

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
October 24, 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-18-173

To construct exterior alterations to a Single Detached House (remove translucent window treatment on the main floor) and to construct a side landing (3.2.8 metres by 1.02 metres at 0.98 metres in Height), existing without permits

10937 - 130 Street NW
Project No.: 225805726-018

II 10:30 A.M. SDAB-D-18-174

To construct a Single Detached House with rear attached Garage, Basement development (NOT to be used as an additional Dwelling), covered rear deck (3.66 metres by 4.88 metres), fireplace, veranda (7.32 metres by 2.0 metres/ 3.81 metres)

9831 - 143 Street NW
Project No.: 260998990-001

III 1:30 P.M. SDAB-D-18-175

To change the Use from General Retail Stores to a Cannabis Retail Sales

12120 - Jasper Avenue NW
Project No.: 286660760-001

NOTE: *Unless otherwise stated, all references to “section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-18-173

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 225805726-018

APPLICATION TO: Construct exterior alterations to a Single Detached House (remove translucent window treatment on the main floor) and to construct a side landing (3.2.8 metres by 1.02 metres at 0.98 metres in Height), existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 13, 2018

DATE OF APPEAL: September 30, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10937 - 130 Street NW

LEGAL DESCRIPTION: Plan 1623224 Blk 2 Lot 22

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

Recently we were advised by the City of Edmonton Development Services that an application (225805726-018) "To construct exterior alterations to a Single Detached House (remove approved translucent window treatment on the main floor, existing as the window is currently translucent) and to construct a side landing, (existing without permits)" has been refused.

As owners of the property in question, we would like to appeal this decision.

We purchased this property from another owner on May 1, 2018 and took legal possession on July 2, 2018. Prior to purchase and possession we completed our due diligence and sought and received title and compliance certificates. The City of Edmonton issued the Compliance Certificate Report on November 23, 2017. This report did not indicate that either of the issues now denied by the city were non-compliant with any city bylaws or the development permits (see attachment #1). The Title Report dated July 7, 2018 also makes no mention of any compliance issues (see attachment #2). Both of these documents formed part of the basis for why we purchased this property as opposed to others at our disposal.

On August 13, 2018 (six weeks after possession) we received notice, by mail, that an application had been made to change approved frosted windows to unfrosted windows. The window in question was installed and was unfrosted at the time of purchase. This application was not made by us, nor with our consent or knowledge. We engaged both the city and the residents of the abutting property in order to find a suitable solution that addressed their issues and the safety and security risks that frosting would create. We proposed two separate potential solutions (up-down blinds in our windows, and the installation of a privacy screen on the fence), both of which were denied by the neighbors (see attachments #3 and #4). On September 10, 2018 we were advised by the City that an application to build a side landing with stairs at our side entrance was added to the window application after the application was submitted. Again, this addition was not made by us or with our consent and we were not advised that it had occurred. We were never given any opportunity to submit comments regarding the application to build the side landing and stairs (it was never sent to public for comment). Also on September 10, 2018, we were advised by the city that both applications were refused.

Although Development Services of the City of Edmonton, without advising us, the homeowners, joined two separate issues into one application, we view these as two separate and distinct decisions to be appealed and would like to address them separately.

Regarding the application to change the approved frosted window to unfrosted (as it is currently), we would like to appeal the decision on the following grounds:

1. The current placement of the window is consistent with the Mature Neighbourhood Overlay. The window in our property is offset 18 inches from a small window (approximately 24 inches wide) in the abutting property (See attachments #5 and #6). From a practical standpoint, the line of sight from our property does not view into or overlook a habitable space or room as defined in the Mature Neighbourhood Overlay. The window in the abutting property is immediately perpendicular to the entrance of a closet. Due to the offset of the windows in each property, the line of sight is through a small corner of a considerable larger room to the closet door. The Mature Neighbourhood Overlay defines a non-habitable room as space in a dwelling providing a service function and not intended primarily for human occupancy, including bathrooms, entry ways, corridors, or storage areas. As such, the window in the abutting property should be considered a Non-habitable Room Window or Non-

required Habitable Room Window. According to Bylaw 12800, section 48.4, a Non-habitable Room Window in a two storey dwelling, requires a separation space of 1.5 metres. The current separation space between the properties exceeds 2.4 metres.

