



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

10019 - 103 Avenue NW  
Edmonton, AB T5J 0G9  
P: 780-496-6079 F: 780-577-  
3537  
[sdab@edmonton.ca](mailto:sdab@edmonton.ca)  
[edmontonsdab.ca](http://edmontonsdab.ca)

Date: October 9, 2018  
Project Number: 281348112-001  
File Number: SDAB-S-18-009

**Notice of Decision**

- [1] On September 26, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on September 4, 2018. The appeal concerned the decision of the Subdivision Authority issued on August 16, 2018 to refuse the following subdivision:

**To create one (1) additional Single Detached Residential Lot**

- [2] The subject property is on Plan 4311HW Blk 27 Lot 18, located at 10711 - 130 Street NW, within the RF1 Single Detached Residential Zone. The Mature Neighbourhood Overlay and West Ingle Area Redevelopment Plan apply to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copy of the Subdivision refusal and tentative plan;
  - The Subdivision Authority’s written submissions; and
  - The Appellant’s written submissions.

**Preliminary Matters**

- [4] At the outset of the appeal hearing, the Chairman confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [5] The Chairman outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [6] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*” or “*Act*”).

## Summary of Hearing

### i) *Position of the Appellant, Z. Holt*

- [7] The Appellant acknowledged he does not meet the minimum 7.5 metre site width requirement. He referred to a recent Board decision (SDAB-S-18-001) that allowed a lot two doors down with the exact same dimensions as the subject lot to be subdivided.
- [8] Allowing the subdivision would not negatively impact the ability to build a livable house. The subject lot is 24.6 feet by 140 feet making it only 2.5 percent smaller than if the lot were 25 feet wide. He compared the subject lot to lots in Parkwood and Crestwood which are 25 feet by 120 feet. Because the subject lot is 140 feet in depth, the Appellant's building parcel is significantly larger than these in Parkwood and Crestwood which are allowed to be subdivided.
- [9] He has consulted with an Architect and two builders and is confident that houses can be built without requiring any variances to the regulations contained in the *Edmonton Zoning Bylaw*. He referred the Board to the "Main Floor Plan" he had submitted which clearly shows a house can be built on each of the subdivided lots that meets all of the regulations including all required setbacks and a sizeable back yard. His subdivision application was circulated to all service providers and no objections or concerns were raised.
- [10] The Appellant does not believe there would be any negative impact to the use, enjoyment and value of neighbouring parcel of lands. Allowing this subdivision would have no more of an impact on neighbouring parcels of land than any other infill development within Edmonton if a livable house can be built within the *Edmonton Zoning Bylaw* and Mature Neighbourhood Overlay regulations
- [11] There is a twelve unit walk-up apartment to the south and none of the apartment windows face the subject site. Therefore there is no negative impact on the apartment buildings. The neighbour to his north has provided his support for the proposed subdivision. The neighbour across the street to the west supported the subdivision depending on the actual design of the homes. This neighbour did express concerns regarding parking.
- [12] The apartment building next door has eighteen parking stalls for twelve units and there are an additional two to three street parking spots available. The Appellant's proposed developments would provide at least three on-site parking spots per unit. All parking requirements have been met or exceeded.
- [13] No objections were received from any adjacent property owners as a result of the notification process.
- [14] The prescribed use for this parcel of land is RF1 – Single Detached Residential Housing. Subdividing and putting a single detached house on each parcel results in the exact same use of land and supports what the City is trying to achieve with high density housing.

There would be no more impact on the neighbourhood than any other infill and two houses would create a lower impact than the existing apartment complex next door as well as the apartment complex across the alley to the east.

*ii) Position of the Subdivision Authority*

- [15] K. Rutherford and K. Witiw of the Subdivision Authority appeared to answer questions from the Board. They were accompanied by T. Hinse of the City of Edmonton Transportation Department and K. Yeung, a Development Officer.
- [16] Lot sizes within this neighbourhood are typically 7.5 metres in width or greater. The other exception is the lot two doors down which was approved for subdivision by this Board.
- [17] This particular area is zoned (RF1) Single Detached Residential Zone and is identified for single family uses within the West Ingle Area Redevelopment Plan. Infill is not encouraged as much as in the (RF3) Small Scale Infill Development Zone to the east.
- [18] It is not entirely true that no variances would be required at the time of development permit application. A variance would be required to the minimum required site width and the Development Officer has no authority to grant such a variance within the RF1 Single Detached Residential Zone. Any development permit application would ultimately have to come back to the SDAB.

T. Hinse, City of Edmonton Transportation

- [19] Ms. Hinse confirmed that Transportation has no issues with the proposed subdivision. There are no problems with a rear detached garage and no utility conflicts.

K. Yeung, Development Authority

- [20] Mr. Yeung confirmed that granting the subdivision would automatically mean there would be a deficiency in the minimum required site width required for a Development Permit. The Development Officer does not have the authority to grant the required variance.
- [21] He confirmed that it would be possible to build a home on each site that would meet all other requirements of the Edmonton Zoning Bylaw.

*iii) Rebuttal of the Appellant*

- [22] Infill in all of Westmount is very prominent including within the areas zoned (RF1) Single Detached Residential Zone.

- [23] He is aware that he would have to come back to this Board to get a variance to the minimum required site width at the Development Permit stage.
- [24] He has no problems with any of the suggested conditions contained in the Subdivision Authority's written submission.

