

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
October 17, 2018**

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

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

I	9:00 A.M.	SDAB-D-18-169	Construct interior / exterior alterations to an existing Commercial building (General Retail), and to construct a second, third and fourth Storey Apartment Housing addition (36 Dwellings).
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10145 - 81 Avenue NW
Project No.: 261326257-002

II	1:30 P.M.	SDAB-D-18-170	Change the Use from a Restaurant to a Cannabis Retail Store
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13160 - 118 Avenue NW
Project No.: 286803282-001

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-18-169

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT CONDOMINIUM ASSOCIATION

APPELLANT:

APPLICATION NO.: 261326257-002

APPLICATION TO: Construct interior / exterior alterations to an existing Commercial building (General Retail), and to construct a second, third and fourth Storey Apartment Housing addition (36 Dwellings).

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: August 27, 2018

DATE OF APPEAL: September 18, 2018

NOTIFICATION PERIOD: September 4, 2018 through September 25, 2018

RESPONDENT: Bennett Architect

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10145 - 81 Avenue NW

LEGAL DESCRIPTION: Plan I Blk 51 Lots 1-3

ZONE: DC1 (Historic West Ritchie) Direct Development Control Provision

OVERLAY:

STATUTORY PLAN: Strathcona Area Redevelopment Plan

Grounds for Appeal

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

I received notice regarding a proposed development at 10145 – 81 Ave. NW to add three more residential floors to this address. I am concerned

that it seems the development plans to only provide 17 parking spaces for a proposed 36 dwellings. I live just east of and down the alley from this address at Scona Station at 10116 – 80 Ave. NW. Scona Station is a condominium development with visitor and reserved parking on the north side of the building along with general public parking on the south side of our building where also there are 6 commercial units that are part of our development. I am on our condominium Board of Directors and have and continue to observe abuse of our reserve and visitor parking by clients and staff of nearby businesses and by residents of nearby dwellings. There is general public parking on the south side of our building which is also where our commercial units are located and again these parking stalls are frequented by staff and clients of businesses and residents of dwellings that are not of Scona Station and which can prevent clients of our commercial units from finding parking close by. I also observe that many of the streets nearby our building have become mostly one way streets especially during the day as they are clogged with parked vehicles on both sides. Leaving the alley on the north side of our building either west or especially from the east is often a tense experience as all the parked vehicles along 101 st. can severely reduce visibility of northbound or southbound traffic on 101 st which particularly for north bound traffic can be dangerous as many vehicles speed north trying to catch a green traffic light at Whyte avenue. So for all the above reasons I object on behalf of the Scona Station Board of Directors to another development that under provides parking for its residents and or clients. A case in point is the apartment building just across the alley from our building to the north. It now has several businesses on the ground floor including a popular bakery whose customers frequently use our visitor parking and whose residents frequently do the same partly because neither has any visitor parking designated for them.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

(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.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 1 of the **DC1 (Historic West Ritchie) Direct Development Control Provision** (the "**DC1**") states that the **purpose** of this Provision is:

to preserve the unique architectural character of a portion of 81 avenue, provide for new commercial and compatible mixed use development opportunities and if possible preserve the view of the historic Canadian Pacific Railway (CPR) station to the west. This provision creates a unique pedestrian commercial shopping district while ensuring future development is compatible with the character of buildings with historic false Façades.

Section 3 of the **DC1** provides the following with respect to *Permitted and Discretionary Uses*:

Permitted and Discretionary Uses in this Provision shall be as prescribed in the (CB2) General Business Zone with the addition of Live Work Units as a Permitted Use.

Under section 340.2(12), **General Retail Stores** is a **Permitted Use** in the (CB2) **General Business Zone**.

Under Section 7.4(24), **General Retail Stores** means:

development used for the retail or consignment sale of new goods or merchandise within an enclosed building, not including the sale of gasoline, heavy agricultural and industrial equipment, alcoholic beverages, or goods sold wholesale. Accessory Uses may include the assembly or repair of products sold on Site, or minor public services such as postal services or pharmacies. This Use does not include Aircraft Sales/Rentals, Automotive and Minor Recreation Vehicle Sales/Rentals, Cannabis Retail Sales, Flea Market, Gas Bars, Greenhouses, Plant Nurseries and Garden Centres, Pawn Stores, Major Alcohol Sales, Minor Alcohol Sales, Major Service Stations, Minor Service Stations, Secondhand Stores, and Warehouse Sales.