2. Requiring frosting to the window presents a serious safety and security risk. This is a family home and we have three children. The only way to see if a person, animal or blockage is outside our side entrance door is through this window. The two are adjacent one another. No other window in our property has line of sight to see what may be outside the door. It is important during an emergency situation (fire, burglary, unknown disturbance or other), to be able to determine if a danger is present or if safe egress is possible by exiting that door. The only way to do that is by looking out the window in question. This needs to be possible by both adults and children and is of particular concern when our children are home alone. Frosting would completely prevent this and make it impossible to view who or what may be at the entrance door.

The negligible impact on privacy of being able to view a small corner of a large room and a closet door does not outweigh the more considerable impact on safety and security window frosting would entail. Because of the offset of the window and the fact only a non-habitable space is viewable, allowing the variance does not materially interfere or affect the enjoyment or value of the abutting property. However, denying it does present safety issues for residents in our property. As previously proposed, this is a problem easily solved through the use of blinds in either or both properties.

Regarding the application to build a side landing (existing without permits), we would like to appeal the decision on the following grounds:

1. The City of Edmonton Development Services have confirmed that the house is properly situated on the property (see Attachment #7). The city approved the design of the property which shows a side elevation which would require steps to reach ground level (see Attachment #8). It is 40 inches from the threshold of the door to the ground (see Attachment #9). The stairs currently in place are 36 inches wide (see Attachment #10). In order to reduce the width of the stairs to allow a 0.6 metre setback the stairs would need to be 20 inches wide at a maximum and include a handrail due to a height above 24 inches. This would leave approximately 18 inches for stair width which is not allowable under the Alberta Building Code which requires a width of nearly 34 inches for exterior stairs (see Attachment #11). The current configuration is the only conceivable option to allow safe egress from the door. Again as this is a family residence, appropriate stairs are required for normal and emergency use by adults, our children and our elderly parents.
2. The stairs which provide egress from the side door are situated in between the residences in a narrow space that is rarely used by the neighbours (see Attachment #12). The space adjacent to the current stairs is not an outdoor amenity area, nor close to or overlooking any outdoor amenity area and is not a passageway to any other part of the

abutting property. The Mature Neighbourhood Overlay defines an outdoor amenity area as a “space provided for the active or passive recreation and enjoyment of the occupant” which is not this pace or any space close to it or viewable from it.

As the City of Edmonton approved the placement of the house on the lot and the elevation of the house which requires stairs form the door (which need to be consistent with the building code), coupled with the fact that the stairs have no material or perceived impact on an amenity area, we feel the decision to refuse the application is unwarranted and contradictory to the city’s own previous approvals and present a safety risk to our family.

Thank you for your consideration to this appeal.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

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

Under section 7.2(8), **Single Detached Housing** means:

development consisting of a building containing one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

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.

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is to:

to regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

<p><i>Design and Placement of Window</i></p>
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Section 814.3(8) states where an interior Side Setback is less than 2.0 metres,

- a. the applicant shall provide information regarding the location of side windows of the Dwellings on the Abutting properties and Amenity Areas on Abutting properties;
- b. the side windows of the proposed Dwelling shall be located to reduce overlook into Amenity Areas of the Abutting properties; and
- c. the proposed Dwelling shall incorporate design techniques, such as, but not limited to, translucent window treatment, window location, raised windows, or Privacy Screening, to reduce direct line of sight into the windows of the Dwelling on the Abutting property.

Development Officer's Determination

1. **Design and Placement of Window - The side windows of the proposed Dwelling overlook into the Abutting property. (Section 814.3.8) [unedited]**

<i>Projection</i>

Section 814.3(3)(a) states the following with respect to Side Setbacks: “where the Site Width is 12.0 m or less, the minimum required setback shall be 1.2 m.”

Section 44.1 states:

The following features may project into a required Setback or Separation Space as provided for below:

- a. verandas, porches, eaves, shade projections, unenclosed steps, chimneys, belt courses, sills, together with any other architectural features which are of a similar character, provided such projections do not exceed 0.6 m in the case of Setbacks or Separation Spaces of 1.2 m or greater. Where unenclosed steps extend into Side Setbacks, such steps shall not exceed a Height of 1.0 m;
- b. Notwithstanding subsection 44.2(a), unenclosed steps, including a landing 1.5 m² or less, may project into a required Setback, provided:
 - i. the unenclosed steps or landing provide access to the main floor or lower level of the building;
 - ii. the unenclosed steps or landing do not exceed a Height of 1.0 m above finished ground level;
 - iii. a minimum of 0.15 m between the structure and the property line at ground level remains unobstructed to provide drainage; and
 - iv. at the discretion of the Development Officer, Privacy Screening is provided to prevent visual intrusion into the Abutting property.
- c. Notwithstanding subsection 44.2(a) or 44.2(b):
 - i. Platform Structures and unenclosed steps, including landings, shall not project into a required Setback used for vehicular access; and
 - ii. ...

