.
- (h) Such further and other reasons as may be presented at the hearing of this matter.

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

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Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

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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
 - 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 public lands zoned AP (Section 70.3):

Required Setback: 100 m


Proposed Setback: 65 m

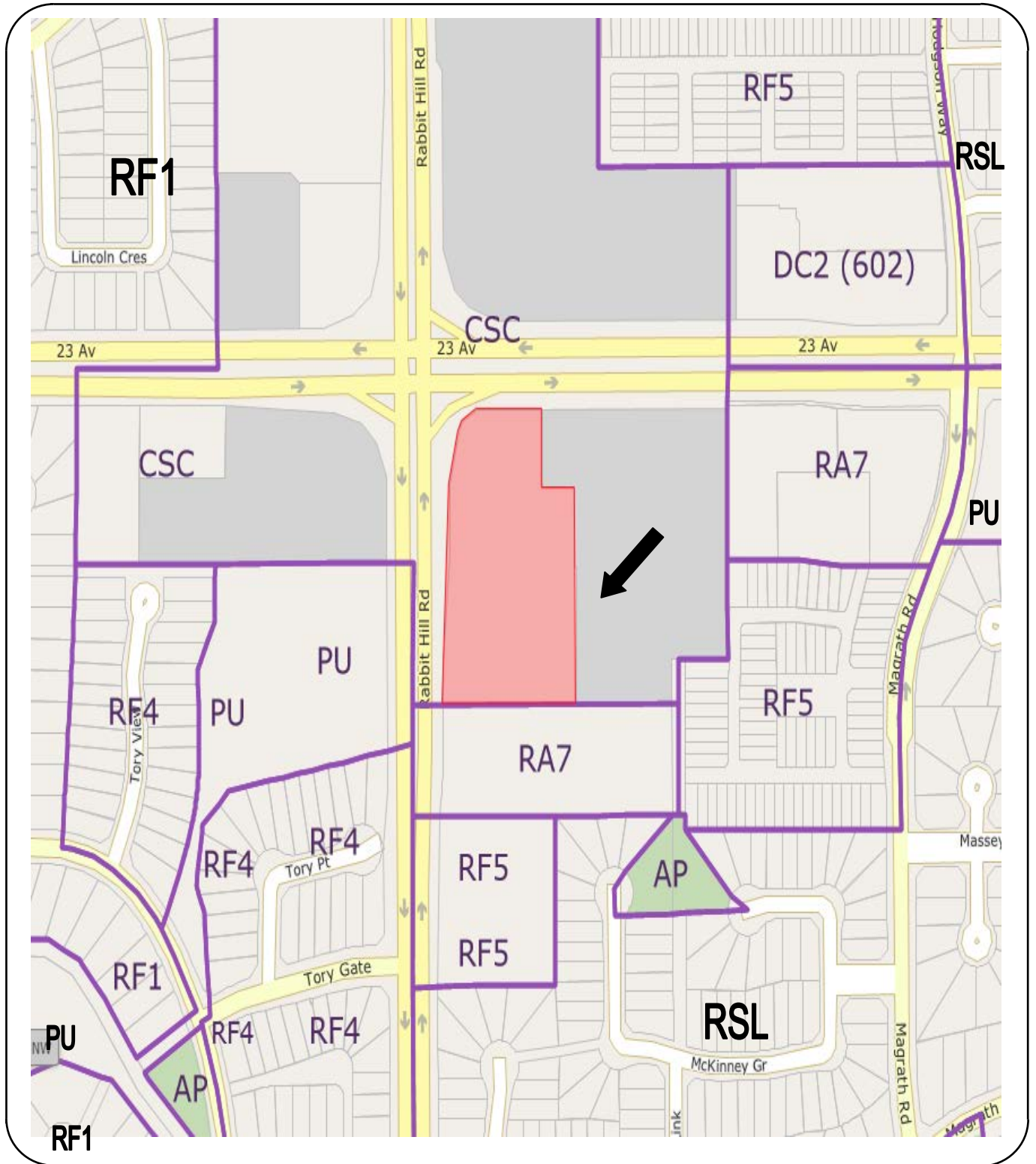
Deficient by 35 m

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.

