

**SUBDIVISION**  
**AND**  
**DEVELOPMENT APPEAL BOARD**  
**AGENDA**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

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**TO BE RAISED**

I 9:00 A.M. SDAB-D-19-126

To comply with an Order to immediately de-energize the Sign and keep it turned off 24 hours a day until the Sign is moved back to the approved location or acquire a Development Permit to allow the Sign to remain in its current location on the building, cease any display of Off-premises advertising or dismantle and remove the Sign from the property. One of these options must be completed by January 31, 2020

6528 - 104 Street NW  
Project No.: 129905784-003

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II 1:30 P.M. SDAB-D-21-189

Change the Use of a General Retail Store to a Liquor Store and construct interior alterations.

6930 - 109 Street NW  
Project No.: 409630418-002

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**NOTE:** *Unless otherwise stated, all references to "Section numbers" in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

**TO BE RAISED**

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-126

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 129905784-003

APPLICATION TO: To comply with an Order to immediately de-energize the Sign and keep it turned off 24 hours a day until the Sign is moved back to the approved location or acquire a Development Permit to allow the Sign to remain in its current location on the building, cease any display of Off-premises advertising or dismantle and remove the Sign from the property. One of these options must be completed by January 31, 2020

DECISION OF THE  
DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: July 9, 2019

DATE OF APPEAL: July 20, 2019

MUNICIPAL DESCRIPTION  
OF SUBJECT PROPERTY: 6528 - 104 Street NW

LEGAL DESCRIPTION: Plan 3553P Blk 32 Lots 1-4

ZONE: DC1 - Direct Development Control Provision (Charter Bylaw 18636 - CPR West)

OVERLAY: N/A

STATUTORY PLAN: Strathcona Junction Area Redevelopment Plan

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***Grounds for Appeal***

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

The Appellant respectfully appeals the Municipal Government Act Order (Order) (129905784-003) dated July 9, 2019 on the following grounds:

1. The Order failed to consider or properly interpret the Edmonton Zoning Bylaw.
2. The Appellant has submitted an application for a development permit.
3. The Order failed to properly consider the relevant facts and apply them to the consideration and interpretation of both the Municipal Government Act and the Edmonton Zoning Bylaw (and other related planning documents).
4. Such further and other reasons as may be presented at the hearing of this matter.

***General Matters***

On August 15, 2019, the Subdivision and Development Appeal Board made and passed the following motion:

"That SDAB-D-19-126 be postponed to October 17, 2019 at 9:00 a.m. at the written request of the Appellant and with the consent of Legal Counsel for the City of Edmonton"

On October 2, 2019, the Subdivision and Development Appeal Board made and passed the following motion:

"That SDAB-D-19-126 be postponed until November 14, 2019 with the consent of the Appellant and with the consent of Legal Counsel for the City of Edmonton."

On November 7, 2019, the Subdivision and Development Appeal Board made and passed the following motion:

"That SDAB-D-19-126 be postponed until January 16, 2020 with the consent of the Appellant, Legal Counsel for the City of Edmonton and the Development Authority."

On January 16, 2020, the Subdivision and Development Appeal Board made and passed the following motion:

"That SDAB-D-19-126 be postponed until April 9, 2020 at the written request of the Appellant and with consent from Legal Counsel for the City of Edmonton."

On March 25, 2020, the Subdivision and Development Appeal Board made and passed the following motion:

"That SDAB-D-19-126 be postponed until April, 2021 at the written request of the Appellant and with consent from Legal Counsel for the City of Edmonton."

**Appeal Information:**

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

**Stop order**

**645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

**(2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

**(2.1)** A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

**Permit**

**683** Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

**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 the decision in accordance with subsection (2.1).

**Appeals**

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
  - (i) with respect to an application for a development permit,
    - (A) within 21 days after the date on which the written decision is given under section 642, or
    - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

**Hearing and Decision**

**687(3)** In determining an appeal, the board hearing the appeal referred to in subsection (1)

...

- (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 clause (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 (DC1) DIRECT DEVELOPMENT CONTROL PROVISION CPR WEST (“DC1”):**

A **Fascia On-premises Sign** is a listed Use (DC1, section nn).

A **Fascia Off-premises Sign** is **NOT** a listed Use.

A **Minor Digital On-premises Sign** is a listed Use (DC1, section oo).