Development Officer’s Determination

2. Projection – The distance from the side landing to the side property line abutting 10933 – 130 Street NW is 0.2m, instead of 0.6m. (Section 44.1(a)) [unedited]

Community Consultation

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) and 814.3(9) of this Overlay:


- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit Application in accordance with Sections 11.2 and 11.3.

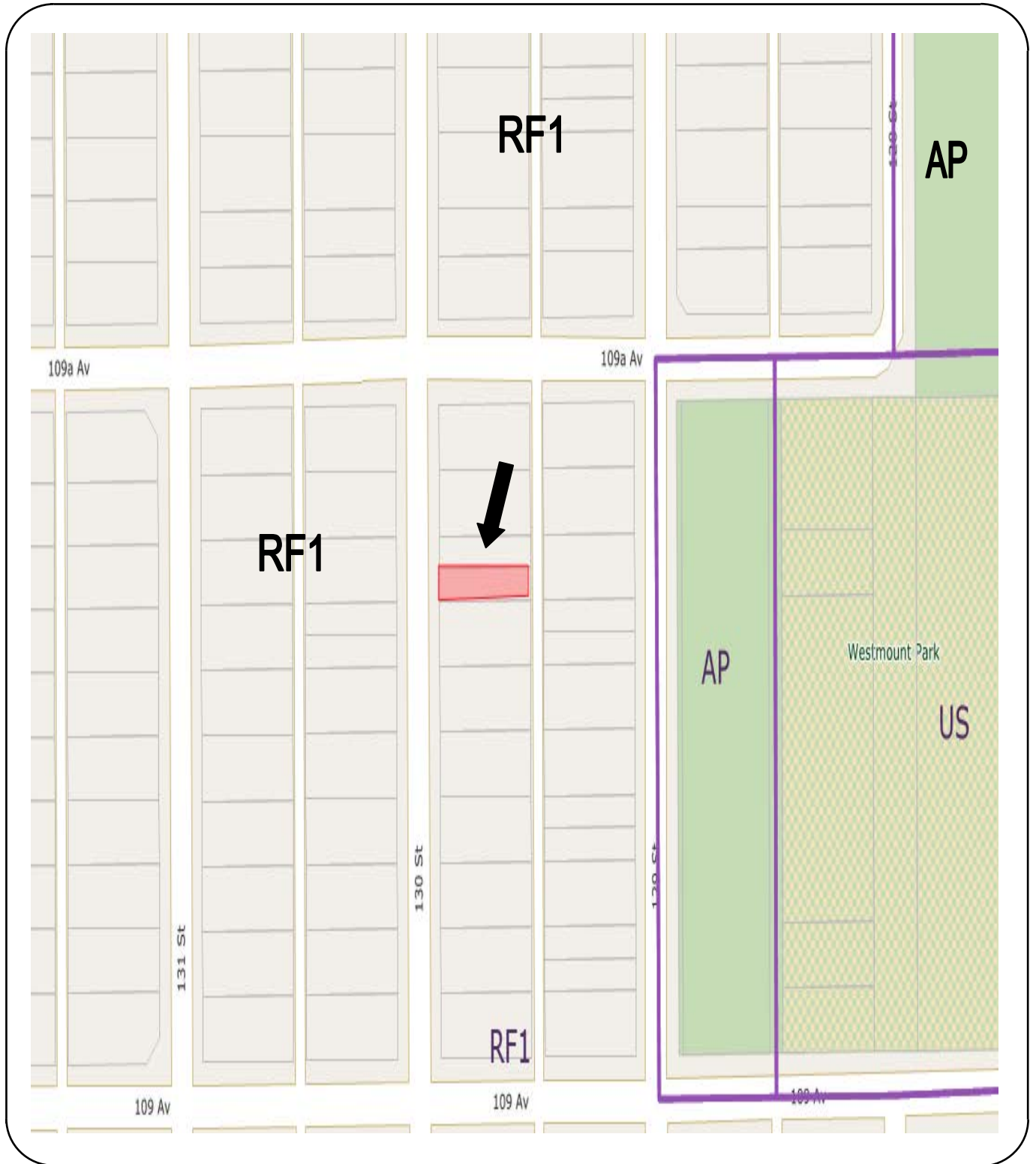
Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 3	The municipal address and assessed owners of the land Abutting the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site of the proposed development	814.3(8) – Side Setbacks and Privacy