	Project Number: 287023706-001 Application Date: JUL 09, 2018 Printed: October 16, 2018 at 11:26 AM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Major Development Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
Applicant	Property Address(es) and Legal Description(s) 14161 - 23 AVENUE NW Plan 0625889 Blk 2 Lot 97A Specific Address(es) Suite: 14175 - 23 AVENUE NW Entryway: 14175 - 23 AVENUE NW Building: 14171 - 23 AVENUE NW																				
Scope of Application To change the use from Minor Alcohol Sales to Cannabis Retail Sales.																					
Permit Details <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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I/We certify that the above noted details are correct. Applicant signature: _____																					
Development Application Decision Refused Issue Date: Sep 26, 2018 Development Authority: WELCH, IMAI Reason for Refusal The proposed Cannabis Retail Store does not comply with the minimum setback requirement from public lands zoned AP (Section 70.3): Required Setback: 100 m Proposed Setback: 65 m Deficient by 35 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. 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 <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"></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>05170119</td> <td>Jul 09, 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;">\$5,600.00</td> <td style="text-align: right; border-top: 1px solid black;">\$5,600.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$5,600.00	\$5,600.00	05170119	Jul 09, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$5,600.00	\$5,600.00		
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THIS IS NOT A PERMIT																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-190



ITEM III: 2:00 P.M.

FILE: SDAB-S-18-011

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:	Exclusive Construction Inc.
APPLICATION NO.:	288507897-001
APPLICATION TO:	Create (1) additional Single Detached Residential Lot
DECISION OF THE SUBDIVISION AUTHORITY:	Refused
DECISION DATE:	October 11, 2018
DATE OF APPEAL:	October 18, 2018
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	10954 - 135 Street NW
LEGAL DESCRIPTION:	Plan 3624HW Blk 9 Lot 4
ZONE:	(RF1) Single Detached Residential Zone
OVERLAY:	Mature Neighbourhood Overlay
STATUTORY PLAN:	N/A

Grounds for Appeal

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

Trying to subdivide existing land into two houses. Development office advised that it should not be a problem to get variance for 0.04m (1 1/2 in width of lot). We prepared all drawing paperwork but subdivision refuse the subdivision application. Please kindly grant us subdivision if it is possible. Thanks.

General Matters

Appeal Information:

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

Appeals

678(1) The decision of a subdivision authority on an application for subdivision approval may be appealed

- (a) by the applicant for the approval,
- (b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- (c) by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the municipal planning commission of the municipality is not the subdivision authority, or
- (d) by a school board with respect to
 - (i) the allocation of municipal reserve and school reserve or money in place of the reserve,
 - (ii) the location of school reserve allocated to it, or
 - (iii) the amount of school reserve or money in place of the reserve.

(2) An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681

- (a) with the Municipal Government Board
 - (i) if the land that is the subject of the application is within the Green Area as classified by the Minister responsible for the Public Lands Act,
 - (ii) if the land that is the subject of the application contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site, or
 - (iii) in any other circumstances described in the regulations under section 694(1)(h.2),

or

- (b) in all other cases, with the subdivision and development appeal board.

(2.1) Despite subsection (2)(a), if the land that is the subject-matter of the appeal would have been in an area described in subsection

(2)(a) except that the affected Government department agreed, in writing, to vary the distance under the subdivision and development regulations, the notice of appeal must be filed with the subdivision and development appeal board.

(3) For the purpose of subsection (2), the date of receipt of the decision is deemed to be 7 days from the date the decision is mailed.

(4) A notice of appeal under this section must contain

- (a) the legal description and municipal location, if applicable, of the land proposed to be subdivided, and
- (b) the reasons for appeal, including the issues in the decision or the conditions imposed in the approval that are the subject of the appeal.

(5) If the applicant files a notice of appeal within 14 days after receipt of the written decision or the deemed refusal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board.

