

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
October 4, 2018**

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

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

TO BE RAISED

I 9:00 A.M. SDAB-D-18-129

Install (1) Minor Digital On-premises Off-
premises Freestanding Sign (Edmonton Truck &
Auto)

14211 – Mark Messier Trail NW
Project No.: 278508526-001

II 1:30 P.M. SDAB-D-18-160

Change the Use from a General Retail Store to
Cannabis Retail Sales

4202 - 66 Street NW
Project No.: 286892371-001

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

TO BE RAISED

ITEM I: 9:00 A.M.

FILE: SDAB-D-18-129

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 278508526-001

APPLICATION TO: Install (1) Minor Digital On-premises Off-premises Freestanding Sign (Edmonton Truck & Auto)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 16, 2018

DATE OF APPEAL: August 2, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 14211 - Mark Messier Trail NW

LEGAL DESCRIPTION: Plan 4577TR Lot 7A

ZONE: DC2-Site Specific Development Control Provision (384)

OVERLAY: N/A

STATUTORY PLAN: Rampart Industrial Area Structure Plan

Grounds for Appeal

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

Complaints about the brightness of the sign have been addressed by installing new light sensors that will prevent similar issues. The Freestanding "The Station Liquor Cellar" sign which is located on the same property existed when the subject sign was previously approved at the SDAB hearing and the subject sign was not deemed to have a negative impact on the appearance of the site at the time of SDAB approval. There have not been any safety incidents noted with the subject sign in the 5 years it has existed. The subject sign is located on a service road and not on Mark Messier Trail which should be considered in regards to setback. The subject sign contains both an on premises and off premises component which is preferable to two separate sign structures.

Refusal of the permit will require the property owner to incur additional expense to manufacture and erect a new sign to advertise the business on site.

General Matters

The Subdivision and Development Appeal Board made and passed the following motion on August 29, 2018:

“That SDAB-D-18-118 be TABLED to October 3 or 4, 2018, at the written request of legal counsel for the Appellant and with the consent of the Development Officer.”

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

685(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

- (a) ...

- (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.

Section 2 of the *Edmonton Zoning Bylaw* concerning Repeal, Enactment and Transition Procedures states the following:

2.4 Subject only to the provisions in the Municipal Government Act respecting legal non-conforming Uses and notwithstanding the effect it may have on rights, vested or otherwise, the provisions of this Bylaw govern from the Effective Date onward. In particular, no application for a Development Permit shall be evaluated under the procedural or substantive provisions of the previous land use bylaw after the Effective Date, even if the application was received before the Effective Date.

...

2.6 Any Direct Control Districts that were in effect immediately prior to the Effective date are hereby deemed to continue in full force and effect and are hereby incorporated into Part IV of this Bylaw.

2.7 Unless there is an explicit statement to the contrary in a Direct Control District or Provision, any reference in a Direct Control District or Direct Control Provision to a land use bylaw shall be deemed to be a reference to the land use bylaw that was in effect at the time of the creation of the Direct Control District or Provision.

At the time of the creation of the subject Direct Control Site, the *City of Edmonton Land Use Bylaw 5996* was in effect. An Alberta Court of Appeal decision in *Parkdale-Cromdale Community League Association v. Edmonton (City)*, 2007 ABCA 309 concluded that section 2.7 of the *Edmonton Zoning Bylaw* only applies if there is an express cross-reference in a Direct Control Bylaw passed before 2001 to a provision of the old *Land Use Bylaw*. In the absence of an express reference in the Direct Control Bylaw to the *Land Use Bylaw 5996*, it does not prevail over section 2.4 of the *Edmonton Zoning Bylaw*.

General Provisions from the DC2 – Site Specific Development Provision (“DC2”) and the Land Use Bylaw 5996 (“Land Use Bylaw”):

Section DC2.384 states a **Minor Digital On-premises Off-premises Sign** is a **Discretionary Use (Class C)** in the **DC2 Site Specific Development Control Provision**.

Section DC2.384.1, the **General Purpose** of the **(DC2) Site Specific Development Control Provision** is to establish a Site Specific Development Control District for a limited range of general business and retail uses having specific site Development Criteria which will ensure compatibility with existing and proposed surrounding commercial land uses and promote the orderly development of a high quality urban environment. This District also contains Development Criteria consistent with the intent of the Major Commercial Corridor Overlay.

DC2.384.4(q) states Signs may be allowed in this District in accordance with Schedule 79E and in accordance with the general provisions of Section 79.1 to 79.9, inclusive, of the *Land Use Bylaw 5996*.