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: 225805726-018 Application Date: MAY 17, 2018 Printed: September 13, 2018 at 9:48 AM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Minor Development Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
Applicant	Property Address(es) and Legal Description(s) 10937 - 130 STREET NW Plan 1623224 Blk 2 Lot 22																				
Scope of Application To construct exterior alterations to a Single Detached House (remove translucent window treatment on the main floor) and to construct a side landing (3.2.8m x 1.02m @0.98m in Height), existing without permits).																					
Permit Details																					
# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Exterior Alterations (Res.) Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay																				
I/We certify that the above noted details are correct. Applicant signature: _____																					
Development Application Decision Refused Issue Date: Sep 13, 2018 Development Authority: LAI, ECHO Reason for Refusal 1. Design and Placement of Window - The side windows of the proposed Dwelling overlook into the Abutting property. (Section 814.3.8) 2. Projection – The distance from the side landing to the side property line abutting 10933 – 130 Street NW is 0.2m, instead of 0.6m. (Section 44.1(a)) 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-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$170.00</td> <td style="text-align: right;">\$170.00</td> <td style="text-align: right;">05029572</td> <td style="text-align: right;">May 17, 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;">\$170.00</td> <td style="text-align: right; border-top: 1px solid black;">\$170.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$170.00	\$170.00	05029572	May 17, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$170.00	\$170.00		
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Total GST Amount:	\$0.00																				
Totals for Permit:	\$170.00	\$170.00																			
THIS IS NOT A PERMIT																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-173



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-174

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 260998990-001

APPLICATION TO: Construct a Single Detached House with rear attached Garage, Basement development (NOT to be used as an additional Dwelling), covered rear deck (3.66 metres by 4.88 metres), fireplace, veranda (7.32 metres by 2.0 metres/ 3.81 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 24, 2018

DATE OF APPEAL: October 2, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9831 - 143 Street NW

LEGAL DESCRIPTION: Plan 5109HW Blk 137 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:

Hello
I'm preparing supporting documents sand will be attaching them shortly

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

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

Under section 7.2(8), **Single Detached Housing** means:

development consisting of a building containing one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

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.

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is to:

to regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Rear Setback

Section 814.3(4) states "the minimum Rear Setback shall be 40% of Site Depth."

Development Officer's Determination

The minimum Rear Yard shall be 17.7m. (Reference Section 814.3.4)

**Proposed: 15.0m
Deficient by: 2.7m**

Attached Garage

Section 814.3(19) states "Rear attached Garages shall not be allowed."

Development Officer's Determination

Attached Garage - The application proposes a rear attached garage instead of a detached garage (Section 814.3.19).

Side Setbacks

Section 814.3(3)(b) states "where a Site Width is greater than 12.0 m and less than 18.3 m, the Side Setback requirements of the underlying Zone shall apply."

Section 110.4(11)(a) states "Side Setbacks shall total at least 20% of the Site Width, with a minimum Side Setback of 1.2 m on each side."

Development Officer's Determination

Side Yards shall total at least 20% of the site width. (Reference Section 110.4(11)(a))

**Proposed: 2.46m
Deficient by: 0.59m**

Projection

Section 44.2 states:

The following features may project into a required Setback or Separation Space as provided for below:

- a) windows, or cantilevered projections without windows, provided that such projections do not exceed 0.6 metres in the case of Setbacks or Separation Spaces. In all cases, a minimum distance of 0.6 metres from the property line to the outside wall of such projection and all other portions of a Dwelling, including eaves, shall be maintained; and
- b) where a cantilevered projection as specified in subsection 44(2)(a) above is proposed in a Side Setback, the length of any one projection shall not exceed a wall opening length of 3.1 m. In the case of more than one projection, the aggregate total shall not exceed one third of the length of that house side wall excluding attached Garage walls. In the case of a Corner Lot, this restriction is applicable only to the interior Side Setback and not the flanking Side Setback. This restriction shall not apply to projections into the Front or Rear Setback.

Development Officer's Determination**Projection into required Side Yards (Reference Section 44.2(a))**

Proposed: 0.9m

Deficient by: 0.3

The maximum length of a Projection into a required Side Yard is 3.1m (Reference Section 44.2(b))

Proposed: 10.82m and 15.90m

Exceeds by: 7.72m and 12.8m

Community Consultation

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) and 814.3(9) of this Overlay:


- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit Application in accordance with Sections 11.2 and 11.3.

Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 2	The municipal address and assessed owners of the land Abutting the Site, directly adjacent across a Lane from the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site and directly adjacent across a Lane from the Site of the proposed development	814.3(4) – Rear Setback 814.3(19) – Rear Attached Garage
Tier 3	The municipal address and assessed owners of the land Abutting the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site of the proposed development	814.3(3) – Side Setbacks

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: 260998990-001 Application Date: AUG 31, 2017 Printed: October 2, 2018 at 1:07 PM Page: 1 of 2		
<h2 style="margin: 0;">Application for House Development and Building Permit</h2>			
<p>This document is a record of a Development Permit and/or Building Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended, Safety Codes Act RSA 2000, Safety Codes Act Permit Regulation, Alberta Building Code and City of Edmonton Bylaw 15894 Safety Codes Permit Bylaw.</p>			
Applicant	Property Address(es) and Legal Description(s) 9831 - 143 STREET NW Plan 5109HW Blk 137 Lot 4 Location(s) of Work Suite: 9831 - 143 STREET NW Entryway: 9831 - 143 STREET NW Building: 9831 - 143 STREET NW		
Scope of Application To construct a Single Detached House with rear attached Garage, Basement development (NOT to be used as an additional Dwelling), covered rear deck (3.66m x 4.88m), fireplace, veranda (7.32m x 2.0m/ 3.81m)			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Affected Floor Area (sq. ft.): 2316 Class of Permit: Class B Front Yard (m): 10.37 Rear Yard (m): 14.99 Side Yard, left (m): 1.53 Site Area (sq. m.): 675.1 Site Width (m): 15.25 </td> <td style="width: 50%; border: none; vertical-align: top;"> Building Height to Midpoint (m): 5.84 Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included?: N Side Yard, right (m): 1.53 Site Depth (m): 44.27 Stat. Plan Overlay/Annex Area: </td> </tr> </table>		Affected Floor Area (sq. ft.): 2316 Class of Permit: Class B Front Yard (m): 10.37 Rear Yard (m): 14.99 Side Yard, left (m): 1.53 Site Area (sq. m.): 675.1 Site Width (m): 15.25	Building Height to Midpoint (m): 5.84 Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included?: N Side Yard, right (m): 1.53 Site Depth (m): 44.27 Stat. Plan Overlay/Annex Area:
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I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused Issue Date: Sep 24, 2018 Development Authority: BAUER, KERRY			
THIS IS NOT A PERMIT			



Project Number: **260998990-001**
 Application Date: AUG 31, 2017
 Printed: October 2, 2018 at 1:07 PM
 Page: 2 of 2

Application for House Development and Building Permit

Reason for Refusal

- A. The minimum Rear Yard shall be 17.7m. (Reference Section 814.3.4)
 Proposed: 15.0m
 Deficient by: 2.7m

- B. Attached Garage - The application proposes a rear attached garage instead of a detached garage (Section 814.3.19).

- C. Side Yards shall total at least 20% of the site width. (Reference Section 110.4(11)(a))
 Proposed: 2.46m
 Deficient by: 0.59m

- D. Projection into required Side Yards (Reference Section 44.2(a))
 Proposed: 0.9m
 Deficient by: 0.3

- E. The maximum length of a Projection into a required Side Yard is 3.1m (Reference Section 44.2(b))
 Proposed: 10.82m and 15.90m
 Exceeds by: 7.72m and 12.8m