A **Minor Digital Off-premises Sign** and a **Minor Digital On-premises Off-premises Sign** is **NOT** a listed Use.

The **General Purpose** of the **DC1** is “to provide transition for the area to become a pedestrian-oriented, urban style commercial mixed use area, while respecting the character of 104 Street and Gateway Boulevard. This Provision enhances the pedestrian environment by incorporating pedestrian scaled architecture, amenities and landscaping. It allows for industrial, commercial and limited residential uses.”

**Section 7(l)** of the **DC1** provides that Signs shall be provided with the intent to complement a pedestrian-oriented environment. Signs shall comply with the regulations found in Schedule 59 E, except that:

- i. the maximum Height of a Freestanding Sign shall be 6.0 m;
- ii. a Projecting Sign may be used to identify businesses that are located entirely at or above the second Storey level; and
- iii. the top of a Projecting Sign on a building two Storeys or higher shall not extend more than 75 cm above the floor of the second or third Storey, nor higher than the windowsill level of the second or third Storey.

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

Under Section 7.9(2), **Fascia On-premises Signs** means “a Fascia Sign, which is a Permanent Sign, displays On-premises Advertising and contains no Digital Copy.”

Under section 7.9(1), **Fascia Off-premises Signs** means “Fascia Off-premises Signs a Fascia Sign, which is a Permanent Sign, displays Off-premises Advertising and contains no Digital Copy.”

Under Section 7.9(8), **Minor Digital On-premises Signs** means “a Freestanding or Fascia Sign that contains Digital Copy, is a Permanent Sign, displays On-premises



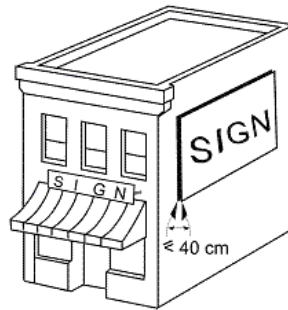
Advertising, and does not include moving effects, message transition effects, video images, or animation.”

Under section 7.9(6), **Minor Digital Off-premises Signs** means “a Freestanding or Fascia Sign that contains Digital Copy, is a Permanent Sign, displays Off-premises Advertising, and does not include moving effects, message transition effects, video images, or animation.”

Under section 7.9(7), **Minor Digital On-premises Off-premises Signs** means “a Freestanding or Fascia Sign that contains Digital Copy, is a Permanent Sign, displays On-premises Advertising and/or Off-premises Advertising, and does not include moving effects, message transition effects, video images, or animation.”

Under Section 6.1, **Fascia Signs** means:

a Sign that is painted on or attached to an exterior building wall, or any other permitted structure, on which a two dimensional representation may be placed. Fascia Signs do not extend more than 40 cm out from the building wall or structure. Fascia Signs include banners or any other two dimensional medium.



Under Section 6.1, **On-Premises Advertising** means “Copy that only directs attention to a business, activity, product, service, or entertainment produced, offered for sale, or obtainable on the Site where the Sign is displayed.”

Under Section 6.1, **Off-Premise Sign** means “any Sign displaying Copy that directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, service or entertainment provided on the premises or Site where the Sign is displayed.”

***Previous Subdivision and Development Appeal Board Decisions***

Application Number	Description	Decision
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<p>SDAB-D-19-182</p> <p><b>893440 Alberta Ltd (Garage 104) v Edmonton (City), 2021 ABCA 98</b></p>	<p>To install (1) Fascia Minor Digital On-premises Sign (6.29m x 3.57m facing North) (GARAGE 104).</p>	<p>December 5, 2019; that the appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is refused.</p> <p>March 16, 2021; Appeal to Alberta Court of Appeal dismissed</p>
<p>SDAB-D-13-019</p>	<p>To install an On-premises Fascia Minor Digital Sign (Ziebart)</p>	<p>February 21, 2013; that the appeal be ALLOWED and the DEVELOPMENT GRANTED subject to conditions.</p>
<p>SDAB-D-12-200</p>	<p>To install an Off-premises Minor Digital Sign (3.0 metres by 6.0 metres Double sided facing North/South)</p>	<p>October 5, 2012; that the appeal be DENIED and the decision of refusal by the Development Authority CONFIRMED.</p>

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Notice to Applicant/Appellant

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

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City of Edmonton  
Development and Zoning Services  
Development Compliance & Inquiries