Schedule 79E.1(1) of the *Land Use Bylaw 5996* states the following Signs shall be allowed, subject to the Sign Regulations of this Schedule:

- a) ...
- b) ...
- c) Awning, Canopy, Under-canopy, Fascia, Freestanding, Projecting and Window, On-premise Business Identification Signs and On-premise Changeable Copy and Local Advertising Signs;
- d) ...
- e) ...
- f) Fascia and Freestanding General Advertising Signs;
- g) ...
- h) ...

Schedule 79E.2(1) of the *Land Use Bylaw 5996* states all On-premise Business Identification, Changeable Copy and Local Advertising Signs shall comply with the general regulations for On-premise Signs of Section 79.7, subject to the following additional regulations and exceptions:

- a) the maximum Height of a Freestanding Sign shall be:
 - i. 8 metres (26.2 feet) for a business premise or multiple occupancy business development having a frontage of at least 30 metres (98.4 feet) but not greater than 60 metres (196.8 feet);
 - ii. 10 metres (32.8 feet) for a business premise or multiple occupancy business development having a frontage greater than 60 metres (196.8 feet); and
 - iii. where a Freestanding Sign is located adjacent to a public roadway having a posted traffic speed of 70 kilometres/hour (43.5 miles/hour) or greater, the maximum allowable sign Height

set out in Clauses (i) and (ii) above shall be increased by 2 metres (6.6 feet).

- b) **the allowable Sign area for a Freestanding Sign located adjacent to a public roadway having a posted traffic speed of 70 kilometres/hour (43.5 miles/hour) or greater shall be 0.4 square metres (4.3 square feet) for each lineal metre (3.3 feet) of frontage where the Sign is to be erected;**
- c) **the maximum area of a Freestanding Sign shall be 24 square metres (258.3 square feet) except that where the Sign is located adjacent to a public roadway having a posted traffic speed of 70 kilometres/hour (43.5 miles/hour) or greater, the maximum area shall be 30 square metres (322.9 square feet);**
- d) Freestanding Signs shall be allowed to rotate where the rotation is designed to expose sign faces with different copy;
- e) where a site is adjacent to a public roadway designated as a Highway Entrance Route or Limited Access Route in Section 79.5, the additional regulations of that Section for Business Identification Signs shall apply; and
- f) **Running Lights and animated graphics shall be allowed only on Fascia, Canopy or Projecting Signs on business premises used for Drive-in Food Services, Indoor Amusement Establishments, Hotels, Motels, Major or Minor Eating and Drinking Establishments and Spectator Entertainment Establishments.**

Under Section 9.2(2) of the *Land Use Bylaw 5996*, **Animated Sign** means any sign or portion of a sign having moving parts or electronically controlled colour changes which depict action or give motion to the sign. Animated Sign does not include Flashing Signs, Rotating Signs, signs with accessory running lights or flashing lights, or electronically controlled Changeable Copy Signs such as those showing time and temperature displays.

Under Section 9.2(6) of the *Land Use Bylaw 5996*, **Business Identification Sign** means a sign identifying the name, dealer, franchise association, primary function, product or service of the commercial activity conducted on the premises, and may include local advertising and changeable copy.

Under Section 9.2(8) of the *Land Use Bylaw 5996*, **Changeable Copy Sign** means a permanent On-premise Sign or portion of such a sign on which copy can be readily changed manually through the utilization of attachable characters, or automatically through the electronic switching of lamp banks or illuminated tubes. Changeable Copy Signs include mechanically controlled time and temperature displays.

Under Section 9.2(15) of the *Land Use Bylaw 5996*, **Freestanding Sign** means any sign supported independently of a building and permanently fixed to the ground.

Under Section 9.2(16) of the *Land Use Bylaw 5996*, **General Advertising Sign** means a sign which directs attention to a business, activity, product, service or entertainment which cannot be considered as the principal products sold nor a principal business, activity, entertainment or service provided on the premises where the sign is displayed

and general advertising has a similar meaning. Typical General Advertising Signs includes Billboards and Junior Panels as defined in this Bylaw.

Under Section 9.2(21) of the *Land Use Bylaw 5996*, **Local Advertising Sign** means a sign or portion of a sign on which the copy refers only to products or merchandise

produced, offered for sale or obtainable at the premises on which the sign is displayed and which are related to the principal function of such premises, and local advertising has a similar meaning.