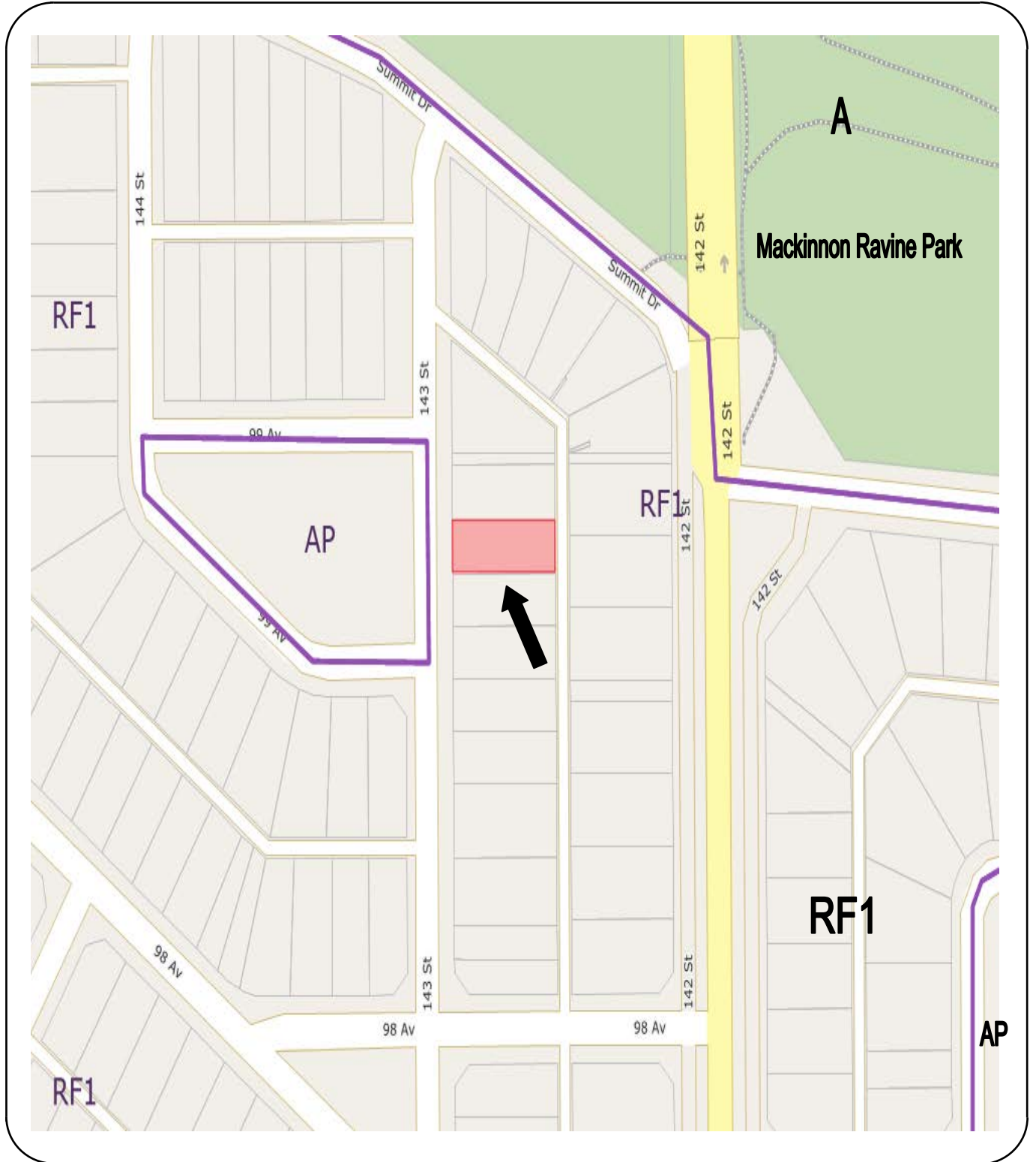
Rights of Appeal

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

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Water Usage Fee	\$60.50	\$60.50	04419217	Aug 31, 2017
Electrical Fees (House)	\$304.00	\$304.00	04419217	Aug 31, 2017
Electrical Fee (Service)	\$79.00	\$79.00	04419217	Aug 31, 2017
Building Permit Fee	\$2,059.00	\$2,059.00	04419217	Aug 31, 2017
Safety Codes Fee	\$82.36	\$82.36	04419217	Aug 31, 2017
Lot Grading Fee	\$140.00	\$140.00	04419217	Aug 31, 2017
Electrical Safety Codes Fee	\$16.66	\$16.66	04419217	Aug 31, 2017
Development Permit Inspection Fee	\$0.00	\$200.00	04419217	Aug 31, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,741.52	\$2,941.52		
(overpaid by (\$200.00))				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-174



ITEM III: 1:30 P.M.

FILE: SDAB-D-18-175

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 286660760-001

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

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 14, 2018

DATE OF APPEAL: September 24, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12120 - Jasper Avenue NW

LEGAL DESCRIPTION: Plan 1225U Lots1-4

ZONE: (CB3) Commercial Mixed Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: Oliver Area Redevelopment Plan

Grounds for Appeal

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

The Appellant respectfully appeals the decision of the development officer on the following grounds:

(a) The proposed development represents a permitted use on the subject lands (Commercial Mixed Business Zone (CB3) – s. 370.2(4), Edmonton Zoning Bylaw).

(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 “public lands” (Grant Notley Park) is a passive area as it is not used for community or recreation activities. There are no playing fields or playgrounds for the public to use.

(d) Furthermore, the proposed development is sufficiently separated from the “public lands”:

(i)The “public lands” are not visible from the proposed development and the proposed development is not visible from the “public lands”.