Hearing and decision

680(1) The board hearing an appeal under section 678 is not required to hear from any person or entity other than

- (a) a person or entity that was notified pursuant to section 679(1), and
- (b) each owner of adjacent land to the land that is the subject of the appeal,

or a person acting on any of those persons' behalf.

(1.1) For the purposes of subsection (1), “adjacent land” and “owner” have the same meanings as in section 653.

(2) In determining an appeal, the board hearing the appeal

- (a) must act in accordance with any applicable ALSA regional plan;
- (a.1) must have regard to any statutory plan;
- (b) must conform with the uses of land referred to in a land use bylaw;
- (c) must be consistent with the land use policies;

- (d) must have regard to but is not bound by the subdivision and development regulations;
- (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;
- (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

Approval of application

654(1) A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any growth plan under Part 17.1, any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,
- (c) the proposed subdivision complies with this Part and Part 17.1 and the regulations under those Parts, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.

(1.1) Repealed 2018 c11 s13.

(1.2) If the subdivision authority is of the opinion that there may be a conflict or inconsistency between statutory plans, section 638 applies in respect of the conflict or inconsistency.

(2) A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,

- (a) the proposed subdivision would not
 - (i) unduly interfere with the amenities of the neighbourhood, or

- (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.

(3) A subdivision authority may approve or refuse an application for subdivision approval.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 110.4(1) states:

Site regulations for Single Detached Housing:

- a. the minimum Site area shall be 250.8 m²
- b. the minimum Site Width shall be 7.5 m; and
- c. the minimum Site depth shall be 30.0 m.

Under section 6.1, **Site** means “an area of land consisting of one or more abutting Lots.”

Under section 6.1, **Site Width** means “the horizontal distance between the side boundaries of the Site measured at a distance from the Front Lot Line equal to the required Front Setback for the Zone.”

Section 110.1 states that the **General Purpose** of the **(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, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

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.



Subdivision Authority

7th Floor, Edmonton Tower
10111 – 104 Avenue NW
Edmonton, Alberta T5J 0J4

October 11, 2018

File No. LDA18-0435

RE: Tentative plan of subdivision to create one (1) additional single detached residential lot from Lot 4, Block 9, Plan 3624 HW located north of 109B Avenue NW and west of 135 Street NW; **NORTH GLENORA**

The Subdivision by Plan is REFUSED on October 11, 2018 for the following reasons:

1. The proposed subdivision does not comply with the minimum development regulations identified in Section 110.4(1)(b) of the City of Edmonton Zoning Bylaw 12800. The site is zoned (RF1) Single Detached Residential Zone. The minimum site width identified in the RF1 Zone for single detached housing is 7.50 metres. The site width of the proposed lots is 7.46 metres which is therefore deficient by 0.04 metres.
2. Bylaw 18050, which established a minimum site width of 7.50 metres for single detached housing in the RF1 Zone, was approved by City Council on June 12, 2017. At the same Public Hearing, City Council approved Bylaw 18058 which prevents site width measurements from being rounded up and limits a Development Officer's ability to vary site width for new single detached housing in the RF1 Zone.
3. Approval of the proposed subdivision would result in a non-standard lot, incurring development hardship at the development permit application stage. Section 11.4(1)(c) of the City of Edmonton Zoning Bylaw 12800 prevents a Development Officer from granting variances for new single detached housing that is less than the RF1 Zone's minimum 7.50 metre width threshold. Future development permit applications would therefore be refused by the Development Officer.

Please be advised that an appeal may be lodged in accordance to Section 678 of the Municipal Government Act with the Subdivision and Development Appeal Board, 10019 – 103 Avenue NW, Edmonton Alberta, T5J 0G9, within 14 days from the date of the receipt of this decision. The date of receipt of the decision is deemed to be seven (7) days from the date the decision is mailed.