Under Section 9.2(25) of the *Land Use Bylaw 5996*, **On-premise Sign** means a sign identifying or advertising a business, activity, service or product located on the premises where the sign is erected. On-premise Signs includes signs erected on a site to provide warning or direction to persons entering upon the site.

Discretionary Use - Complaints

Section DC2.384.4(q) states that Signs may be allowed in this District in accordance with Schedule 79E and in accordance with the general provisions of Section 79.1 to 79.9, inclusive, of the *Land Use Bylaw 5996*.

Section 14, Development Classes, of the *Land Use Bylaw 5996* states that the following classes of development are hereby established:

- 1) Class O - No Development Permit Required;
- 2) Class A - Minor Permitted Use;
- 3) Class B - Permitted Use;
- 4) **Class C - Discretionary Use;** and
- 5) Class D - Design Review.

Section 14.4 of the *Land Use Bylaw 5996* states that the developments in this Class are those involving the exercise of discretion by the Development Officer. Upon receipt of an application in its final form for development within this Class, the Development Officer shall examine the application to determine its conformity with the regulations of this Bylaw and the provisions of any applicable Statutory Plan. The Development

Officer, using discretion, may refuse or approve, permanently or for a limited time period, with or without conditions, an application for development within this Class. This Class shall include:

- 1) all Discretionary Use developments; and

- 2) all major developments within Direct Control Districts except those defined as Class D.

(...)

Class C shall also include the following sign uses and developments:

- a) comprehensive Sign Design Plans, as defined in Section 79.6 of this Bylaw

Development Officer’s Determination

The proposed development, Freestanding General Advertising and On-premises Local Advertising Sign (Minor Digital On-premises Off-premises Sign) is listed as Discretionary Use (Class C)(reference DC2(384) and LUB 5996 Section 14.4).

In the opinion of the Development Officer, that the previous conditional approval with a limited time of five years was in place to monitor the impacts of the sign, during this time, the City received two complaints that the Sign adversely impacts the surrounding amenities. As such it is the opinion of the Development Officer that an approval of the same Discretionary Use will continue to negatively impact adjacent and surrounding properties.

Note: The Development Officer considers the existing sign a Freestanding General Advertising and On-premises Local Advertising Sign in accordance with the Subdivision Development Appeal Board decision (SDAB-D-13-052), and therefore the proposed Sign is also deemed to be the same Discretionary Use (Class C) [unedited]

illumination

Section 79.8(1)(e) of the *Land Use Bylaw 5996* states that General Advertising Signs may be illuminated provided that the lighting is concealed or shielded to minimize glare.

Development Officer’s Determination

General advertising signs may be illuminated provided that the lighting is concealed or shielded to minimize glare. (Reference Section 79.8(1)(e))

During the five year time limit of the previous permit the City of Edmonton has received two complaints in regards to the excessive brightness of the existing Digital Sign. It is the opinion of the development officer that the previous limited approval of five years was granted for this purpose and that the complaints show that the proposed Sign adversely impacts the surrounding amenities. [unedited]

Freestanding Sign Area

Section 79E.2(1)(c) of the *Land Use Bylaw 5996* states that the maximum area of a Freestanding Sign shall be 24 square metres (258.3 sq. ft.) except that where the Sign is

located adjacent to a public roadway having a posted traffic speed of 70 km/hr (43.5 mph) or greater, the maximum area shall be 30 square metres (322.9 sq. ft.).

Development Officer’s Determination

The maximum area of a freestanding sign shall be 24 m² (258.3 sq. ft.) except that where the sign is located adjacent to a public roadway having a posted traffic speed of 70 km/hr (43.5 mph) or greater, the maximum area shall be 30 m² (322.9 sq. ft.); (Reference Section 79E.2(1)(c))

Proposed: 46 m²
Exceeds by: 16 m²

There is an existing Freestanding On-premise Sign (The Station Liquor Cellar) that is 15m² and in the opinion of the Development Officer, a variance to the area of the proposed sign does not enhance the appearance of the Site. [unedited]

Setback

Section DC2.384.4(c) states that the a minimum building Setback of 14 metres shall be provided adjacent to St. Albert Trail. At the discretion of the Development Officer, this minimum building Setback requirement may be reduced to the minimum applicable landscaped Yard requirement specified by this District where:

- i. the proposed development, or the proposed development in conjunction with any existing development, does not exceed a gross floor area of 1,000 sq. metres or 7 metres in Height; or
- ii. where the proposed development lies adjacent to an existing service road, provided that landscaping and building treatments minimize the perception of massing and create a high standard of building appearance.