### **Decision**

- [25] The appeal is **ALLOWED** and the decision of the Subdivision Authority is **REVOKED**. The subdivision is **GRANTED** as applied for to the Subdivision Authority, subject to the following **CONDITIONS** and **ADVISEMENTS** as proposed by the Subdivision Authority:
1. That the owner obtain a permit to demolish the existing dwelling and garage prior to endorsement of the final plan. Demolition permits can be obtained from Development Services located on the 2nd floor of Edmonton Tower at 10111 - 104 Avenue NW; and
  2. That the owner pay all outstanding property taxes prior to the endorsement of the plan of survey.

### Next Steps for Subdivision Approval:

- The next step in the subdivision process is to have a legal instrument prepared (ie. Plan of Survey) in order to register the approved subdivision. The legal instrument is then forwarded to the City for endorsement along with the endorsement fee (\$662.00 - 2018 Fees Schedule) and subsequently released to the applicant for registration at the Land Titles Office.

### Transportation:

- There are existing boulevard trees adjacent to the site on 130 Street NW that must be protected during construction. For information about tree protection please refer to the City of Edmonton's web site (Trees and Construction).
- Access for future development must be to the adjacent alley in conformance with the Mature Neighbourhood Overlay Sec. 814.3(17) of the Zoning Bylaw #12800.

### Building Site:

- The owner shall ensure that any change in property boundaries does not cause any structures on site to become non-compliant with the Safety Codes Act and Alberta Building Code. Permits may be required for such changes. Please contact 311 for more information.

**Servicing:**

- The owner is required to make satisfactory arrangements for, and pay all costs associated with separate servicing to each lot, as well as the modification, relocation and/or removal of existing services. For further information, please contact: EPCOR Distribution & Transmission Inc. (780-412-4000), TELUS Communications (Edmonton) Inc. (Real Estate Division [Rights of Way] 780-508-2456), ATCO Gas (780-424-5222) and EPCOR Drainage Services (water and sewer servicing 780-496-5444).
- The existing services (water and sanitary) enter the proposed subdivision approximately 3.35 m north of the south property line of Lot 18 off the lane. As per the EPCOR Drainage Services Bylaw and the EPCOR Water Services and Wastewater Treatment Bylaw, these services cannot cross the proposed property line.
- If power service crosses the proposed property line the owner may be required to provide a blanket easement in favour of EPCOR Distribution & Transmission Inc. If required, said easement shall be registered prior to or concurrent with the final plan of survey (contact EPCOR Land Administration Group at 780-412-3252).

[26] In granting the subdivision, the Board acknowledges the following contravention of the *Edmonton Zoning Bylaw*:

- a) The minimum required Site Width of 7.5 metres pursuant to section 110.4(1)(b) has not been met as each of the Lots are 7.315 metres in Site Width which is deficient by 0.185 metres per Lot.

**Reasons for Decision**

[27] The Appellant applied for a subdivision to create one additional Single Detached Residential Lot by splitting a current Site into two Lots, each 7.315 metres in Site Width.

[28] According to the letter of refusal dated August 16, 2018, the Subdivision Authority refused the application because it will result in a Site Width of 7.315 metres for each of the Lots which does not comply with the minimum 7.5 metres required Site Width for the (RF1) Single Detached Residential Zone under section 110.4(1)(b) of the *Bylaw*.

[29] The Subdivision Authority did not want to approve the subdivision and thereby download a problem to the Development Authority for two reasons. First, they did not wish to create an unnecessary hardship or practical difficulty pursuant to section 11.4 of the *Edmonton Zoning Bylaw*. Second, they noted that Council recently expressly limited the Development Authority's variance authority concerning Site Width in this Zone under section 11.4(1)(c) of the *Bylaw* which states:

On rectangular shaped lots, there shall be no variance from the minimum Site Width, for new Single Detached Housing in the RF1 Single Detached Residential Zone, RF2 Low Density Infill Zone, RF3 Small Scale Infill Development Zone, and RF4 Semi-Detached Residential Zone Zones for all Sites which received subdivision approval after June 12, 2017.

[30] The Board concurs that section 11.4 of the *Bylaw* limits Development Authority's discretion to grant variances for specific Development Permit Applications. However, the Subdivision Authority and the Board have a different authority. The Board is not obligated to refuse an application for subdivision on this basis.

[31] The Board's jurisdiction in this appeal comes from section 680(2) of the *Act* which outlines its responsibilities and authority in appeals of refused subdivision applications. It provides:

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

(a) must act in accordance with any applicable ALSA regional plan;

(a.1) must have regard to any statutory plan;

(b) must conform with the uses of land referred to in a land use bylaw;

(c) must be consistent with the land use policies;

(d) must have regard to but is not bound by the subdivision and development regulations;

(e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;

(f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

[32] Per section 680(2)(f), the Board is delegated the same authority that the Subdivision Authority had when making the original decision. This authority is found in section 654 of the *Act* which provides in part:

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

(a) the proposed subdivision would not

(i) unduly interfere with the amenities of the neighbourhood, or

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

and

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

[33] Based on the submissions of the Appellant and the Subdivision Authority and considering the *Bylaw* and the West Ingle Area Redevelopment Plan, the Board finds that the proposed Use, Single Detached Housing, is not inconsistent with the applicable statutory plan and also that the subdivision conforms with the Uses for land prescribed in sections 110.2 and 110.3 of the *Bylaw*.

[34] In this case, the Lots created by the proposed subdivision will not comply with the specific development regulation of the *Bylaw* regarding minimum Site Width found in section 110.4(1)(b).