5th Floor, Edmonton Tower  
10111 104 Avenue NW  
Edmonton, AB T5J 0J4  
Canada  
  
[edmonton.ca/developmentcompliance](http://edmonton.ca/developmentcompliance)

July 9, 2019

Our File: 129905784-003

[REDACTED]

893440 ALBERTA LTD.  
1155, 5555 - CALGARY TRAIL NW  
EDMONTON, ALBERTA T6H 5P9

**MUNICIPAL GOVERNMENT ACT ORDER**

Dear Sir/Madam:

An Alberta Land Titles search identifies you as the registered owner of the property located at 6528 - 104 STREET NW in Edmonton, Alberta, legally described as Plan 3553P Blk 32 Lots 1-4. This property is zoned DC1 Bylaw 18636 - CPR West in accordance with the Strathcona Junction Area Redevelopment Plan and Section 710 of the Edmonton Zoning Bylaw 12800.

This Property was inspected by Development Compliance Officer Brendan Bolstad on July 4, 2019. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 and 624 of the Municipal Government Act.

**ZONING BYLAW INFRACTION:**

Our investigation revealed that the digital Sign approved on December 5, 2012 by Development Permit 129905784-001 has been displayed in the wrong location on the building. The approved location for the Sign is on the west side of the large vehicle access door. A copy of the approved plans have been included for your reference.

Section 23.1(19) of the Edmonton Zoning Bylaw states:  
Notwithstanding subsection 23.1(2), it is an offence to display a Fascia Sign, Roof Sign or Projecting Sign in contravention of Development Permit.

Additionally, our inspection revealed that both On-premises and Off-premises Advertising is being displayed on the Sign. Development Permit 129905784-001 approved the installation of an On-Premises Fascia Minor Digital Sign, which may only display On-Premises Advertising.

On-Premises Advertising means Copy that only directs attention to a business, activity, product, service, or entertainment produced, offered for sale, or obtainable on the Site where the Sign is displayed.

Off-Premises Advertising means Copy that directs attention to a business, activity, product, service, or entertainment that cannot be considered as the principal products produced, offered for sale, or obtainable on the Site where the Sign is displayed.

As of July 4, 2019, the Sign meets the definition of a Minor Digital On-premises Off-premises Sign. Section 7.9(7) of the Edmonton Zoning Bylaw 12800 states:

Minor Digital On-premises Off-premises Signs means a Freestanding or Fascia Sign that contains Digital Copy, is a Permanent Sign, displays On-premises Advertising and/or Off-premises Advertising, and does not include moving effects, message transition effects, video images, or animation.

You do not have a Development Permit to display a Minor Digital On-premises Off-premises Sign at the property. Further, Minor Digital On-premises Off-premises Signs are not a listed Use in the DC1 zone at 6528 - 104 Street, which means that a Development Permit can not be issued for this type of Sign.

Section 23.1(18) of the Edmonton Zoning Bylaw 12800 states:  
it is an offence to display a Fascia Sign, Roof Sign or Projecting Sign without a valid and approved Development Permit when a Development Permit is required.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, you are hereby ordered to:

Immediately de-energize the Sign and keep it turned off 24 hours a day. The Sign must remain de-energized until one of the following options is completed (A, B or C):

A) Move the Sign back to the approved location on the building, as per Development Permit 129905784-001. Cease any display of Off-premises Advertising.

OR

B) Acquire a Development Permit to allow the Sign to remain in its current location on the building. Cease any display of Off-premises Advertising.

OR

C) Dismantle & remove the Sign from the property. All parts of the Sign, including the support structure must be removed.

One of the options A, B, or C must be completed before January 31, 2020.

CONSEQUENCES FOR NON-COMPLIANCE:

The property will be inspected after August 13, 2019, and again after January 31, 2020 to determine compliance with this Order.

In the event that a person fails to comply with this Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter the land and take any action necessary to carry out the Order. Section 646 authorizes the City to register a caveat under the Land Titles Act.

Section 553(1)(h.1) of the Municipal Government Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to 566(2), a person who is found guilty of an offence under this Act is liable to a fine of not

more than \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment.

Affected persons may appeal this Order by filing within the prescribed time to the Subdivision and Development Appeal Board. Visit the website at <https://sdab.edmonton.ca> or call 780-496-6079 for more information on how to file an appeal.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, R.S.A. 2000, c.M-26.1, which provides you with the right to appeal this Order and enables the City to add all costs associated with this action to the tax roll of the property.