Under section 340.3(2), **Apartment Housing** is a **Discretionary Use** in the (CB2) **General Business Zone**.

Under Section 7.2(1), **Apartment Housing** means:

development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use.

Section 4(a) of the **DC1** provides the following with respect to *Development and Design Regulations*:

- a. Except as modified below, development regulations in this Provision shall be as prescribed in the (CB2) General Business Zone and as modified by the Pedestrian Commercial Shopping Street Overlay, notwithstanding subsection 800.2(2)(a) of the Zoning Bylaw.

...

Discretionary Use

Section 12.4(1) states the following with respect to ***Class B Discretionary Development***:

this class includes all developments for which applications are required and are for a Discretionary Use or require a variance to any of the regulations of this Bylaw. This class of Development Permit also includes all applications on Sites designated Direct Control not noted in Section 12.3.

Development Officer’s Determination

Discretionary Development - The Site is designated as a Direct Development Control Provision Historic West Ritchie (DC1 - Bylaw 15811). (Section 12.4)

Discretionary Use - Apartment Housing is approved as a Discretionary Use (Section 3 of the DC1 provision and Section 340.3.2). [unedited]

Parking

Section 819.3(11) of the **Main Streets Overlay** (formerly the ***Pedestrian Commercial Shopping Street Overlay***) states “The minimum number of off-street parking spaces required shall be in accordance with Section 54, Schedule 1C.”

Schedule 1(C) Transit Oriented Development and Main Streets Overlay	
Use of Building or Site	Minimum or Maximum Number of Parking Spaces Required
Residential and Residential-Related Uses	
<u>Area of application</u>	<p>Where the following Uses are outside of the boundary of 54.2 Schedule 1(B) but are located within:</p> <ul style="list-style-type: none"> · 600 metres of an existing LRT station, or a future LRT station with the most recent version of a Council-approved Concept Plan; · 600 metres of an existing Transit Centre, or a future Transit Centre with the most recent version of a Council-approved Concept Plan; · 150 metres of a Transit Avenue; or · the boundaries shown in the Main Streets Overlay Section 819.2,

	<p>the minimum and maximum parking requirements shown below shall apply, except Schedule 1(A) shall apply for Residential and Residential-Related Uses not listed here.</p> <p>For the purpose of Schedule 1(C), measurements shall be made from the nearest point of the LRT station, Transit Centre, or Transit Avenue to the Site Boundary where the Use(s) are to be located. Where a LRT station or Transit Centre exists in concept only, the radius shall be measured from the centre of the proposed location on the concept diagrams, or of the nearest roadway intersection at the discretion of the Development Officer.</p>																																				
<p>1. Apartment Housing Stacked Row Housing</p>	<p>In Core and Mature neighbourhoods, as identified in Edmonton's Municipal Development Plan, Bylaw 15100, excluding the Downtown Special Area:</p> <table border="1" data-bbox="651 701 1425 911"> <thead> <tr> <th colspan="3">Minimum and Maximum Parking Spaces per Dwelling size</th> </tr> <tr> <th>Dwelling Size</th> <th>Minimum</th> <th>Maximum</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>0.5</td> <td>1.0</td> </tr> <tr> <td>1 Bedroom Dwelling</td> <td>0.5</td> <td>1.0</td> </tr> <tr> <td>2 Bedroom Dwelling</td> <td>0.75</td> <td>1.5</td> </tr> <tr> <td>3 or more Bedroom Dwelling</td> <td>1.0</td> <td>1.75</td> </tr> </tbody> </table> <p>In all other neighbourhoods:</p> <table border="1" data-bbox="651 947 1425 1234"> <thead> <tr> <th colspan="3">Minimum and Maximum Parking Spaces per Dwelling size</th> </tr> <tr> <th>Dwelling Size</th> <th>Minimum</th> <th>Maximum</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>0.7</td> <td>1.0</td> </tr> <tr> <td>1 Bedroom Dwelling</td> <td>0.8</td> <td>1.0</td> </tr> <tr> <td>2 Bedroom Dwelling</td> <td>1.0</td> <td>1.5</td> </tr> <tr> <td>3 or more Bedroom Dwelling</td> <td>1.25</td> <td>1.75</td> </tr> </tbody> </table> <p>Visitor parking shall be provided at a minimum rate of 0 visitor parking spaces for the first 7 Dwellings, and 1 visitor parking space per 7 Dwellings thereafter. Visitor parking must be readily available to the primary building entrance for each multi-unit residential building on Site, and be clearly identified as visitor parking, to the satisfaction of the Development Officer.</p>	Minimum and Maximum Parking Spaces per Dwelling size			Dwelling Size	Minimum	Maximum	Studio	0.5	1.0	1 Bedroom Dwelling	0.5	1.0	2 Bedroom Dwelling	0.75	1.5	3 or more Bedroom Dwelling	1.0	1.75	Minimum and Maximum Parking Spaces per Dwelling size			Dwelling Size	Minimum	Maximum	Studio	0.7	1.0	1 Bedroom Dwelling	0.8	1.0	2 Bedroom Dwelling	1.0	1.5	3 or more Bedroom Dwelling	1.25	1.75
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<p>Non-Residential and non-Residential-Related Uses</p>																																					
<p><u>Area of application</u></p>	<p>Where the following Uses are outside of the boundary of 54.2 Schedule 1(B) but are located within:</p> <ul style="list-style-type: none"> · 200 metres of an existing LRT station or a future LRT station with the most recent version of a Council-approved Concept Plan; · 200 metres of an existing Transit Centre or a future Transit Centre with the most recent version of a Council-approved Concept Plan; · 150 metres of a Transit Avenue; or 																																				

