

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
June 6, 2019**

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

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

---

I 9:00 A.M. SDAB-D-19-081

To install one (1) Fascia On-premises Sign  
(SERVUS CREDIT UNION).

10303 - 107 Avenue NW  
Project No.: 307869831-002

---

II 10:30 A.M. SDAB-D-19-082

To comply with an Order to cease the General  
Industrial Use and remove all related materials  
by May 22, 2019

18540 - 121 Avenue NW  
Project No.: 257137431-001

---

III 1:30 P.M. SDAB-D-19-083

To change the Use from a General Retail use to  
a Cannabis Retail Sales and to construct interior  
and exterior alterations (two new doors)

10235 - 124 Street NW  
Project No.: 310942980-001

---

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-081

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 307869831-002

APPLICATION TO: Install one (1) Fascia On-premises Sign (SERVUS CREDIT UNION).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 1, 2019

DATE OF APPEAL: May 6, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10303 - 107 Avenue NW

LEGAL DESCRIPTION: Plan B3 Blk 3 Lot 246

ZONE: (CB1) Low Intensity Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: Central McDougall / Queen Mark Park Area Redevelopment Plan

---

***Grounds for Appeal***

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

Servus Credit Union is in the process of a brand change. The existing signage at this location is being replaced with new. We are being instructed that the West Elevation signage cannot be illuminated as it faces residential. The sign had been previously permitted May 2007 for location and illumination.

-There have been no complaints from surrounding neighbours over the past 12 years.

-The sign is located on the corner of the building and is the only visible signage for traffic travelling East on 107th Ave.

-The residential building is set back 30m with a parking lot and lane between the two buildings.

We ask that Servus Credit Union be allowed to replace the existing sign with their newly branded design

***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.

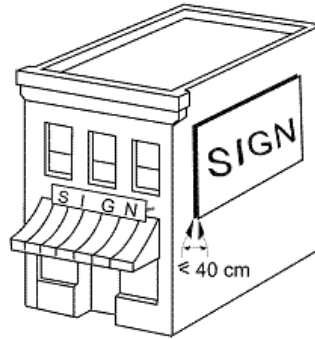
**General Provisions from the *Edmonton Zoning Bylaw*:**

Under section 330.2(20), **Fascia On-premises Signs** is a **Permitted Use** in the **(CB1) Low Intensity Business Zone**.

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

Under section 6.2, **Fascia Signs** means:

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



Under section 6.2, **On-premise Sign** means:

any Sign displaying Copy that directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, service or entertainment provided on the premises or Site where the Sign is displayed.

Section 819.5(2) states the following with respect to **Development Regulations for Signs**:

Signs shall complement the pedestrian-oriented commercial environment and shall be provided in accordance with Schedule 59E of this Bylaw, [...]

Section 330.1 states that the **General Purpose** of the **(CB1) Low Intensity Business Zone** is:

to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

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

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

***Schedule 59E – Sign Regulations***

Schedule 59E.2(1)(a) states "Fascia On-premises Signs shall only face a public roadway other than a Lane."

**Development Officer's Determination**

**Fascia On-premises Signs shall only face a public roadway other than a Lane. (Reference Section 59E.2(1)(a))**


**The proposed Sign is facing the lane and neighbouring property 10317 - 107 AVENUE NW. In the opinion of the Development Officer, there is no unnecessary hardship or practical difficulties peculiar to the proposed Sign; and in the opinion of the Development Officer the proposed Sign location will affect the use, enjoyment or value of neighbouring properties. [unedited]**