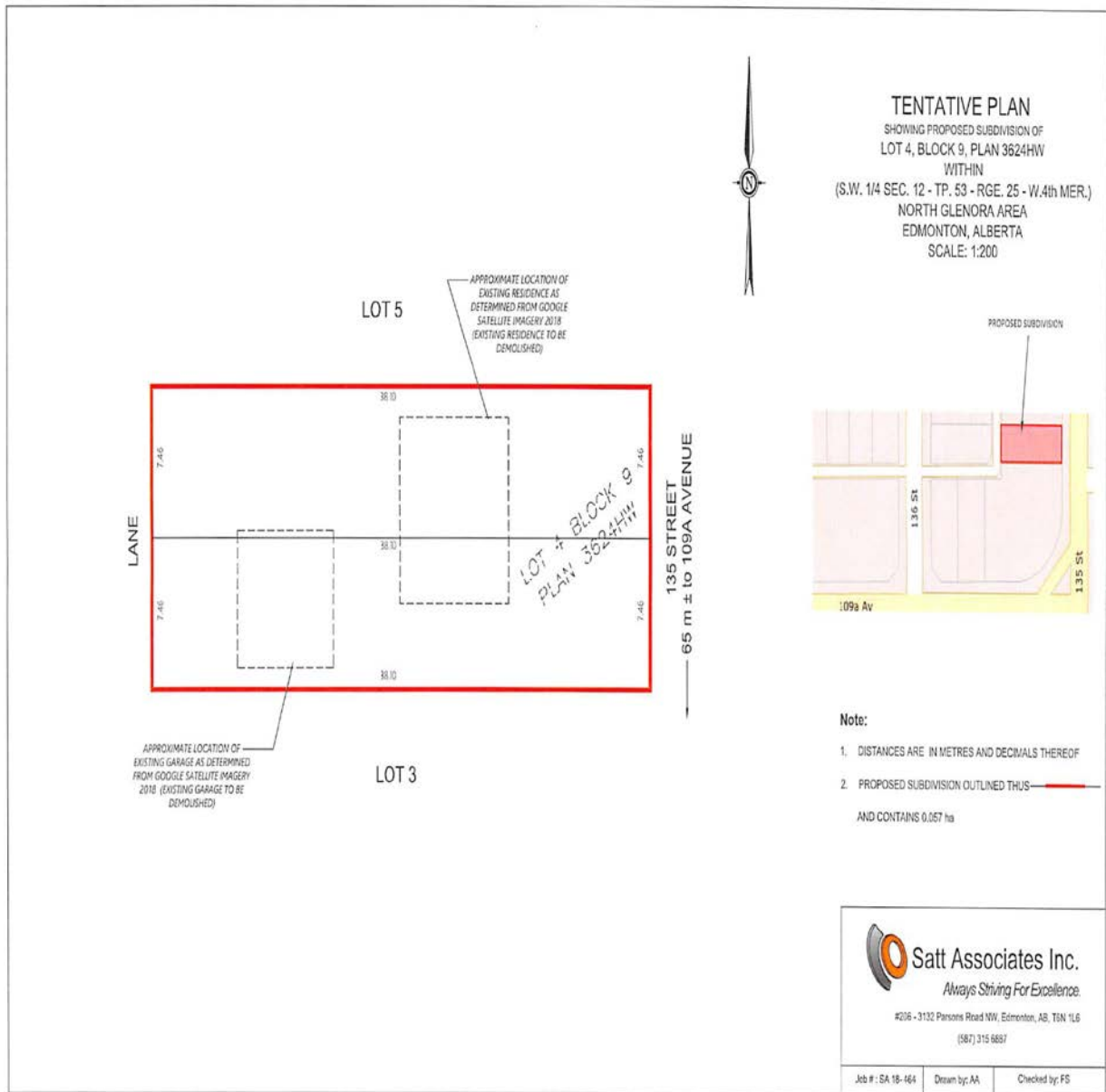
If you have further questions, please contact Gilbert Quashie-Sam at gilbert.quashie-sam@edmonton.ca or 780-496-6295.