If you have any questions in regards to this matter, please contact the writer at 780-442-7190.

Regards,



Brendan Bolstad  
Development and Zoning  
Development Services  
Phone Number: 780-442-7190  
Email Address: [Brendan.Bolstad@edmonton.ca](mailto:Brendan.Bolstad@edmonton.ca)

**Adding Amounts  
Owing to tax roll**

- 553(1)** A council may add the following amounts to the tax roll of a parcel of land:
- (a) unpaid costs referred to in section 35(4) or 39(2) relating to service connections of a municipal public utility that are owing by the owner of the parcel;
  - (b) unpaid charges referred to in section 42 for a municipal utility service provided to the parcel by a municipal public utility that are owing by the owner of the parcel;
  - (c) unpaid expenses and costs referred to in section 549(3), if the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or a part of the parcel;
  - (d), (e) repealed 1999 c11 s35;
  - (f) costs associated with tax recovery proceedings related to the parcel;
  - (g) if the municipality has passed a bylaw making the owner of a parcel liable for expenses and costs related to the municipality extinguishing fires on the parcel, unpaid costs and expenses for extinguishing fires on the parcel;
  - (g.1) if the municipality has passed a bylaw requiring the owner or occupant of a if the municipality has passed a bylaw requiring the owner or occupant of a parcel to keep the sidewalks adjacent to the parcel clear of snow and ice, unpaid expenses and costs incurred by the municipality for removing the snow and ice in respect of the parcel;
  - (h) Unpaid costs awarded by a composite assessment review board under section 468.1 or the Municipal Government Board under section 501, if the composite assessment review board or the Municipal Government Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the composite assessment review board or the Municipal Government Board
  - (h.1) the expenses and costs of carrying out an order under section 646;
  - (i) any other amount that may be added to the tax roll under an enactment.

**Stop order**

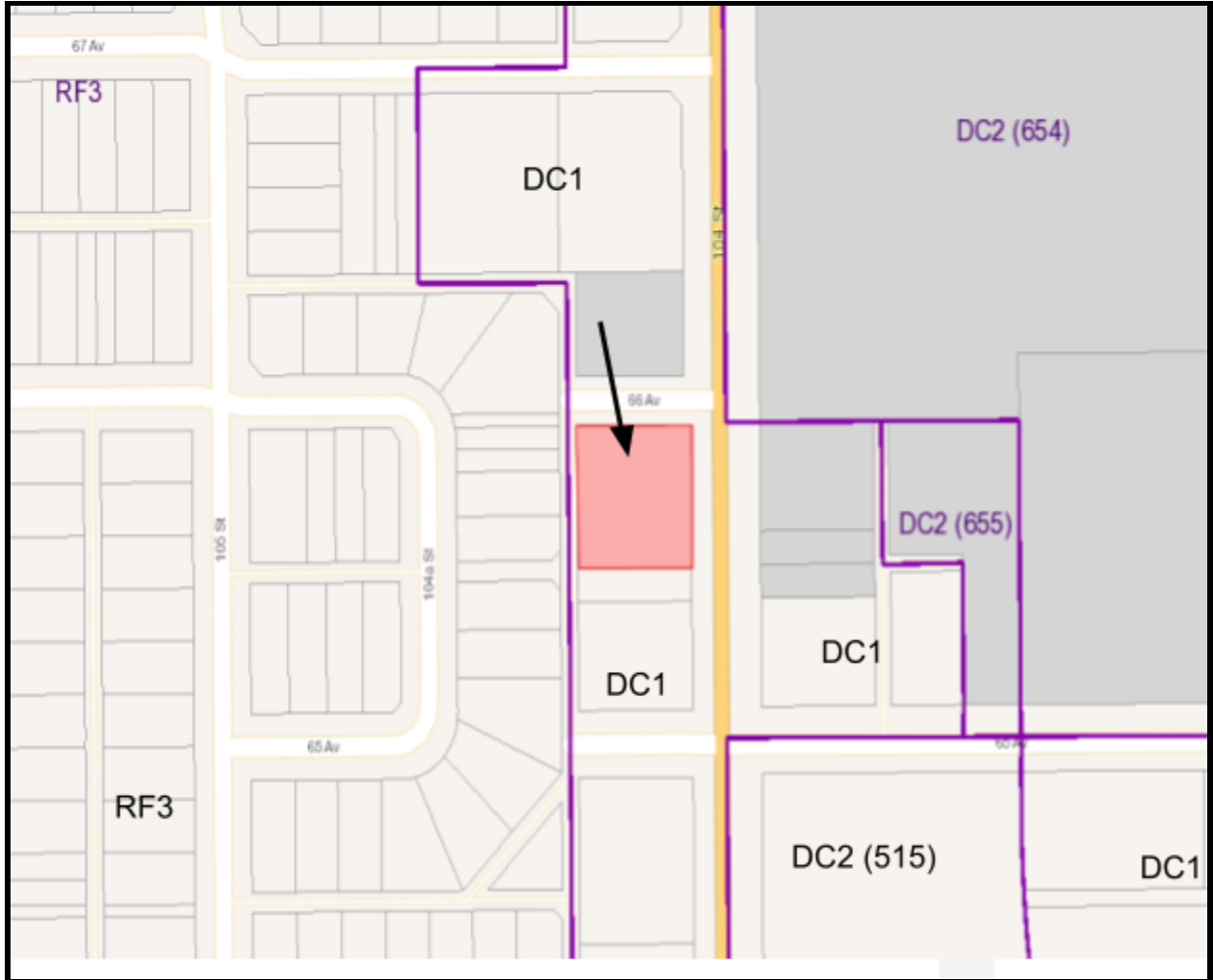
- 645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
- (a) this Part or a land use bylaw or regulations under this Part, or
  - (b) a development permit or subdivision approval,
- the development authority may act under subsection (2).
- (2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
  - (b) demolish, remove or replace the development, or
  - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,
- within the time set out in the notice.
- (2.1)** A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.
- (3)** A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