---

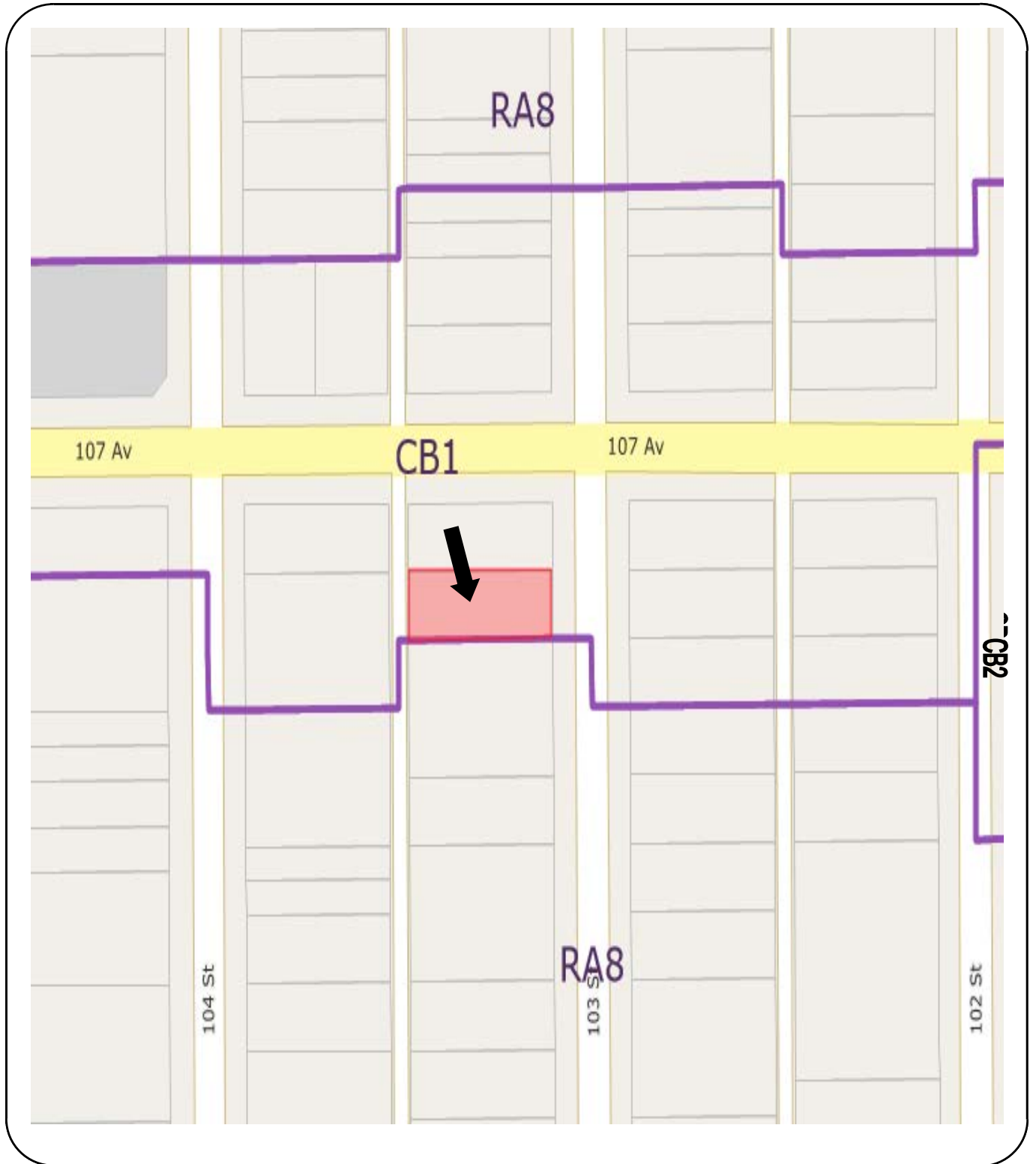
Notice to Applicant/Appellant

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

---

	Project Number: <b>307869831-002</b> Application Date: MAY 01, 2019 Printed: May 1, 2019 at 4:03 PM Page: 1 of 2			
<h2 style="margin: 0;">Application for Sign Combo Permit</h2>				
This document is a Development Permit Decision for the development application described below.				
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 10303 - 107 AVENUE NW Plan B3 Blk 3 Lot 246  <b>Location(s) of Work</b> Suite: 10303 - 107 AVENUE NW Entryway: 10303 - 107 AVENUE NW Building: 10303 - 107 AVENUE NW			
<b>Scope of Application</b> To install (1) Fascia On-premises Sign (SERVUS CREDIT UNION).				
<b>Permit Details</b>				
ASA Sticker No./Name of Engineer: 7503 Construction Value: 0	Class of Permit: Class B Expiry Date:			
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 1 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: 0	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: _____				
<b>Development Application Decision</b> Refused  <b>Issue Date:</b> May 01, 2019 <b>Development Authority:</b> MERCIER, KELSEY  <b>Reason for Refusal</b> Fascia On-premises Signs shall only face a public roadway other than a Lane. (Reference Section 59E.2(1)(a))  The proposed Sign is facing the lane and neighbouring property 10317 - 107 AVENUE NW. In the opinion of the Development Officer, there is no unnecessary hardship or practical difficulties peculiar to the proposed Sign; and in the opinion of the Development Officer the proposed Sign location will affect the use, enjoyment or value of neighbouring properties.  <b>Rights of Appeal</b> 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.				
<b>Fees</b>				
	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
<b>THIS IS NOT A PERMIT</b>				