[35] However, based on the statements and materials submitted by the parties, the Board finds that the creation of two Lots (each deficient by 0.185 metres in Site Width) will not unduly interfere with neighbourhood amenities, nor create a material adverse interference or material impact on the use, enjoyment or value of neighbouring properties and approves it pursuant to section 654(2)(a) of the *Act* for the following reasons:

a) While each of the proposed Lots are deficient in Site Width by 0.185 metres, both will exceed the minimum required Site Area for Single Detached Housing of 250.8 square metres by over 60 square metres and also exceed the minimum required Site Depth of 30 metres by 12.69 metres.

b) It was acknowledged by both the Subdivision Authority and the Development Officer who attended the hearing that, with the exception of the Site Width development regulation, it was possible to build Single Detached Houses on both of the proposed lots that would comply with every other development regulation in the *Edmonton Zoning Bylaw*.

c) The Board notified at least seven adjacent property owners there were no concerns raised or objections registered by any of the adjacent land owners.

[36] The Board notes that the proposed site is immediately to the north of an Apartment use which renders the increased density caused by this subdivision to effectively become a transition area between Apartment Housing and Single Detached Housing on larger lots.

[37] In addition to the above, the Board notes that six months ago, this Board in SDAB-S-18-001 granted an appeal subdividing an identically sized lot two lots to the north of the present subject site. The fact that the Board's previous decision dealt with an identically sized lot in the same block in the same street and within 60 metres is a relevant factor the Board should consider when making this decision.

[38] The Board acknowledges that it is not bound by any of its previous decisions. That does not mean that the Board should not strive for consistency when issuing its reasons. This was stated by the Alberta Court of Appeal in *McCauley Community League v. Edmonton (City)*, 2012 ABCA 314 where at Paragraph 5 Justice Cote of the Court of Appeal stated, in speaking about this very Board:

“That must be so, because a Tribunal must be free to follow precedent even when it is not obliged to. It would be mischievous to oblige a Tribunal to shut its eyes to its own previous decisions, policies and interpretations. One of the very reasons to create specialized tribunals is to build up expertise, experience and policies and promote consistency and predictability”

[39] It would seem manifestly unfair for this Board to allow the subdivision of one lot two doors away from the present lot and refuse the subdivision of the subject lot when it is identical in dimensions and on the same street and in the same block. To promote consistency and predictability per the above Court of Appeal decision, the Board has decided to grant this appeal.

[40] The Board concludes that the proposed subdivision, despite noncompliance with minimum Site Width required in the *Bylaw*, will not unduly interfere with the amenities of the neighbourhood, nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land pursuant to section 654(2) of the *Act* and allows the appeal.

[41] The Subdivision has been approved subject to the conditions provided by the Subdivision Authority and reviewed by the Appellant. The Appellant expressed no objections to any of the conditions.

Mr. I. Wachowicz, Chairman  
Subdivision and Development Appeal Board

Board members in attendance:

Mr. R. Hobson, Mr. J. Kindrake, Mr. C. Buyze

c.c. City of Edmonton, Subdivision Authority – B. McDowell / K. Witiw / K. Rutherford  
City of Edmonton, Development Authority – K. Yeung  
City of Edmonton, Transportation – T. Hinse



**Important Information for the Applicant/Appellant**

1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend this decision.

*NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.*



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

10019 – 103 Avenue NW  
Edmonton, AB T5J 0G9  
P: 780-496-6079  
F: 780-577-3537  
[sdab@edmonton.ca](mailto:sdab@edmonton.ca)  
[edmontonsdab.ca](http://edmontonsdab.ca)

Date: October 9, 2018  
Project Number: 286180748-001  
File Number: SDAB-D-18-155

**Notice of Decision**

- [1] On September 26, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on September 4, 2018. The appeal concerned the decision of the Development Authority, issued on August 24, 2018 to refuse the following development:

**To change the use from General Retail (India Bazaar) to Cannabis Retail Sales**

- [2] The subject property is on Condo Common Area (Plan 1025138), located at 4512 - 118 Avenue NW, within the CB1 Low Intensity Business Zone. The Main Streets Overlay and Secondhand Stores and Pawn Stores Overlay apply to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
  - The Development Officer’s written submissions; and
  - The Appellant’s written submissions.

**Preliminary Matters**

- [4] At the outset of the appeal hearing, the Chairman confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [5] The Chairman outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [6] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”).

**Summary of Hearing***i) Position of the Appellant, Mr. Fitton and Legal Counsel, Ms. J. Agrios, Q.C., Kennedy Agrios LLP:*

- [7] The CEO of Hey Bud Cannabis has experience as a liquor retailer. Mr. Fitton built and operates 18 hospitality venues in the City and is experienced in the sale of a regulated product. The company plans to open a number of Cannabis Retail stores at several other locations that have already been approved.
- [8] A conceptual rendering of the retail space was referenced to illustrate that the proposed development will be a high quality retail establishment. Strict security measurements that exceed the AGLC requirements will be implemented. Anyone entering the store who appears to be under 40 years of age will be asked for identification.
- [9] The subject site is located on 118 Avenue in a CB1 Low Intensity Business Zone. Cannabis Retail Sales is a Permitted Use in this zone. Photographs were referenced to illustrate that the site is located on a commercial strip that is setback from the front property line abutting 118 Avenue and the parking lot is located in front of the building. There is a liquor store, a smoking paraphernalia shop, a pawn shop and a number of empty lots in the vicinity of the site.
- [10] The Development Officer refused the proposed development because it does not comply with the minimum setback from a site being used for public or private education, pursuant to section 70(2) of the *Edmonton Zoning Bylaw*. The Development Officer noted that the required setback for Cannabis Retail Sales from a site being used for public or private education is 200 metres, and in this case, the proposed setback is 173 metres, leaving a deficiency of 27 metres.
- [11] A City of Edmonton map was referenced to illustrate that the subject site is located on the boundary of the minimum required setback radius. The lot located immediately west of the subject site qualifies as a Cannabis Retail Sales Use site.
- [12] The public or private education use referenced by the Development Officer is Fresh Start Partners for Youth (“Partners for Youth”), an outreach program offered by Edmonton Catholic Schools (“ECSD”).
- [13] The Edmonton Public School Board and Edmonton Catholic School Board provided a list of all schools to Development and Zoning Services and the sites were then plotted onto a map in order to calculate the separation distances.
- [14] According to the ECSD website, Fresh Start programs, including Partners for Youth offer “A less formal, less structured environment than traditional schools. There are no “classes”, teachers do not give formal lessons, and there are no bells. Courses are delivered using self-based format (modules). The individualized self-based programs at our Centres allow students to begin where they left off, and progress at their own rate”.