<b>Enforcement of stop order</b>	<p><b>646(1)</b> If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.</p> <p><b>(2)</b> A municipality may register a caveat under the Land Titles Act in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.</p> <p><b>(3)</b> If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.</p>
<b>Permit</b>	<p><b>683</b> Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.</p>
<b>Grounds for appeal</b>	<p><b>685(1)</b> If a development authority</p> <ul style="list-style-type: none"> <li>(a) fails or refuses to issue a development permit to a person,</li> <li>(b) issues a development permit subject to conditions, or</li> <li>(c) issues an order under section 645,</li> </ul> <p>the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.</p> <p><b>(2)</b> 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.</p> <p><b>(3)</b> Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted or the application for the development permit was deemed to be refused under section 683.1(8).</p> <p><b>(4)</b> Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district</p> <ul style="list-style-type: none"> <li>(a) is made by a council, there is no appeal to the subdivision and development appeal board, or</li> <li>(b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.</li> </ul>
<b>Appeals</b>	<p><b>686(1)</b> A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board</p> <ul style="list-style-type: none"> <li>(a) in the case of an appeal made by a person referred to in section 685(1) <ul style="list-style-type: none"> <li>(i) with respect to an application for a development permit, <ul style="list-style-type: none"> <li>(A) within 21 days after the date on which the written decision is given under section 642, or</li> <li>(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,</li> </ul> </li> </ul> </li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>(ii) with respect to an order under section 645, within 21 days after the date on which the order is made,</li> </ul>



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.
- (2)** The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
- (3)** The subdivision and development appeal board must give at least 5 days notice in writing of the hearing
  - (a) to the appellant,
  - (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
  - (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.
- (4)** The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
  - (a) the application for the development permit, the decision and the notice of appeal, or
  - (b) the order under section 645.
- (4.1)** Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).
- (5)** In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-126

▲  
**N**

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 409630418-002

APPLICATION TO: Change the Use of a General Retail Store to a Liquor Store and construct interior alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 26, 2021

DATE OF APPEAL: October 30, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6930 - 109 Street NW

LEGAL DESCRIPTION: Plan 587HW Blk 26 Lots D,E,F

ZONE: (CB1) Low Intensity Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: 109 Street Corridor Area Redevelopment Plan

***Grounds for Appeal***

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

Please accept this letter as an expression of our intent to appeal the Development Permit Decision (refusal) for DP 409630418-001. The purpose of this DP application was to change the use of the building from general retail to a liquor store and to renovate the interior to accommodate the liquor store. The property is zoned CB1 – Low Intensity Business Zone, with Liquor Stores falling under Discretionary Uses.