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-081



AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 257137431-001

ORDER TO: Cease the General Industrial Use and remove all related materials by May 22, 2019.

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: April 25, 2019

DATE OF APPEAL: May 10, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 18540 - 121 Avenue NW

LEGAL DESCRIPTION: Plan 9525383 Blk 13 Lot 2

ZONE: DC2.369 Site Specific Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Kinokamau Plains Area Structure Plan

---

***Grounds for Appeal***

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

The property is not operating as a general industrial use business. As the owners of this property, the 4 adjacent properties to the east, and 1 to the west, we use this lot to park and store our vehicles. We all reside on the adjacent properties and park our company and personal vehicles here at the end of the day and walk to our homes.

We purchased this property in the early 1980's and built the shop in 1987. We have been parking our vehicles and trailers inside the shop and outside on the property since then. The most recent approved permit for this was granted in 1997 and expired in 2002. The expired permit was brought to our attention by a development officer, while he was inspecting the neighborhood, in 2017.

Between 2017 and 2018, I tried repeatedly to fill out and submit applications for various permits that Development Services said that I would require. Each time I would bring in the completed application and supporting documents, I was told it was not the correct application or that I could not apply for that permit as it was not what was needed. In the end, they admitted they were unsure of exactly what type of permitting that I did require. Overall, I was unsuccessful in receiving the information I needed to apply for the proper permit that the property required.

***General Matters***

**Appeal Information:**

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

**Stop order**

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

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

the development authority may act under subsection (2).

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

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

within the time set out in the notice.

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

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

### **Permit**

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

### **Grounds for Appeal**

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

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

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

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal 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, or
    - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
  - or
  - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the

notice of the issuance of the permit was given in accordance with the land use bylaw.

**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 DC2.369 Site Specific Development Control Provision (“DC2.369”):**

A **General Industrial Use** is **not** a listed Use in **DC2.369**.

DC2.369.1 states that the **General Purpose** of the **DC2.369** is:

To establish a Site Specific Development Control District to accommodate rural residential development on lots a minimum of 0.4 ha in size, without the full range of piped urban utility services. The proposed District provides an interim solution to fulfil City Council's directive that Mooncrest Park be designated as a residential development, recognizing the current rural unserviced nature of the area and the long term likelihood of neighbourhood area structure plans being prepared for the Mooncrest Park Subdivision and adjacent areas, as proposed in the Kinokamau Plains Servicing Concept Design Brief.

**General Provisions from the Land Use Bylaw 5996:**

Under section 10.4(1), **General Industrial Use** means:

development used principally for one or more of the following activities:

- a) the processing of raw materials;
- b) the manufacturing or assembling of semi-finished or finished goods, products or equipment;
- c) the cleaning, servicing, repairing or testing of materials, goods and equipment normally associated with industrial or commercial businesses or cleaning, servicing and repair operations to goods and equipment associated with personal or household use, where such operations have impacts that would make them incompatible in Non-Industrial Districts;
- d) the storage or transshipping of materials, goods and equipment;
- e) the distribution and sale of materials, goods and equipment to institutions or industrial and commercial businesses for their direct use or to General Retail Stores or other sales Use Classes defined in this Bylaw for resale to individual customers; or
- f) the training of personnel in General Industrial operations.

Any indoor display, office, technical or administrative support areas or any retail sale operations shall be accessory to the General Industrial Use activities identified above. The floor area devoted to such accessory activities shall not exceed 33 percent of the total gross floor area of the building(s) devoted to the General Industrial Use, except that this

restriction shall not apply where a significant portion of the industrial activity naturally and normally takes place out of doors.

This Use Class includes vehicle body repair and paint shops. This Use Class does not include Major Impact Utility Services and Minor Impact Utility Services or the preparation of food and beverages for direct sale to the public.