- [15] The site is zoned CB1, and pursuant to section 330.2(3) of the *Edmonton Zoning Bylaw*, Cannabis Retail Sales is a permitted use in the CB1 Zone.
- [16] Public Education Services (section 7.8(11)) and Private Education Services (section 7.8(9)) are their own use classes. Neither of these use classes is included as either a Permitted or a Discretionary use in the CB2 General Business Zone.
- [17] The Public Education Services use class is a “development which is publicly supported or subsidized involving public assembly for educational training or instruction purposes” and includes “public and separate schools, community colleges, universities, and technical and vocational schools, and their administrative offices”.
- [18] The Development Officer has not been able to locate a development permit for Partners for Youth. Partners for Youth cannot have a development permit for either Public Education Services or Private Education Services as neither is a Permitted nor Discretionary Use in the CB2 Zone. If Partners for Youth was considered to be a Public or Private Education use, it would not fall within either the Permitted or Discretionary uses for the CB2 Zone and the Development Officer would not have had the jurisdiction to approve its development permit. In allowing Partners for Youth to operate in the CB2 Zone, where Public Education use is neither a Permitted nor a Discretionary use, the development authority has represented that Partners for Youth’s activities do not constitute public or private education for the purposes of the *Edmonton Zoning Bylaw*.
- [19] Given that the development authority has permitted Partners for Youth to operate in the CB2 Zone, it is inconsistent and unfair for it to refuse the Appellant’s application for a Permitted Use on the basis that it does not meet the minimum required separation distance from the Partners for Youth site. The separation requirement set out in section 70(2)(a) should only apply insofar as the public education use is located in a zone which permits that use and for a use that has a development permit for Public Education Services and Private Education Services.
- [20] The Development Officer has not been able to locate a development permit for Partners for Youth. Unless it can be established that it was operating in the 1960s when a development permit was not required, it is an illegal use operating from this site. Partners for Youth could not obtain a development permit because it is neither a Permitted nor Discretionary use in the CB2 Zone.
- [21] A recent decision of the Board, SDAB-D-18-142, dated September 18, 2018 was referenced because it dealt with a similar appeal. Paragraph [44] of that decision states:

The Board finds that it would be manifestly unfair to refuse a development permit application for a Permitted Use because it did not meet the minimum required separation distance from an existing development that looks like a public education service but is operating under a permit for a Professional, Financial and Office Support Services Use. If it is a public education use, then it is operating without a valid development permit and in a zone where that use is neither a

Permitted nor Discretionary Use. The Board finds that the requirements of section 70.2(a) only apply insofar as the public education service in question has a valid development permit for that Use. The existence of the Learning Store does not trigger the application of section 70.2(a).

- [22] The circumstances in this appeal are more extreme because Partners for Youth is operating without a development permit. An offensively illegal use is preventing a Permitted Use from locating on a site where it is allowed but for the setback requirements.
- [23] If the Board finds that Partners for Youth is not a Public or Private Education Service, as defined in section 7.8 of the *Edmonton Zoning Bylaw*, then the proposed development is a Permitted Use without variances.
- [24] In the alternative, if the Board finds that the setback requirement in section 70(2)(a) does apply, a variance should be granted pursuant to section 687(3) of the *Municipal Government Act* for the following reasons:
- a) The subject site is located on the edge of the setback requirement. A Cannabis Retail Sales Use would be approved on the immediately adjacent lot to the west and a lot located south of 118 Avenue.
  - b) The entrance to the proposed development is setback from the streetscape, such that it is not visible from the Partners for Youth site, which serves to increase the physical separation between the two sites.
  - c) Numerous photographs were reviewed to illustrate that the proposed development is characteristic of other retail businesses in the vicinity, which include a liquor store (located closer to the Partners for Youth site), a pawn shop and a smoking paraphernalia shop.
  - d) No objections have been raised by community members in response to the Appellant's plan to locate a Cannabis Retail Sales store at this Site.
  - e) The Site complies with the minimum setback requirement from a school set out in section 105(3) of the *Gaming, Liquor and Cannabis Regulation*, Alta. Reg. 143/1996, because the exterior wall of the premises located on the Site are greater than 100 metres from the boundary of the parcel of land containing Partners for Youth.
- [25] The proposed development will not unduly interfere with the amenities of the neighbourhood, nor will it materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, if a variance is granted.
- [26] Ms. Agrios provided the following information in response to questions from the Board:
- a) It was her opinion that estoppel does not apply in this situation. In this situation, it appears that Partners for Youth is operating illegally without a valid development permit and at most might be a non-conforming use if it could be established that it began operating prior to 1977. Prior to 1977 when the Planning Act was enacted, there were some uses that did not require a development permit. However, even if