Development Officer’s Determination

A minimum building Setback of 14 m shall be provided adjacent to St. Albert Trail. (Reference DC2.384.4(c))

Proposed: 1.3 m
Deficient by: 12. 7 m [unedited]

Radial Distance

Section 79.5(1)(c) of the *Land Use Bylaw 5996* states that the minimum radial distance between General Advertising Signs facing the same traffic direction along a Highway Entrance Route or Limited Access Route shall be 300 metres (984.0 ft.).

Development Officer’s Determination

The minimum radial distance between general advertising signs facing the same traffic direction along a Highway Entrance Route or Limited Access Route shall be 300 m (984ft.). (Reference Section 79.5(1)(c))

Sign Location: 14229 - Mark Messier Trail NW
 Proposed Separation Distance: 224 m
 Deficient by: 76 m

Separation Distance: 14640 - 137 Avenue NW
 Proposed Separation Distance: 249 m
 Deficient by: 51 m

The Zoning Bylaw establishes the separation distances between digital signs and off premises signs to prevent the proliferation of such signs. [unedited]

Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-13-052	To construct a freestanding On-premises Off-premises Sign (Digital Off-premises Sign- Alberta Truck and Auto Liquidators)	April 18, 2013; The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The development is GRANTED as applied to the Development Authority, subject to CONDITIONS and the following two VARIANCES: The maximum allowable Sign Area was varied to allow an excess of 14.68 square metres; the minimum required Setback is varied to allow a deficiency of 13.7 metres □

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.



Application for Sign Combo Permit

Project Number: **278508526-001**
Application Date: APR 03, 2018
Printed: August 2, 2018 at 3:38 PM
Page: 1 of 3

This document is a Development Permit Decision for the development application described below.

Applicant	Property Address(es) and Legal Description(s) 14211 - MARK MESSIER TRAIL NW Plan 4577TR Lot 7A
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Scope of Application
To install (1) Minor Digital On-premises Off-premises Freestanding Sign (Edmonton Truck & Auto).

Permit Details	
ASA Sticker No./Name of Engineer: Construction Value: 30000	Class of Permit: Expiry Date:
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 0 Minor Digital On/Off-premises Sign: 1	Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0

I/We certify that the above noted details are correct.
Applicant signature: _____

Development Application Decision
Refused
Issue Date: Jul 16, 2018 **Development Authority:** MERCIER, KELSEY

THIS IS NOT A PERMIT



Project Number: 278508526-001
Application Date: APR 03, 2018
Printed: August 2, 2018 at 3:38 PM
Page: 2 of 3

Application for Sign Combo Permit

Reason for Refusal

1. The proposed development, Freestanding General Advertising and On-premises Local Advertising Sign (Minor Digital On-premises Off-premises Sign) is listed as Discretionary Use (Class C)(reference DC2(384) and LUB 5996 Section 14.4).

In the opinion of the Development Officer, that the previous conditional approval with a limited time of five years was in place to monitor the impacts of the sign, during this time, the City received two complaints that the Sign adversely impacts the surrounding amenities. As such it is the opinion of the Development Officer that an approval of the same Discretionary Use will continue to negatively impact adjacent and surrounding properties.

Note: The Development Officer considers the existing sign a Freestanding General Advertising and On-premises Local Advertising Sign in accordance with the Subdivision Development Appeal Board decision (SDAB-D-13-052), and therefore the proposed Sign is also deemed to be the same Discretionary Use (Class C).

2. General advertising signs may be illuminated provided that the lighting is concealed or shielded to minimize glare. (Reference Section 79.8(1)(e))

During the five year time limit of the previous permit the City of Edmonton has received two complaints in regards to the excessive brightness of the existing Digital Sign. It is the opinion of the development officer that the previous limited approval of five years was granted for this purpose and that the complaints show that the proposed Sign adversely impacts the surrounding amenities.

3. The maximum area of a freestanding sign shall be 24 m² (258.3 sq. ft.) except that where the sign is located adjacent to a public roadway having a posted traffic speed of 70 km/hr (43.5 mph) or greater, the maximum area shall be 30 m² (322.9 sq. ft.); (Reference Section 79E.2(1)(c))

Proposed: 46 m²
Exceeds by: 16 m²

There is an existing Freestanding On-premise Sign (The Station Liquor Cellar) that is 15 m² and in the opinion of the Development Officer, a variance to the area of the proposed sign does not enhance the appearance of the Site.