(ii)There are at least six (6) lanes of arterial roadway (Jasper Avenue), buildings and another two (2) lanes of arterial roadway (100 Avenue NW) separating the proposed development and the “public lands”.

(e) 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.

(f) 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
- (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 370.2(4), **Cannabis Retail Sales** is a **Permitted Use** in the (CB3) Commercial Mixed 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 370.1 states that the **General Purpose** of the (CB3) **Commercial Mixed Business Zone** is:

to create a mixed-use zone to provide for a range of medium intensity Commercial Uses as well as enhance opportunities for residential

development in locations near high capacity transportation nodes, including Transit Avenues or other locations offering good accessibility. This Zone is not intended to accommodate "big box" style commercial development that utilizes significant amounts of surface parking, nor is it intended to be located abutting any Zone that allows Single Detached Housing as a Permitted Use, without appropriate site interface provisions.

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.

<i>Section 70 - Cannabis Retail Sales regulations</i>
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1. Any Cannabis Retail Sales shall not be located less than 200 m from any other Cannabis Retail Sales. For the purposes of this subsection only:
 - a. the 200 m separation distance shall be measured from the closest point of the Cannabis Retail Sales Use to the closest point of any other approved Cannabis Retail Sales Use;
 - b. A Development Officer shall not grant a variance to reduce the separation distance by more than 20 m in compliance with Section 11; and
 - c. The issuance of a Development Permit which contains a variance to separation distance as described in 70(1)b shall be issued as a Class B Discretionary Development.
2. Any Site containing a Cannabis Retail Sales shall not be located less than 200 m from any Site being used for a public library, or for public or private education at the time of the application for the Development Permit for the Cannabis Retail Sales. For the purposes of this subsection only:
 - a. the 200 m separation distance shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;
 - b. the term "public library" is limited to the collection of literary, artistic, musical and similar reference materials in the form of books, manuscripts, recordings and films for public use, and does not include private libraries, museums or art galleries; and

- c. the term "public or private education" is limited to elementary through to high schools inclusive only, and does not include dance schools, driving schools or other Commercial Schools.
3. **Any Site containing a Cannabis Retail Sales shall not be located less than 100 m from any Site being used for Community Recreation Services Use, a community recreation facility, a provincial health care facility, as public lands, or any Site that is designated as school reserve or municipal and school reserve at the time of the application for the Development Permit for the Cannabis Retail Sales. For the purposes of this subsection only:**
 - a. **the 100 m separation distance shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;**
 - b. the term "community recreation facilities" means indoor municipal facilities used primarily by members of the public to participate in recreational activities conducted at the facilities, as per the Municipal Government Act; and
 - c. **the term "public lands" is limited to Sites zoned AP, and Sites zoned A.**
4. **Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 70(2) or 70(3).**
5. Cannabis Retail Sales shall include design elements that readily allow for natural surveillance to promote a safe urban environment, where applicable and to the satisfaction of the development officer, including the following requirements:
 - a. customer access to the store is limited to a store front that is visible from the street other than a Lane, or a shopping centre parking lot, or a mall access that allows visibility from the interior of the mall into the store;
 - b. the exterior of all stores shall have ample transparency from the street;
 - c. Any outdoor lighting shall be designed to ensure a well-lit environment for pedestrians and illumination of the property; and
 - d. Landscaping shall be low-growing shrubs or deciduous trees with a high canopy at maturity to maintain natural surveillance.
6. The Development Officer shall impose a condition on any Development Permit issued for Cannabis Retail Sales requiring that the development:

- a. shall not commence until authorized by and compliant with superior legislation; and
 - b. must commence within nine (9) months of the date of approval of the Development Permit.
7. For the purposes of Section 70(6), development commences when the Cannabis Retail Sales Use is established or begins operation.

Development Officer's Determination

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

Required Setback: 100 m


Proposed Setback: 80 m

Deficient by 20 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.

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: 286660760-001 Application Date: JUL 04, 2018 Printed: September 25, 2018 at 12:18 PM Page: 1 of 2			
<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) 12120 - JASPER AVENUE NW Plan 1225U Lot 4 12120 - JASPER AVENUE NW Plan 1225U Lots 3-4 12120 - JASPER AVENUE NW Plan 1225U Lot 3 12120 - JASPER AVENUE NW Plan 1225U Lots 1-2			
	Specific Address(es) Building: 12120 - JASPER AVENUE NW			
Scope of Application To change the use from General Retail Stores to a Cannabis Retail Sales.				
Permit Details				
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: Main Street Overlay			
I/We certify that the above noted details are correct. Applicant signature: _____				
Development Application Decision Refused Issue Date: Sep 14, 2018 Development Authority: WELCH, IMAI Reason for Refusal The proposed Cannabis Retail Store does not comply with the minimum setback requirement from public lands (Grant Notley Park) (Section 70.3): Required Setback: 100 m Proposed Setback: 80 m Deficient by 20 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				
	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$5,600.00	\$5,600.00	05158035	Jul 04, 2018
THIS IS NOT A PERMIT				