- the existing use is found to be non-conforming, it would still block the approval of a permitted use.
- b) The Court of Appeal in *Emeric Holdings Inc. v. Edmonton (City)*, 2009 ABCA 65, determined that the burden of proof is on the municipality to provide evidence that a development is operating in violation of regulatory rules.
  - c) In this case, the Appellant did not have access to historical records and asked the Development Officer to conduct a search which was done and no record of the issuance of a development permit could be found.
  - d) Partners for Youth is located in the centre of the strip mall, further east of the boundary of the setback buffer and the front door is setback from the front property line and the streetscape.
  - e) The assumption has to be made that Partners for Youth has located in this neighbourhood in an attempt to reach a certain population of students who are at risk and are typically found in this type of area. The proposed Cannabis Retail Sales store is an adult use in an area with other adult type uses, including a liquor store and a pawn shop and will not create any additional negative impact on Partners for Youth.
  - f) It is the responsibility of the Development Authority to provide evidence that this is a Public or Private Education Use because they have applied the minimum required setbacks pursuant to section 70(2)(a) of the *Edmonton Zoning Bylaw*.
  - g) Section 1(1)(y) of the *School Act* defines a school as:

A structured learning environment through which an education program is offered to a student by (i) a board, (ii) an operator of a private school, (iii) an early childhood services program private operator, (iv) a parent giving a home education program, or (v) the Minister.
  - h) This definition is much more structured than the definitions contained in the *Edmonton Zoning Bylaw* and according to the information provided on the Edmonton Catholic Schools website, Partners for Youth provides an unstructured learning environment.
  - i) According to the website, Partners for Youth operates between 8:30 a.m. and 3:45 p.m. daily.
  - j) The proposed development complies with all of the other development regulations.
  - k) The Court of Appeal decision, *Love v. Flagstaff (County of) Subdivision and Development Appeal Board*, 2002 ABCA 292 that addressed the orderly, economical and beneficial development, use of land and patterns of human settlement pursuant to of Section 617 of the *Municipal Government Act* was acknowledged. It was her

opinion that in order to determine which development is first, the determining factor should be which development is first legally, which is established by the issuance of a valid development permit.

- l) If it could have been established that Partners for Youth had a valid development permit, a variance would be required pursuant to section 70(2)(a) of the *Edmonton Zoning Bylaw*.

ii) *Position of the Development Officers, Mr. S. Chow and Mr. I. Welch:*

[27] This site was plotted on the separation distance map for Cannabis Retail Sales based on information that was provided by the Edmonton Catholic School Board.

[28] It was acknowledged that the historical records of the City are incomplete. It has been their practice when reviewing Business Licence applications and Building Permit applications to deem the sites to be legal non-conforming uses based on the information that is available.

[29] Partners for Youth is considered a Public or Private Education Service and the separation distances pursuant to section 70(2)(a) apply.

[30] No details could be provided regarding when Partners for Youth began operating from this location or if it was in operation prior to 1977.

[31] Partners for Youth is overseen by the Edmonton Catholic School Board and receives some sort of public support.

[32] It was their opinion that because Cannabis Retail Sales is very new and evidence from other jurisdictions cannot be considered because they operate under different regimes, variances should be granted with caution.

[33] Discretion could have been considered based on the fact that the subject site is located on the perimeter of the separation distance buffer and because there are numerous physical barriers between it and the subject site but he could not guarantee that a variance would have been granted.

iii) *Rebuttal of the Appellant:*

[34] Ms. Agrios confirmed that the recommended conditions of the Development Officer are acceptable to the Appellant.

**Decision**

[35] 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 the following **CONDITIONS**:

1. The Cannabis Retail Sales shall not commence operations until such time as the non-medical sale and distribution of Cannabis is authorized by federal and provincial law.
2. The Cannabis Retail Sales must commence operations within nine (9) months of the date of issuance of this Development Permit.
3. There shall be no parking, loading, storage, trash collection, outdoor service or display area permitted within the required 4.5 metres (14.76 feet) setback.
4. All required parking and loading facilities shall only be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the building or Use for which the parking and loading facilities are provided, and the parking and loading facilities shall not be used for driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind. (Reference Section 54.1.1.c)

**ADVISEMENTS:**

- a. This Development Permit is NOT a Business Licence. A separate application must be made for a Business Licence. Please contact the 311 Call Centre (780-442-5311) for further information.
- b. Signs require separate Development Applications.
- c. A building permit is required for any construction or change in Use of a building. For a building permit, and prior to the plans examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre (780-442-5311) for further information.
- d. The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.
- e. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the *Municipal Government Act*, the *Safety Codes Act* or any caveats,



restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2).

- f. Unless otherwise stated, all above references to section numbers refer to the authority under the *Edmonton Zoning Bylaw 12800* as amended.

### **Reasons for Decision**

[36] Cannabis Retail Sales is a Permitted Use in the (CB1) Low Intensity Business Zone, pursuant to section 330.2(3) of the *Edmonton Zoning Bylaw (the Bylaw)*.

[37] The proposed Cannabis Retail Sales conforms with all of the development regulations contained in *the Bylaw* with the exception of section 70(2)(a).

[38] Section 70(2)(a) of the *Bylaw* states that:

Any Site containing a Cannabis Retail Sales shall not be located less than 200 metres 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 metres 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.

[39] The Development Authority refused the development permit application because it was determined that the subject Site of the proposed Cannabis Retail Sales is located 173 metres from a Site being used for public or private education.