	<p>· the boundaries shown in the Main Streets Overlay, Section 819.2,</p> <p>the minimum and maximum parking requirements shown below shall apply.</p> <p>For the purpose of Schedule 1(C), measurements shall be made from the nearest point of the LRT station, Transit Centre, or Transit Avenue to the Site Boundary where the Use(s) are to be located. Where a LRT station or Transit Centre exists in concept only, the radius shall be measured from the centre of the proposed location on the concept diagrams, or of the nearest roadway intersection at the discretion of the Development Officer.</p>
<p>7. All other non-residential Uses</p>	<p>1 parking space per 100.0 square metres of Floor Area</p>

Development Officer’s Determination

Parking - The site has 17 onsite parking spaces, instead of 35 (Section 819.3.8.c of the Pedestrian Commercial Shopping Street Overlay, and Section 54.2, Schedule 1.c.1). NOTE: The proposed parking variance and submitted parking justification has been reviewed by Subdivision Planning (Transportation), and Subdivision Planning is satisfied that the proposed development meets its multi-modal transportation requirements, including parking. [unedited]

Stepback

Section 4.d.iv of the **DC1** states:

Notwithstanding subsection 819.3(6) of this Bylaw, in multi-Storey buildings there shall be a minimum 2.5 metres Stepback above the first Storey to give prominence to the false Façade.

Section 4.d.viii of the **DC1** states:

Alternative architecture that is not completely compliant with Clauses 4(d)(ii–vi) above shall be considered at the discretion of the City of Edmonton’s Development Officer and Heritage Planner, provided that it compliments and otherwise does not conflict with the existing character of the historic false Façades within this area.

Under section 6.1, **Façade** means:

the exterior outward face of a building. Typically, the façade of interest is that surface that serves as the front of that building and faces a

building's primary street. Buildings on the corner of two streets or a street and an alley present two public façades.

Under section 6.1, **Stepback** means “the horizontal distance a building façade is stepped back, on a horizontal plane, from the building façade immediately below it.”

Development Officer's Determination

Upper floor Stepback - The upper floors are not Stepped back 2.5m from the facade of the first Storey abutting 81 Avenue (Section 4.d.iv). NOTE: Variance granted in accordance to Section 4.d.viii of the DC1 provision. The proposed development has been reviewed and supported by the Heritage Officer. [unedited]

Non-conforming building

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

Non-conforming use and non-conforming buildings

643(1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

(2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.

(4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.