**General Provisions from the *Edmonton Zoning Bylaw 12800*:**

Under section 7.5(3), **General Industrial Use** means:

development used principally for one or more of the following activities:

- a. the processing of raw materials;
- b. the making, manufacturing or assembling of semi-finished or finished goods, products or equipment;
- c. the cleaning, servicing, repairing or testing of materials, goods and equipment normally associated with industrial or commercial businesses or cleaning, servicing and repair operations to goods and equipment associated with personal or household use, where such operations have impacts that would make them incompatible in Non-industrial Zones;
- d. the storage or transshipping of materials, goods and equipment;
- e. the distribution and sale of materials, goods and equipment to institutions or industrial and commercial businesses for their direct use or to General Retail Stores or other sales Uses defined in this Bylaw for resale to individual customers; or
- f. the training of personnel in general industrial operations.

This Use includes vehicle body repair and paint shops and Cannabis Production and Distribution licensed and operating pursuant to provincial or federal legislation. This Use does not include Major Impact Utility Services and Minor Impact Utility Services or the preparation of food and beverages for direct sale to the public.

***Requirement for a Development Permit***

Section 5.1 states:

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

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

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
SDAB-D-05-042	Construct a single detached house with attached garage, deck, veranda and fireplace, and to construct an accessory detached garage addition to an existing shop (reference 42989207-007 for building permit for shop addition) on Lot 2, Block 13, Plan 9525383.	March 18, 2005; Approved with Conditions.
SDAB-D-00-104	Construct an addition (9.1 metres by 10.9 metres) to an accessory building (detached garage)	April 20, 2000; Refused.

---

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.

---



City of Edmonton  
Development and Zoning Services  
Development Compliance & Inquiries

5th Floor, Edmonton Tower  
10111 104 Avenue NW  
Edmonton, AB T5J 0J4  
Canada



[edmonton.ca/developmentcompliance](http://edmonton.ca/developmentcompliance)

April 25, 2019

Our File: 257137431-001

### **MUNICIPAL GOVERNMENT ACT ORDER**

Dear Sir/Madam:

An Alberta Land Titles search identifies you as the registered owner(s) of the property located at 18540 121 Avenue NW in Edmonton, Alberta, legally described as Plan 9525383 Blk 13 Lot 2.

This Property was inspected by Development Compliance Officer Rachelle FRASER, on April 24, 2019. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 and 624 of the Municipal Government Act.

#### ZONING BYLAW INFRACTION:

This property is zoned as DC2 in accordance with Section DC2.369 of the Edmonton Zoning Bylaw 12800. Our investigation revealed that a General Industrial Use (storage of commercial trailers, scrap metal, tires, tanks, piping, plastic tubing, water storage units, vehicle parts, heavy equipment, and commercial equipment material) has been developed without a Development Permit.

The City of Edmonton has not issued a Development Permit to develop a General Industrial Use which is contrary to Section 5.1 of Edmonton Zoning Bylaw 12800, and Section 683 of the Municipal Government Act.

Section 5.1 of Edmonton Zoning Bylaw states:

Requirement for a Development Permit

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

7.5(3) General Industrial Uses:

3.General Industrial Uses means development used principally for one or more of the following

activities:

- a. the processing of raw materials;
- b. the making, manufacturing or assembling of semi-finished or finished goods, products or equipment;
- c. the cleaning, servicing, repairing or testing of materials, goods and equipment normally associated with industrial or commercial businesses or cleaning, servicing and repair operations to goods and equipment associated with personal or household use, where such operations have impacts that would make them incompatible in Non-industrial Zones;
- d. the storage or transshipping of materials, goods and equipment;
- e. the distribution and sale of materials, goods and equipment to institutions or industrial and commercial businesses for their direct use or to General Retail Stores or other sales Uses defined in this Bylaw for resale to individual customers; or
- f. the training of personnel in general industrial operations.

\*\*\* General Industrial Use is not a permitted or discretionary Use in (DC2) Site Specific Development Control Provision Zone \*\*\*

ORDER:

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

Cease the General Industrial Use and remove all related materials by May 22, 2019.

CONSEQUENCES FOR NON-COMPLIANCE:

The property will be inspected after May 22, 2019 to determine compliance with this Order.