4. A minimum building Setback of 14 m shall be provided adjacent to St. Albert Trail. (Reference DC2.384.4(c))

Proposed: 1.3 m
Deficient by: 12.7 m

5. The minimum radial distance between general advertising signs facing the same traffic direction along a Highway Entrance Route or Limited Access Route shall be 300 m (984 ft.). (Reference Section 79.5(1)(c))

Sign Location: 14229 - MARK MESSIER TRAIL NW
Proposed Separation Distance: 224 m
Deficient by: 76 m

Separation Distance: 14640 - 137 AVENUE NW
Proposed Separation Distance: 249 m
Deficient by: 51 m

The Zoning Bylaw establishes the separation distances between digital signs and off-premises signs to prevent the proliferation of such signs.

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

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-129



ITEM II: 1:30 P.M.

FILE: SDAB-D-18-160

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 286892371-001

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

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 30, 2018

DATE OF APPEAL: September 10, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4202 - 66 Street NW

LEGAL DESCRIPTION: Condo Common Area (Plan 1121841)

ZONE: CSC - Shopping Centre Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

- The store has been running as a cannabis accessory store for 5 years.
- Jackie Parker park is a golf course.
- The real Jackie Parker park access is on 50 Street, 44 Avenue.
- Jackie Parker park is a fenced in property across the 66 Street with no foot or vehicle access.
- 66 Street has a future LRT track that is fenced.
- There is a sound barrier wall being built that's a few stories tall with no access available.
- The property across from Purple City is the 5th hole of Millwoods golf course that is fenced in.
- Jackie Parker park entrance and exist is shown on map as over 2500 metres in length away from Purple City 420 Ltd.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;

- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

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

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 320.2(3), **Cannabis Retail Stores** is a **Permitted Use** in the (CSC) **Shopping Centre Zone**.

Under section 7.4(9), **Cannabis Retail Stores** means:

development used for the retail sale of Cannabis that is authorized by provincial or federal legislation. This Use may include retail sales of Cannabis accessories. This Use does not include Cannabis Production and Distribution.

Under section 6.1, **Cannabis** means:

a cannabis plant and anything referred to in subsection (a) of this definition but does not include anything referred to in subsection (b) of this definition:

- a. Cannabis includes:

- i. any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a part of the plant referred to in subsection (b) of this definition.
 - ii. any substance or mixture of substances that contains or has on it any part of such a plant;
 - iii. any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained.
- b. Notwithstanding subsection (a) of this definition, Cannabis does not include:
- i. a non-viable seed of a cannabis plant;
 - ii. a mature stalk, without any leaf, flower, seed or branch, of such plant;
 - iii. fibre derived from a stalk referred in subsection (b)(ii) of this definition; and
 - iv. the root or any part of the root of such a plant.

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

Section 320.1 states that the **General Purpose** of the **(CSC) Shopping Centre Zone** is “to provide for larger shopping centre developments intended to serve a community or regional trade area. Residential, office, entertainment and cultural uses may also be included within such shopping complexes.”

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

- 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 (Jackie Parker Recreational Area) (Section 70.3):