(5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

- (a) to make it a conforming building,
- (b) for routine maintenance of the building, if the development authority considers it necessary, or

- (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75percent of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

Section 11.3(2) states the following with respect to **Variance to Regulations**:

The Development Officer may approve, with or without conditions as a Class B Discretionary Development, an enlargement, alteration or addition to a non-conforming building if the non-conforming building complies with the Uses prescribed for that land in this Bylaw and the proposed development would not, in their opinion:

- a. unduly interfere with the amenities of the neighbourhood; or
- b. materially interfere with or affect the use, enjoyment or value of neighbouring properties.

Section 819.3(2) of the **Main Streets Overlay** states:

A Setback of 1.0 m shall be required where a Site Abuts a public roadway, other than a Lane. The 1.0 m Setback shall be paved and visually incorporated into the public Walkway to the satisfaction of the Development Officer in consultation with Integrated Infrastructure Services. The Development Officer may allow this Setback to be increased to a maximum of 2.5 m to accommodate street related activities that contribute to the pedestrian-oriented shopping character of the area. Buildings may project to the front and side property lines above 4.0 m in Height.

Section 819.3(3) states:

Notwithstanding 819.3.2, buildings may be built to the property line that Abuts a public roadway other than a Lane, provided the width of the public walkway is a minimum distance of 4.7 m from curb to property line.


Under section 6.1, **Setback** means “the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space.”


Development Officer's Determination

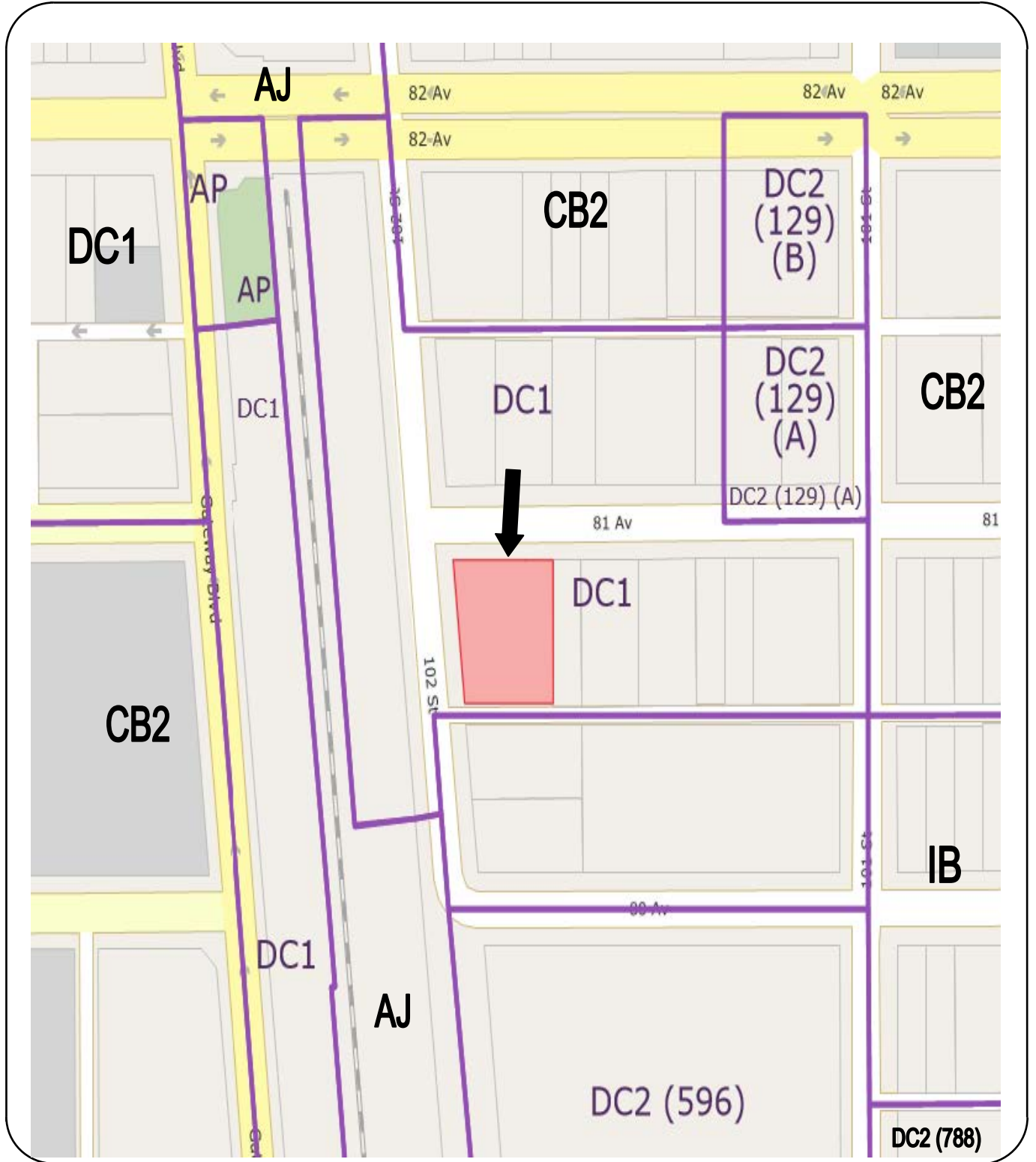
Non-conforming building - In accordance with Section 11.3.2, the proposed addition to a non-conforming building is allowed. NOTE: The existing single storey building has a non-conforming Setback abutting 81 Avenue (3.0m instead of 0m). [unedited]