The Development Officer (DO) refused this DP application based on Section 85.4.d of the City of Edmonton Land Use Bylaw, which states that any Site containing a Liquor Store shall not be located less than 100 m from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Liquor Store. From site-to-site, Violet Archer Park (zoned AP) is approximately 21 m to the north-east of the site proposed for Liquor Store.

We believe that there are several factors that have to be considered when looking at the separation distance between the Violet Archer Park and the proposed Liquor Store. Looking at the site-to site distance alone will not give a fair assessment to the possibility of a Liquor store on this site.

The rationale of the appeal is that, factoring in the building orientation and the proximity of the site to two major roads 70 Avenue and 109 Street, the travel distance between the park and the liquor entrance meets the stipulated 100m. Other commercial uses and the onsite parking on the east side, act as a barrier between the park and the liquor store, making the liquor store invisible from the park, thereby eliminating the visual impacts that the shortfall in the distance would cause.

Liquor stores are a discretionary use within CB1- Low Intensity Business Zone and the proposed use meets all other requirements of the zoning bylaw except for the separation distance from a Community Recreational Service. A liquor store use on this site will not interfere with the use and enjoyment of neighbouring properties but will contribute to supporting local businesses and residents. We look forward to the opportunity to make our case further at the hearing.

<i>General Matters</i>
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**Appeal Information:**

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

**Grounds for Appeal**

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

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

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

...

(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 the decision in accordance with subsection (2.1).

### **Appeals**

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
  - (i) with respect to an application for a development permit,
    - (A) within 21 days after the date on which the written decision is given under section 642, or
    - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
  - or
  - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

### **Hearing and Decision**

**687(3)** In determining an appeal, the board hearing the appeal referred to in subsection (1)

...

- (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 clause (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;
- ...
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
  - (i) the proposed development would not
    - (A) unduly interfere with the amenities of the neighbourhood, or
    - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
  - and
  - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

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

Under section 330.3(16), a **Liquor Store** is a **Discretionary Use** in the **(CB1) Low Intensity Business Zone**.

Under section 7.4(30) **Liquor Stores** means “development used for the retail sale of any and all types of alcoholic beverages to the public for off-site consumption. This Use may include retail sales of related products such as soft drinks and snack foods.”

Section 340.1 states that the **General Purpose** of the **(CB1) Low Intensity Business Zone** is:

to provide for low intensity commercial, office and service uses, and limited Residential-related Uses located along arterial roadways that

border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

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

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

<b><i>Section 85 - Liquor Stores</i></b>
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1. Any Liquor Store shall not be located less than 500 m from any other Liquor Store.
2. Notwithstanding subsection 85(1), a Liquor Store may be located less than 500 m from any other Liquor Store if located:
  - a. outside the boundary shown in Appendix 1 to Section 85, provided:
    - i. the Liquor Stores are located on separate Sites, and
    - ii. at least one Liquor Store is located on a Site greater than 2.5 ha in size that is zoned CSCa, UVCa, GVC, TC-C, DC1, DC2, CSC, CB1, CB2, CHY, CO or CB3.
3. For the purposes of Section 85, the 500 m separation distance shall be measured from the closest point of the Liquor Store to the closest point of any other approved Liquor Store.
4. **Any Site containing a Liquor Store shall not be located less than 100 m from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Liquor Store. Sites that are greater than 2.0 ha in size and zoned either CSC or DC2, are exempt from this restriction. 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 or recreation activities" is limited to Community Recreation Services, as defined in subsection 7.8(1) of this Bylaw, which includes community league buildings and facilities, and children's playgrounds and play areas. This term does not include arenas or other

public assembly Uses, Child Care Services, Public Libraries and Cultural Exhibits, or Religious Assembly;