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

Section 553(1)(h.1) of the Municipal Government Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to 566(2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment.

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

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

If you have any questions in regards to this matter, please contact the writer at 780-944-5975.

Regards,



Rachelle Fraser  
Development and Zoning  
Development Services  
Phone Number: 780-944-5975  
Email Address: [rachelle.fraser@edmonton.ca](mailto:rachelle.fraser@edmonton.ca)

**Adding Amounts  
Owing to tax roll**

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

**Stop order**

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

**Enforcement of stop order**

- 646(1)** If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.
- (2)** A municipality may register a caveat under the Land Titles Act in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.
- (3)** If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.

**Permit**

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

**Grounds for appeal**

- 685(1)** If a development authority
- (a) fails or refuses to issue a development permit to a person,
  - (b) issues a development permit subject to conditions, or
  - (c) issues an order under section 645,
- the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.
- (2)** In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.
- (3)** Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted or the application for the development permit was deemed to be refused under section 683.1(8).
- (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) is made by a council, there is no appeal to the subdivision and development appeal board, or
  - (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.

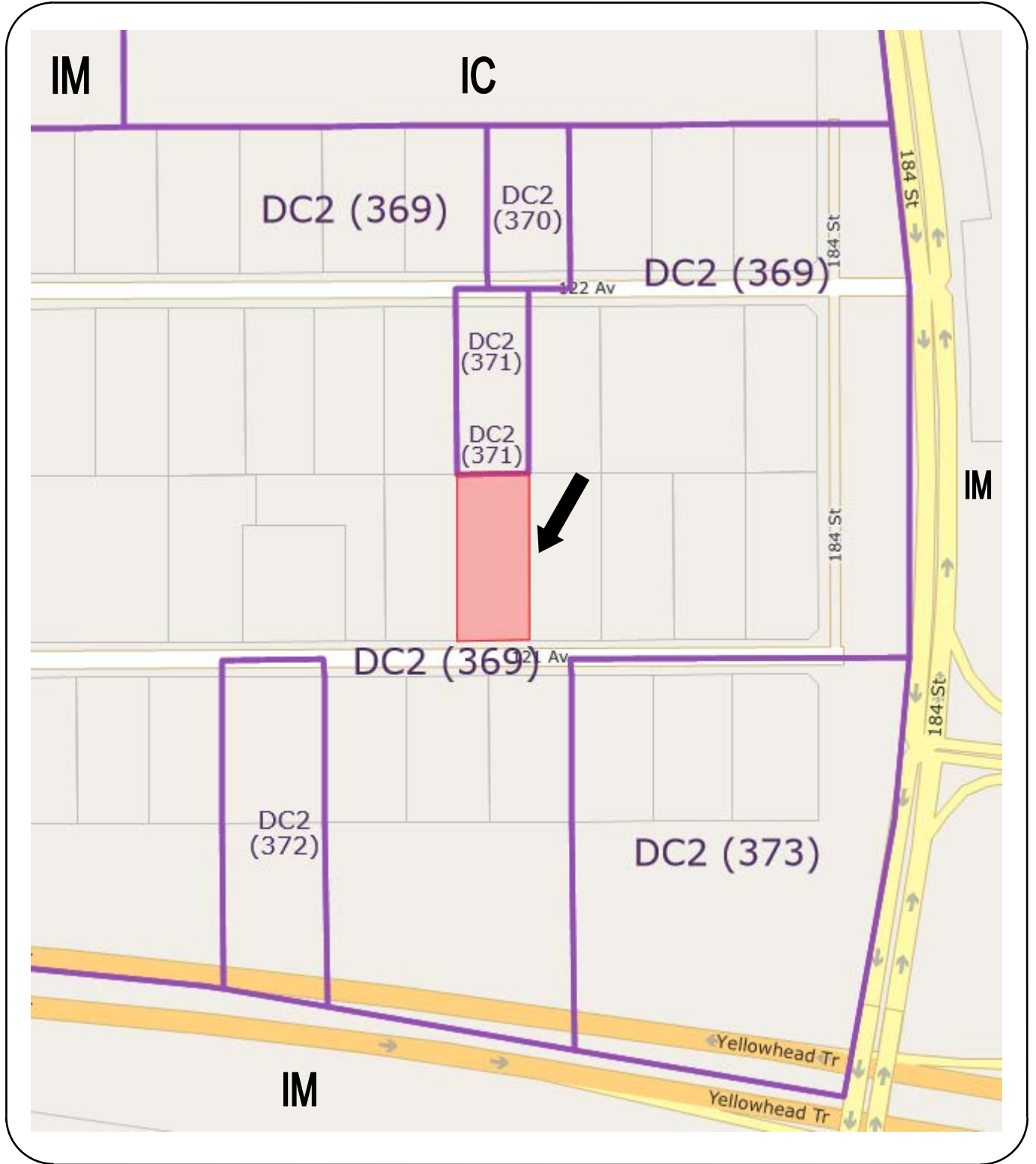
**Appeals**

- 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) within 21 days after the date on which the decision is made under section 642, or
      - (A) The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
      - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
- or
- (ii) if no decision is made with respect to the application within the 40-day period or within any extension under section 684, the date the period or extension expires,

or

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.
- (2)** The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
- (3)** The subdivision and development appeal board must give at least 5 days notice in writing of the hearing
  - (a) to the appellant,
  - (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
  - (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.
- (4)** The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
  - (a) the application for the development permit, the decision and the notice of appeal, or
  - (b) the order under section 645.
- (4.1)** Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).
- (5)** In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-082



ITEM III: 1:30 P.M.

FILE: SDAB-D-19-083

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 310942980-001

APPLICATION TO: Change the Use from a General Retail Use to a Cannabis Retail Sales and to construct interior and exterior alterations (two new doors).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 23, 2019

DATE OF APPEAL: May 14, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10235 - 124 Street NW

LEGAL DESCRIPTION: Plan RN22 Blk 20 Lots 3-6