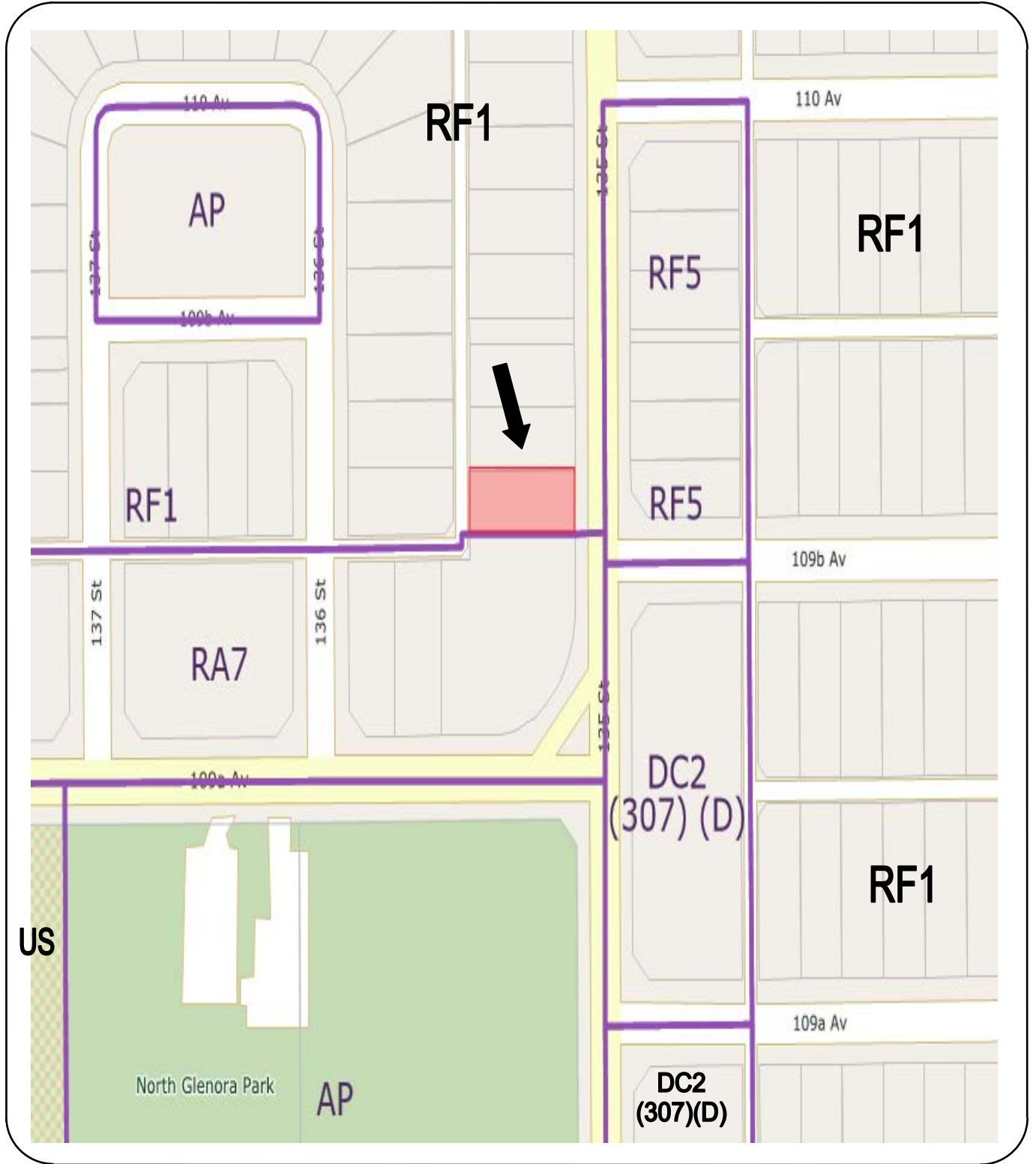
Regards,

A handwritten signature in blue ink, appearing to read 'Blair McDowell'.

Blair McDowell
Subdivision Authority

BM/gq/Posse #288507897-001
Enclosure





SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-S-18-011