[40] The Site being used for public or private education is the “Partners for Youth”. Partners for Youth is an outreach program operated by Edmonton Catholic Schools. Partners for Youth offers academic and non-academic high school courses at the Grade 10, 11, and 12 levels in a less formal, less structured environment than traditional schools.

[41] Section 7.8(11) of the *Bylaw* defines Public Education Services as:

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

[42] The Development Authority confirmed the evidence provided by the Appellant that a record search for this property was completed. No evidence could be found that a

development permit for Partners for Youth was ever issued to the Edmonton Catholic School Board.

[43] Furthermore, Partners for Youth cannot have a development permit for either Public Education Services or Private Education Services because neither is a Permitted nor Discretionary use in the (CB2) General Business Zone. It would be impossible for the Edmonton Catholic School Board to obtain a development permit for Partners for Youth if a development permit application was made today.

[44] Given that the Development Authority has permitted Partners for Youth to operate in the (CB2) General Business Zone without a valid development permit, it is unfair to ask the Board to refuse a development permit application for a Permitted Use that complies with all of the development regulations pursuant to the *Bylaw* on the basis that it does not comply with the minimum required separation distance from a public or private education use. The separation distance requirement set out in section 70(2) should only apply insofar as the public education use is located in a Zone which permits that use and for a use that has a development permit for Public Education Services and Private Education Services.

[45] This is essential to ensure certainty and predictability in the interpretation of section 70(2) of the *Bylaw*, pursuant to the Court of Appeal decision *Love v. Flagstaff (County of) Subdivision and Development Appeal Board*, 2002 ABCA 292. Paragraphs [23] through [30] determined that planning legislation should be interpreted in a manner that supports the values of certainty and predictability. Paragraph [27] states:

Without certainty, the economical development of land would be an unachievable objective. Who would invest in land with no clear indication as to the use to which it could be put? Hence the importance of land uses bylaws which clearly define the specific uses for property and any limits on them.

[46] Therefore, interpreting the regulations contained in section 70(2) in a way that would allow a Use which is not Permitted nor Discretionary and does not otherwise have a valid development permit, to exclude the existence of a Permitted Use that complies with all of the other development regulations contained in the *Bylaw* would be contrary to the direction provided to the Board pursuant to *Love v. Flagstaff (County of) Subdivision and Development Appeal Board*, 2002 ABCA 292.

[47] Therefore, the Board finds that section 70(2)(a) does not apply to the proposed development that is a Permitted Use in the CB1 Zone and complies with all of the other development regulations, pursuant to the *Bylaw*.

[48] Section 642(1) of the *Municipal Government Act* states:

When a person applies for a development permit in respect of a development provided for by a land use bylaw pursuant to section 640(2)(b)(i), the development authority must, if the application otherwise conforms to the land use

bylaw and is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.

[49] However, in the alternative, if the Board is wrong and the 200-metre separation distance does apply to the proposed development, the Board would, grant the required variance for the following reasons:

- a) The variance required is 27 metres when measured from the closest point of the subject Site boundary to the closest point of another Site boundary.
- b) The entrance to the proposed Cannabis Retail Sales is setback from the streetscape and is not visible from Partners for Youth which increases the physical separation between the two sites.
- c) The proposed Cannabis Retail Sales is characteristic of other adult-only retail businesses located along 118 Avenue, including a liquor store, a pawn shop and a smoking paraphernalia store.
- d) No objections were raised by community members in response to the proposed Cannabis Retail Sales at this location.

[50] For all of these reasons, the Board finds that under this alternative analysis, the proposed development would not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land if a variance were granted under section 70(2)(a) of the *Bylaw*.

[51] Therefore the appeal is allowed and the development is granted.

Mr. I. Wachowicz, Chairman  
Subdivision and Development Appeal Board

Board members in attendance: Mr. R. Handa, Mr. R. Hobson, Mr. J. Kindrake, Mr. C. Buyze

c.c. City of Edmonton, Development & Zoning Services, Attn: Mr. S. Chow/Mr. H. Luke  
City of Edmonton, Law Branch, Attn: Mr. M. Gunther

**Important Information for the Applicant/Appellant**

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
  - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
  - b) the requirements of the *Alberta Safety Codes Act*,
  - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
  - d) the requirements of any other appropriate federal, provincial or municipal legislation,
  - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

*NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.*



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

*10019 – 103 Avenue NW  
Edmonton, AB T5J 0G9  
P: 780-496-6079  
F: 780-577-3537  
[sdab@edmonton.ca](mailto:sdab@edmonton.ca)  
[edmontonsdab.ca](http://edmontonsdab.ca)*

Date: October 9, 2018  
Project Number: 275811102-003  
File Number: SDAB-D-18-156

**Notice of Decision**

- [1] On September 26, 2018, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on August 29, 2018. The appeal concerned the decision of the Development Authority, issued on August 21, 2018 to approve the following development:

To convert a Single Detached House to a six-sleeping unit Lodging House

- [2] The subject property is on Plan 4884TR Blk 14 Lot 7, located at 10509 - 32A Avenue NW, within the RF1 Single Detached Residential Zone.

- [3] The following documents were received prior to the hearing and form part of the record:

- Copy of the Development Permit application with attachments, proposed plans, and the approved Development Permit;
- The Development Officer’s written submissions;
- The Respondent’s written submissions; and
- Online responses and e-mails in opposition.