ZONE: (CB1) Low Intensity Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: Oliver Area Redevelopment Plan

***Grounds for Appeal***

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

The Appellant respectfully requests that the SDAB exercise its variance power to grant a variance for the following reasons:

- (a) the proposed development is located in a high density commercial corridor along 124th Street;
- (b) the proposed development is not visible from the conflicting site, and the two sites are separated by an arterial roadway with 4 to five lanes of traffic, an intersection and a median;
- (c) the walking distance between the proposed development and the conflicting site is greater than the separation distances set out in section 70 of the Edmonton zoning bylaw;
- (d) there is ample parking available at or near the proposed development;



- (e) the City of Edmonton development officer was prohibited from considering a variance under the Edmonton zoning bylaw;
- (f) the proposed development would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land;
- (g) the proposed development conforms with the use prescribed for that building in the Edmonton zoning bylaw; and
- (h) such further and other grounds as may be determined and raised during the hearing of this appeal.

<b><i>General Matters</i></b>
-------------------------------

**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*:**

Section 330.1 states that the **General Purpose** of the **(CB1) Low Intensity Business Zone** is:

to provide for low intensity commercial, office and service uses located along arterial roadways that border residential areas. Development shall be sensitive and in scale with existing development along the commercial street and any surrounding residential neighbourhood.

Under section 330.2(3), **Cannabis Retail Sales** is a **Permitted Use** in the (CB1) Low Intensity Business Zone.

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

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

Under section 6.1, **Cannabis** means:

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

- a. Cannabis includes:
  - i. any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a part of the plant referred to in subsection (b) of this definition.
  - ii. any substance or mixture of substances that contains or has on it any part of such a plant;
  - iii. any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained.

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.

***Minimum Setback from Other Cannabis Retail Sales and Development Officer's Discretion***

***Section 70 – Cannabis Retail Sales (amended February 25, 2019)***

- 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 Cannabis Retail Sales shall not be located less than:
  - a. 200 m from any Site being used for a public library, at the time of the application for the Development Permit for the Cannabis Retail Sales; and
  - b. 100 m from any Site being used for Community Recreation Services Use, a community recreation facility or as public lands at the time of application for the Development Permit for the Cannabis Retail Sales.
  
3. For the purposes of subsection 2:
  - a. separation distances 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 and learning resources in the form of books, electronic files, computers, manuscripts, recordings and films for public use, and does not include private libraries, museums or art galleries.
  - c. 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
  - d. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.