- c. the term "public or private education facilities" is limited to elementary through to high schools inclusive only, and does not include dance schools, driving schools or other Commercial Schools; and
  - d. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.**
5. Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 85(4).
  6. Notwithstanding Section 11 of this Bylaw, a Development Officer shall only grant a variance to subsection 85(1) or subsection 85(2) as outlined in subsections 85(7), 85(8) and 85(9).
  7. When the Development Officer receives an application for a Development Permit that is for the purpose of accommodating the temporary relocation of an approved Liquor Store within 500 m of its original location, a variance to subsection 85(1) or subsection 85(2) may be granted where:
    - a. the application for the Development Permit is for a Temporary Development, in order to limit the introduction of an additional Liquor Store within 500 m of the original approved Development Permit;
    - b. the temporary location for any Liquor Store is not within 500 m of any legally conforming Liquor Store; and
    - c. the application for a Development Permit will not result in a total Floor Area for a Liquor Store that is 10.0% greater than the Floor Area of the existing approved Liquor Store, to a maximum increase of 50 m<sup>2</sup>.
  8. When a Development Officer receives an application for a Development Permit that is for the purpose of accommodating the reversion of an existing approved Liquor Store back to its original location on a Site, a variance of subsection 85(1) or subsection 85(2) may only be granted where the application for the reversion is submitted to the Development Officer within 5 years of the date of vacating the original location and the application will not result in a total Floor Area that is greater than the original approved Liquor Store.
  9. The issuance of a Development Permit which contains a variance pursuant to subsection 85(7) shall be issued as a Temporary Development for a duration of up to 5 years or less, to be determined by the Development Officer.



10. The Development Officer may require lighting, signage or screening measures that ensure the proposed development is compatible with adjacent or nearby Residential Uses or Commercial Uses.
11. Liquor Stores shall include the following to allow for natural surveillance to promote safe surroundings:
  - a. Customer access is oriented to:
    - i. a public or internal roadway, other than a Lane;
    - ii. a shopping centre parking lot in front of the store; or
    - iii. a mall access that allows visibility from the interior of the mall into the store.
  - b. Premises located at ground level shall include:
    - i. Ample transparency to maintain sight lines into and out of the premises. To ensure transparency and sight lines are maintained:
      1. Not more than 10% of the windows may be covered by Signs, the remainder shall be clear, untinted, and free from obstruction.
    - ii. Outdoor lighting is required to provide a well-lit environment for pedestrians entering and exiting the premises and to illuminate the property. The Development Officer shall require the applicant to provide a plan showing the location and details of perimeter lighting to ensure adequate lighting.
    - iii. Landscaping shall be located such that it does not obstruct sight lines into the premises.

**Development Officer's Determination**

**1. Section 85.4.d : Any Site containing a Liquor Store shall not be located less than 100 m from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Liquor Store.**

**Violet Archer Park**

**Proposed: 21 m**

**Required: 100 m**

**Deficient: 79 m**

[unedited]

***Previous Subdivision and Development Appeal Board Decisions***



<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
SDAB-D-21-145	To change the Use from a General Retail Store to Cannabis Retail Sales and construct interior alterations.	September 16, 2021; The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The development is GRANTED as applied for to the Development Authority, subject to CONDITIONS.