- [4] The following exhibits were presented during the hearing and form part of the record:

- Exhibit A – Supplement to petition - Map of residents opposed
- Exhibit B – Crime Statistics from Community Newsletter

**Preliminary Matters**

- [5] At the outset of the appeal hearing, the Chairman confirmed with the parties in attendance that there was no opposition to the composition of the panel.

- [6] The Chairman outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.

[7] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”).

### **Summary of Hearing**

#### *i) Position of the Appellant, J. Protsack*

[8] Mr. Protsack has lived in the community for many years. He is concerned with the introduction of a Lodging House into what are mostly single family units. This results in concerns regarding safety, traffic and property values.

[9] The proposed Lodging House would be more suitably located in the RF3 Small Scale Infill Development Zone. Section 140.4(25)(b) of the RF3 regulations require 200 square metres per occupant; therefore, 1200 square metres would be required for 6 occupants. The subject house is only 509 square metres which is well under the requirements.

[10] A Lodging House raises flags for future buyers. If a buyer were to look at two identical properties, one next to a Lodging House and one next to a single family home, most purchasers would walk away from the property next to a Lodging House. The scope of purchasers would be limited to those looking for a revenue based property. A Lodging House would likely have a negative effect on neighbouring property values.

[11] Renters of a Lodging House tend to stay for a shorter period of time which detracts from the peace of mind of the neighbours as they are always wondering who is living there.

[12] The Appellant provided the following responses to questions from the Board:

- a) He does not agree with the Development Officer that a single family house with a basement suite has the same impact as a Lodging House with six tenants. Lodging houses tend to have shorter term residents who are non-related as opposed to families.
- b) He is concerned regarding increased traffic and a lack of parking for six individuals.
- c) He does not believe this is an appropriate place for this type of business venture and believes it would have a detrimental effect on the surrounding single family dwellings.

#### *ii) Position of Affected Property Owners in Support of the Appellant*

[13] Mr. Roczkowski and Ms. Couch live within a 60 metre radius and are therefore affected parties.

T. Roczkowski

- [14] A map depicting the residents opposed to the proposed development was submitted (Exhibit A) and Mr. Roczkowski hopes the voice of the community will have a bearing on the final ruling. Signatures from these residents were previously submitted.
- [15] The Respondent has stated that tenants will be university students or young professionals; however, university is not in session from April to September and it may be hard to sell young professionals on the idea of congregate living. Who will move in if the Respondent is unable to get students or young professionals as tenants?
- [16] He disagrees with the Development Officer's statement that the residents of the proposed development are similar to a single detached house with a secondary suite. A house with a secondary suite would most likely have two families as opposed to six unrelated tenants.
- [17] In order to provide the required three parking spots, the fence at the rear of the subject property will have to be removed. The existing concrete pad is not accessible since it is inside the fence. This would create a situation which is not compatible with the rest of the neighbourhood as everyone else has rear fences with driveway access to their garage.
- [18] The property is currently in disarray and will likely continue to be an eyesore.
- [19] All other properties within the 60 metre notification area are single detached housing. He has been told there is one other Lodging House approved in the neighbourhood but he does not know where. There is a playground and a school located to the west across 106 Street.
- [20] He is aware of another Lodging House in the neighbouring community and one of the tenants who lived there told him he was afraid for his safety living there.

J. Crouch

- [21] Ms. Crouch submitted a page from a recent community newsletter showing an increase in crime during the last 6 months. Steinhauer reported 24 crimes and the immediately adjacent neighbourhood of Ermineskin report 84 crimes. She believes the higher crime rate in Ermineskin can be attributed to a more transient population that resides there.
- [22] A single family home with a basement suite would not bring in the same transient type of population as the proposed development.
- [23] She currently feels safe because she knows her neighbours. This would not be the case with constantly changing tenants at a Lodging House.
- [24] She has spent a lot time and energy making her home beautiful both inside and out. The immediately surrounding home owners have done the same and pride of ownership is evident in the neighbourhood. The Lodging House is an exception and the submitted

photos show that the front of the property is an eyesore and show garbage strewn about at the rear of the property.

[25] Parking is a concern due to the narrowness and disrepair of the alley and due to a speed bump that a person would have to drive over to access the rear parking pad at the subject site. Snow will make maneuvering in and out even more difficult.

[26] The community should have been consulted and advised that someone wanted to operate a Lodging House.

N. Steed

[27] Mr. Steed is within the 60 metre notification area and is therefore an affected party.

[28] The immediate neighbourhood consists of single family homes; as you move further out there are other types of developments such as row housing, condos and businesses. A Lodging House is a totally different type of development.

[29] He briefly highlighted the main points of his previous written submission:

a) The Development Officer failed to take into account that 32A Avenue is one of two major entrances into the entire neighbourhood and is used by approximately 170 households. Only residents within a 60 metre radius were notified of the proposed development – not everyone impacted has been given the opportunity to provide their opinion.

b) The Development Officer also failed to take into account that the proposed development is located directly across from a 32 box Canada Post neighbourhood mail box. Increased parking and traffic arising from the proposed development will negatively impact access to these mail boxes.

c) He objects to the development of a business which is basically a 6 person motel involving lodgers who are short term residents. This has an obvious impact on neighbouring property values. Common sense dictates that all other factors being equal between two residential properties, a purchaser will choose the one that is not next to or directly across from a 6 person Lodging House.

[30] Mr. Steed is aware of a home for people with developmental disabilities a short distance outside of the 60 metre notification area but it is not a Lodging House. The Chair referred to information included in the Development Officer's report which indicates that six Congregate Living Facilities are permitted in Steinhauer and only one currently exists. The proposed development would be the second facility if it is approved.