4. Subsection 105(3) of the *Gaming, Liquor and Cannabis Regulation*, is expressly varied by the following:

a. any Site containing a Cannabis Retail Sales shall not be located less than:

***Public or private education***

i. 200 m from a Site being used for public or private education, at the time of the application for the Development Permit for the Cannabis Retail Sales;

***Provincial health care facility***

ii. 100 m from a Site being used for a provincial health care facility at the time of the application for the Development Permit for the Cannabis Retail Sales; and

***School reserve or municipal and school reserve***

iii. 100 m from a Site designated as school reserve or municipal and school reserve at the time of the application for the Development Permit for the Cannabis Retail Sales.

***Measurement of Separation Distances***

b. For the purposes of this subsection, separation distances 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.

***Sites Greater than Two Hectares***

c. For Sites that are greater than 2.0 ha in size and zoned either CSC or DC2, that do not contain a public library at the time of application for the Development Permit for the Cannabis Retail Sales:

i. Subsection 70(2), and 70(4)(a) shall not apply; and

ii. the distances referred to in Subsection 105(3) of the *Gaming, Liquor and Cannabis Regulation* shall be expressly varied to 0 m.

d. For the purposes of subsection 70(4)(a)(i), the term "public or private education" means a school as defined in subsection (1)(y)(i) and (1)(y)(ii) of the *School Act (as amended from time to time)*.

5. Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 70(2), 70(3)(a) or 70(4).

**Design Requirements**

6. 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 storefront that is visible from the street other than a Lane, or a shopping centre parking lot, or 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

Landscaping shall be low-growing shrubs or deciduous trees with a high canopy at maturity to maintain natural surveillance.

**Development Officer's Determination**

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

Required Setback: 200 m  
Proposed Setback: 168 m  
Deficient by 32 m


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

---

Notice to Applicant/Appellant

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

---

	Project Number: <b>310942980-001</b> Application Date: APR 11, 2019 Printed: April 23, 2019 at 5:01 PM Page: 1 of 2															
<h2 style="margin: 0;">Application for Major Development Permit</h2>																
This document is a Development Permit Decision for the development application described below.																
<b>Applicant</b> <div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 80%; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 60%; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 85%; height: 15px;"></div>	<b>Property Address(es) and Legal Description(s)</b> 10235 - 124 STREET NW Plan RN22 Blk 20 Lots 3-6  <b>Specific Address(es)</b> Suite: 1109, 10235 - 124 STREET NW Entryway: 10235 - 124 STREET NW Building: 10235 - 124 STREET NW															
<b>Scope of Application</b> To Change the Use from a General Retail use to a Cannabis Retail Sales and to construct interior and exterior alterations (2 new doors).																
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                     Class of Permit:                      Gross Floor Area (sq.m.): 190                      New Sewer Service Required: N                      Site Area (sq. m.):                 </td> <td style="width: 50%; border: none; vertical-align: top;">                     Contact Person:                      Lot Grading Needed?: N                      NumberOfMainFloorDwellings:                      Stat. Plan Overlay/Annex Area: (none)                 </td> </tr> </table>		Class of Permit: Gross Floor Area (sq.m.): 190 New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)													
Class of Permit: Gross Floor Area (sq.m.): 190 New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)															
I/We certify that the above noted details are correct.  Applicant signature: _____																
<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Apr 23, 2019 <b>Development Authority:</b> Chow, Stephen  <b>Reason for Refusal</b> The proposed Cannabis Retail Store does not comply with the minimum setback requirement from another approved Cannabis Retail Sales location (Section 70.1):  Required Setback: 200 m Proposed Setback: 168 m Deficient by 32 m  Under Sections 70.1(b) of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Cannabis Retail Store.  <b>Rights of Appeal</b> 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.																
<b>Fees</b> <table style="width: 100%; border: none; margin-top: 10px;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">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;">05786568</td> <td style="text-align: right;">Apr 16, 2019</td> </tr> <tr> <td>Development Permit Inspection Fee</td> <td style="text-align: right;">\$518.00</td> <td></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	05786568	Apr 16, 2019	Development Permit Inspection Fee	\$518.00			
	Fee Amount	Amount Paid	Receipt #	Date Paid												
Major Dev. Application Fee	\$5,600.00	\$5,600.00	05786568	Apr 16, 2019												
Development Permit Inspection Fee	\$518.00															
<b>THIS IS NOT A PERMIT</b>																