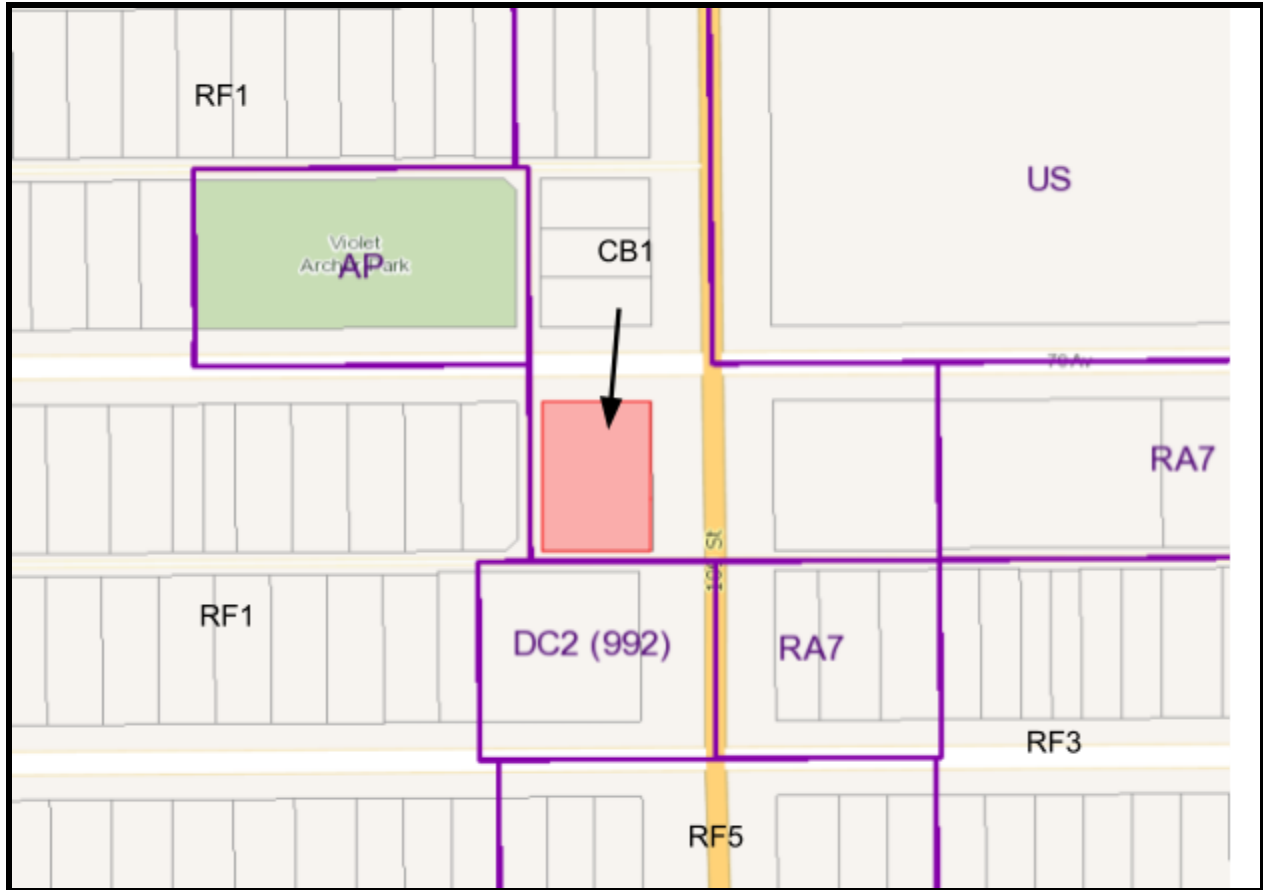
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Notice to Applicant/Appellant

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

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	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: <b>409630418-002</b> Application Date: SEP 27, 2021 Printed: October 26, 2021 at 4:01 PM Page: 1 of 1																				
This document is a Development Permit Decision for the development application described below.																						
<b>Applicant</b>  EINS CONSULTING 	<b>Property Address(es) and Legal Description(s)</b> 6930 - 109 STREET NW Plan 587HW Blk 26 Lots D,E,F  <b>Specific Address(es)</b> Suite: 6930 - 109 STREET NW Entryway: 6930 - 109 STREET NW Building: 6950 - 109 STREET NW																					
<b>Scope of Application</b> To change the Use of a General Retail Store to a Liquor Store and construct interior alterations.																						
<b>Permit Details</b>  <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:                              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: Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)																		
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<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Oct 26, 2021 <b>Development Authority:</b> CHOW, STEPHEN  <b>Reason for Refusal</b> 1. Section 85.4.d : Any Site containing a Liquor Store shall not be located less than 100 m from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Liquor Store.  Violet Archer Park Proposed: 21 m Required: 100 m Deficient: 79 m  <b>Rights of Appeal</b> The Applicant has the right of appeal to the Subdivision and Development Appeal Board (SDAB) within 21 days after the date on which the decision is made as outlined in Chapter M-26, Section 683 through 689 of the Municipal Government Act.																						
<b>Fees</b> <table style="width: 100%; border: none; margin-top: 10px;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right; font-weight: normal;">Fee Amount</th> <th style="text-align: right; font-weight: normal;">Amount Paid</th> <th style="text-align: right; font-weight: normal;">Receipt #</th> <th style="text-align: right; font-weight: normal;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$528.00</td> <td style="text-align: right;">\$528.00</td> <td style="text-align: right;">07307112</td> <td style="text-align: right;">Oct 01, 2021</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;">\$528.00</td> <td style="text-align: right; border-top: 1px solid black;">\$528.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$528.00	\$528.00	07307112	Oct 01, 2021	Total GST Amount:	\$0.00				Totals for Permit:	\$528.00	\$528.00		
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<b>THIS IS NOT A PERMIT</b>																						



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-21-189

▲  
**N**