[31] There is a propensity for people in these types of living facilities (shared bathrooms and kitchen facilities) to stay for a shorter period of time. They are less likely to be committed to the neighbourhood which leads to a greater possibility for crime.



J. Prowse

- [32] Ms. Prowse is within the 60 metre notification area and is therefore an affected party. She has lived in this neighbourhood for forty years and the proposed development caught her by surprise.
- [33] Parking is a concern for her. There are already four vehicles at the subject site and only three renters. 32A Avenue is a major road and vehicles parked on the street in the winter will make it difficult for snow plows to get around them.
- [34] There is a dead birch tree in the front yard and lots of mess in the back garbage area. She also questions who will clear snow from the front sidewalk. These issues can cause neighbouring properties to be devalued.

*iii) Position of the Development Officer, K. Yeung*

- [35] The Development Authority did not attend the hearing and the Board relied on Mr. Yeung's written decision.

*iv) Position of the Respondent, G. Dai*

- [36] Mr. Dai was accompanied by N. Zhang.
- [37] He referred the Board to his written submission in which he addressed the concerns of the Appellant.
- [38] He purchased the subject property approximately one year ago and his tenants are students and young professionals. He requires a minimum commitment of four months. No smoking, drinking or parties are permitted and quiet time is from 10:30 p.m. until 7:00 am.
- [39] He will hire a company to replace the back fence. He plans to have gates installed in the new fence to allow access to the parking pad and loading zone. He intends to hard surface the loading zone.
- [40] He did notice that the garbage was torn apart on one occasion as a result of birds getting into it. He now leaves the garbage inside the yard and only puts it into the alley the night before garbage pick-up.
- [41] Mr. Dai provided the following responses to questions from the Board:
- a) The house is configured as follows: four bedrooms on the main floor, two bedrooms in the basement, three full bathrooms and one shared kitchen facility.
  - b) He has had tenants in place since September of 2017 but has been operating without a permit.

- c) From September to December of 2017, there were six renters plus a seventh for a short period of time as he was not aware that the limit was six. Most of the renters were there the full four months although one lost his job and moved out earlier. These tenants attended NAIT, MacEwan or were working. There were four vehicles present during this time period with two being parked in the garage, one on the driveway and one on the street.
- d) From January to April, 2018, there were six tenants. One of these attended school and the other five were working. One of them was employed as an electrician.
- e) There are currently six tenants in the house and they own three vehicles. Mr. Dai is temporarily storing a fourth vehicle at this location for a friend who is out of the country. This fourth vehicle will be removed sometime next month when his friend returns. Going forward only three vehicles will be permitted.
- f) The Respondent works from home and checks on the property almost daily as he only lives a 10 minute drive away. His work and living situation also allows him time to properly care for the property.
- g) Safety for neighbours will not be an issue as the premises will be properly managed. He plans to have a good screening process in effect and will make sure tenants have a good background.

*iv) Rebuttal of the Appellant*

- [42] While the Respondent commented that smoking or drugs are not permitted, he questions how this and other rules will be enforced. He personally has seen a resident of the home smoking on the back patio.
- [43] He has heard that the majority of the tenants are workers, not students. If they are highly professional, he does not believe they would be living in a Lodging House.
- [44] He disagrees that the Respondent regularly cleans up the garbage; there is garbage out there today. He has also had to go over and request the Respondent to cut the weeds and grass in the back area.
- [45] He has seen a Ford 250 parked at the site for approximately two months and there is also a minivan from Quebec.
- [46] He is concerned that the Respondent has been operating without a permit for such a long time.

**Decision**

- [47] The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is GRANTED as approved by the Development Authority.

**Reasons for Decision**

- [48] The proposed development is to convert a Single Detached House to a 6-sleeping unit Lodging House. Lodging Houses is a Discretionary Use in RF1 Single Detached Residential Zone.
- [49] The proposed development conforms to all development regulations in the *Edmonton Zoning Bylaw*. Therefore, the only issue before the Board is whether or not this Discretionary Use should be allowed being determined by whether or not the proposed use is compatible with the existing surrounding uses.
- [50] The Board heard substantial evidence from the Appellant as well as several owners of nearby neighbouring lands who all oppose the proposed Lodging House. However, the Board could find no valid planning reasons to allow the appeal.
- [51] The development regulations surrounding Lodging Houses are relatively extensive. They include a limitation on a proliferation of Lodging Houses by limiting Congregate Living developments to three per every 1,000 residents of a particular neighbourhood. In this neighbourhood of just over 2,000 residents, there is only one existing Congregate Living development, meaning that this will only be the second.
- [52] The neighbourhood is a typical Single Detached Residential Zone (RF1) that contains nothing unique about it that would be particularly incompatible with a residential house being used to house 6 unrelated persons.
- [53] The Board notes that the exterior of the house is not being altered and the streetscape remains identical to surrounding RF1 Single Detached Housing.
- [54] The proposed development satisfies all parking requirements.
- [55] For these reasons the Board finds that the proposed development is not incompatible with the surrounding RF1 neighbourhood and therefore the appeal is denied.

Mr. I. Wachowicz, Chairman  
Subdivision and Development Appeal Board

**Board members in attendance:**

Mr. R. Handa, Mr. R. Hobson, Mr. J. Kindrake, Mr. C. Buyze

**Important Information for the Applicant/Appellant**

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
  - f) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
  - g) the requirements of the *Alberta Safety Codes Act*,
  - h) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
  - i) the requirements of any other appropriate federal, provincial or municipal legislation,
  - j) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

*NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.*