## Application for Major Development Permit

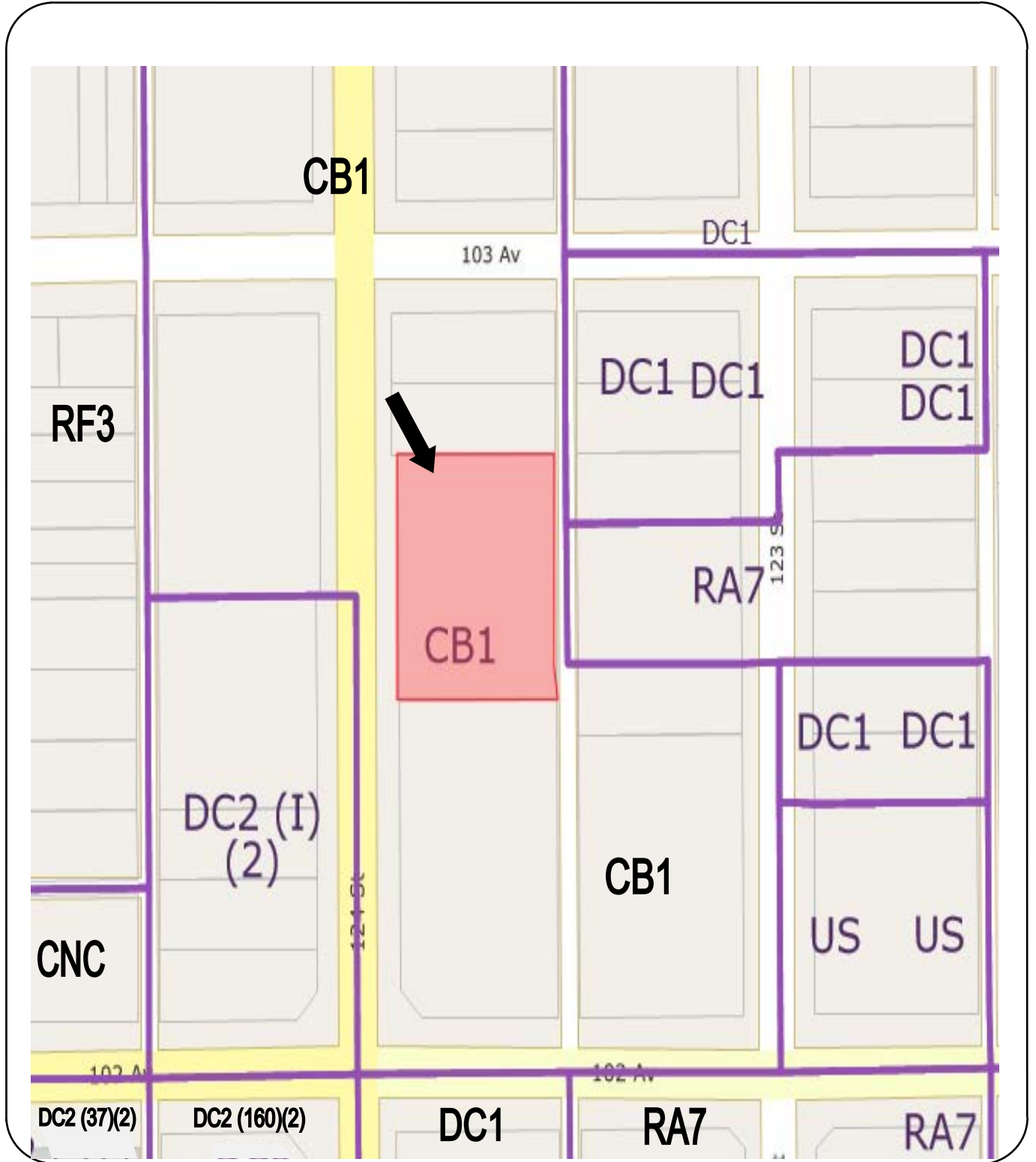
Project Number: **310942980-001**  
Application Date: APR 11, 2019  
Printed: April 23, 2019 at 5:01 PM  
Page: 2 of 2

### Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Total GST Amount:	\$0.00			
Totals for Permit:	\$6,118.00	\$5,600.00		
(5518.00 outstanding)				

**THIS IS NOT A PERMIT**





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-083

▲  
N