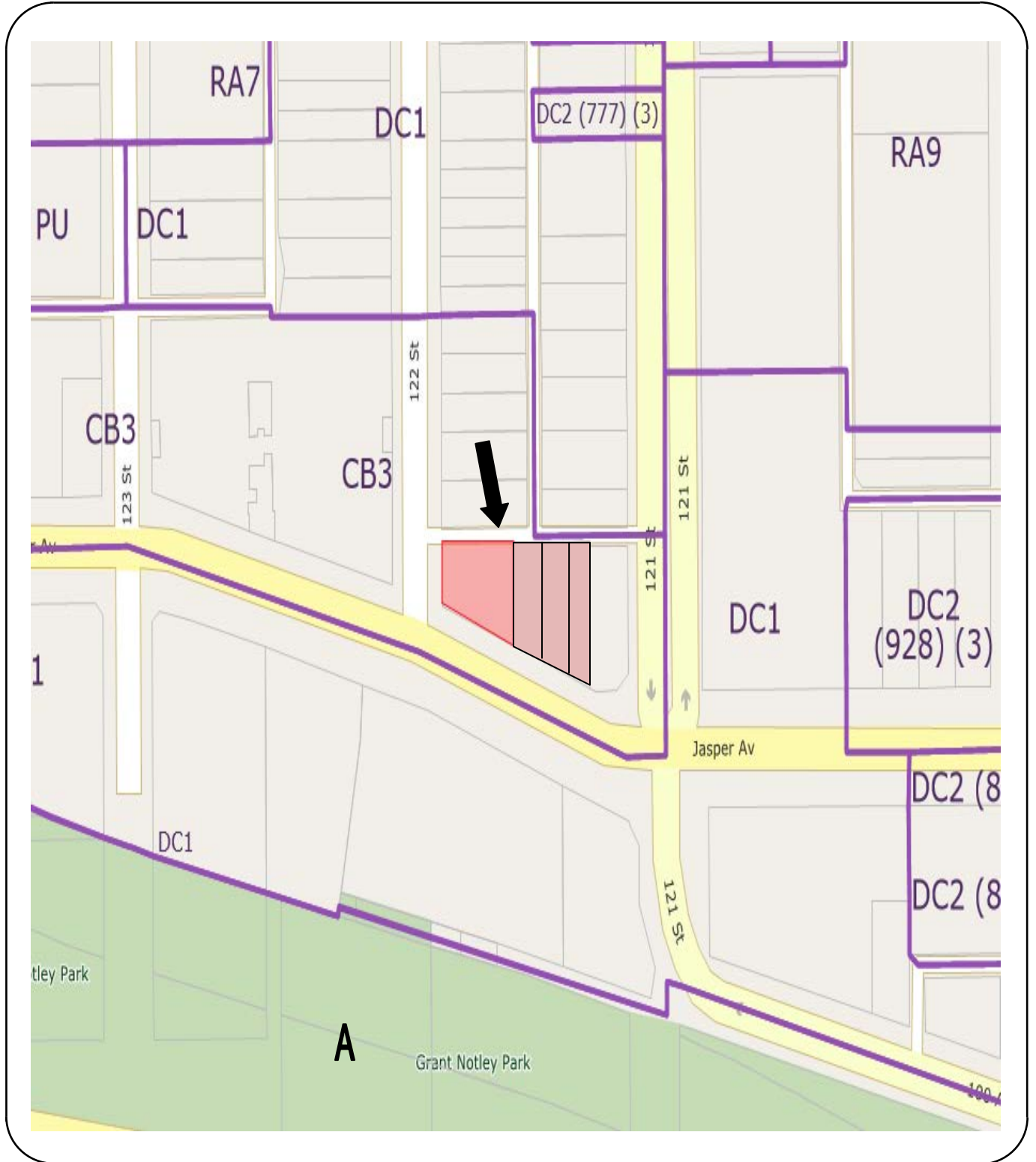
Application for Major Development Permit

Project Number: **286660760-001**
Application Date: JUL 04, 2018
Printed: September 25, 2018 at 12:18 PM
Page: 2 of 2

Fees

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

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-175