Required Setback: 100 m


Proposed Setback: 55 m

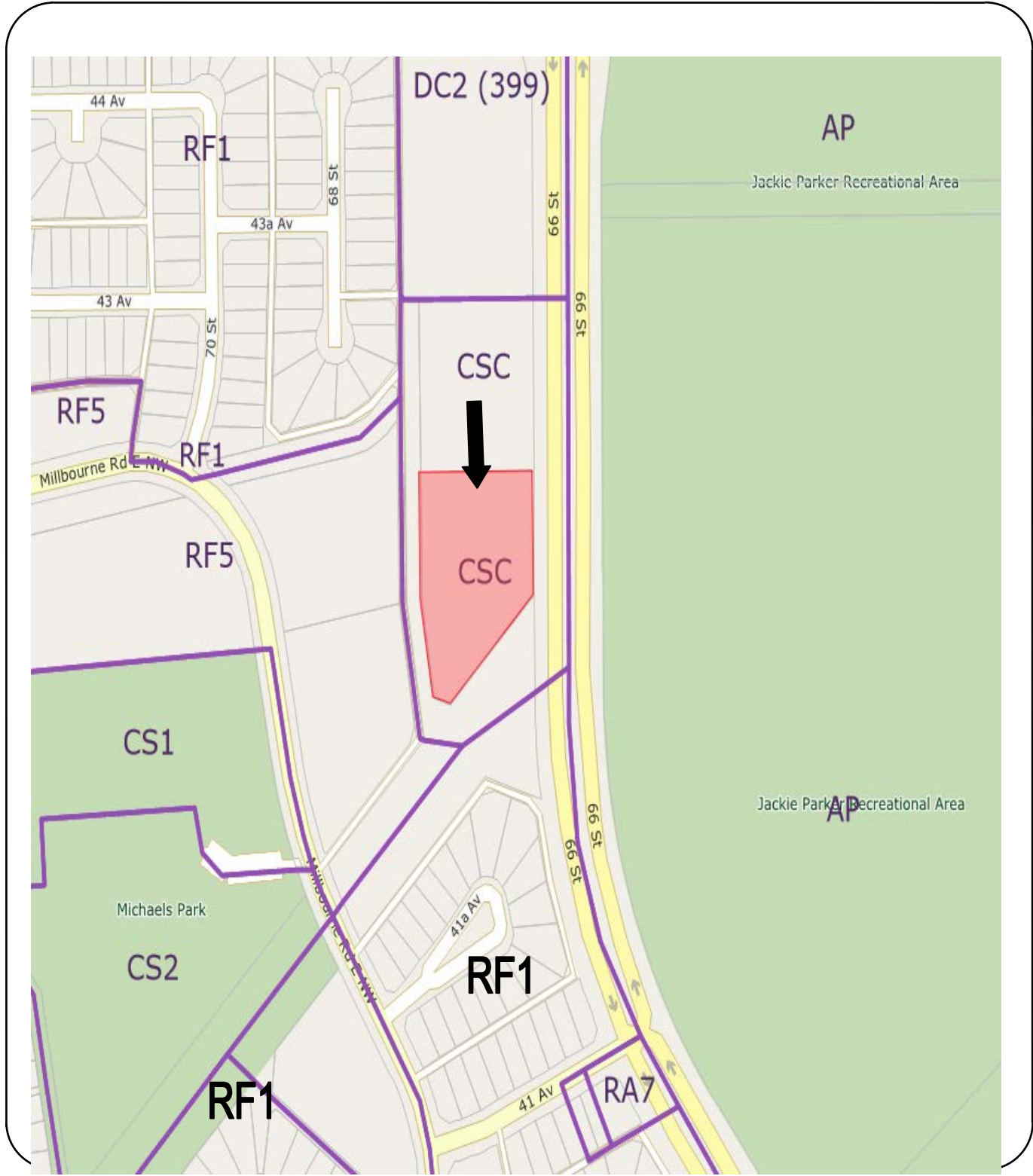
Deficient by 45 m

Under Section 70.4 of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Cannabis Retail Store [unedited]

Notice to Applicant/Appellant

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

	<h2 style="margin: 0;">Application for Major Development Permit</h2>	<p>Project Number: 286892371-001 Application Date: JUL 06, 2018 Printed: September 11, 2018 at 10:02 AM Page: 1 of 1</p>																				
<p>This document is a Development Permit Decision for the development application described below.</p>																						
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 4202 - 66 STREET NW Condo Common Area (Plan 1121841)</p> <hr/> <p>Specific Address(es) Suite: 4228 - 66 STREET NW Entryway: 4228 - 66 STREET NW Building: 4204 - 66 STREET NW</p>																					
<p>Scope of Application To change the use from a General Retail Store to Cannabis Retail Sales.</p>																						
<p>Permit Details</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>			Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)																		
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<p>I/We certify that the above noted details are correct. Applicant signature: _____</p>																						
<p>Development Application Decision Refused Issue Date: Aug 30, 2018 Development Authority: WELCH, IMAI</p> <p>Reason for Refusal The proposed Cannabis Retail Store does not comply with the minimum setback requirement from public lands (Jackie Parker Recreational Area) (Section 70.3):</p> <p>Required Setback: 100 m Proposed Setback: 55 m Deficient by 45 m</p> <p>Under Section 70.4 of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Cannabis Retail Store.</p> <p>Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.</p>																						
<p>Fees</p> <table style="width: 100%; border-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>Major Dev. Application Fee</td> <td style="text-align: right;">\$5,600.00</td> <td style="text-align: right;">\$5,600.00</td> <td style="text-align: right;">05164787</td> <td style="text-align: right;">Jul 06, 2018</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$5,600.00</td> <td style="text-align: right; border-top: 1px solid black;">\$5,600.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$5,600.00	\$5,600.00	05164787	Jul 06, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$5,600.00	\$5,600.00		
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<p>THIS IS NOT A PERMIT</p>																						



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-160