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: 261326257-002 Application Date: JAN 22, 2018 Printed: September 19, 2018 at 8:11 AM Page: 1 of 4
Major Development Permit		
This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.		
Applicant	Property Address(es) and Legal Description(s)	
	10145 - 81 AVENUE NW Plan I Blk 51 Lots 1-3	
Scope of Permit		
To construct interior / exterior alterations to an existing Commercial building (General Retail), and to construct a second, third and fourth Storey Apartment Housing addition (36 Dwellings).		
Permit Details		
Class of Permit: Class B Gross Floor Area (sq.m.): 1032 New Sewer Service Required: Y Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)	
I/We certify that the above noted details are correct. Applicant signature: _____		
Development Permit Decision		
Approved Issue Date: Aug 27, 2018 Development Authority: BACON, KIRK		

	Project Number: 261326257-002 Application Date: JAN 22, 2018 Printed: September 19, 2018 at 8:11 AM Page: 4 of 4																																													
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<p>easements that might be attached to the Site.</p> <p>Variations</p> <p>Discretionary Development - The Site is designated as a Direct Development Control Provision Historic West Ritchie (DC1 - Bylaw 15811). (Section 12.4)</p> <p>Discretionary Use - Apartment Housing is approved as a Discretionary Use (Section 3 of the DC1 provision and Section 340.3.2).</p> <p>Parking - The site has 17 onsite parking spaces, instead of 35 (Section 819.3.8.c of the Pedestrian Commercial Shopping Street Overlay, and Section 54.2, Schedule 1.c.1). NOTE: The proposed parking variance and submitted parking justification has been reviewed by Subdivision Planning (Transportation), and Subdivision Planning is satisfied that the proposed development meets its multi-modal transportation requirements, including parking.</p> <p>Upper floor Stepback - The upper floors are not Stepped back 2.5m from the facade of the first Storey abutting 81 Avenue (Section 4.d.iv). NOTE: Variance granted in accordance to Section 4.d.viii of the DC1 provision. The proposed development has been reviewed and supported by the Heritage Officer.</p> <p>Non-conforming building - In accordance with Section 11.3.2, the proposed addition to a non-conforming building is allowed. NOTE: The existing single storey building has a non-conforming Setback abutting 81 Avenue (3.0m instead of 0m).</p> <p>Rights of Appeal</p> <p>This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.</p> <p>Notice Period Begins: Sep 04, 2018 Ends: Sep 25, 2018</p>																																														
<p>Fees</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: left;">Receipt #</th> <th style="text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee for GFA</td> <td style="text-align: right;">\$576.00</td> <td style="text-align: right;">\$576.00</td> <td>04760557</td> <td>Jan 24, 2018</td> </tr> <tr> <td>Development Permit Inspection Fee</td> <td style="text-align: right;">\$510.00</td> <td style="text-align: right;">\$510.00</td> <td>04760557</td> <td>Jan 24, 2018</td> </tr> <tr> <td>Dev. Application Fee # of dwelling units</td> <td style="text-align: right;">\$2,400.00</td> <td style="text-align: right;">\$2,400.00</td> <td>04760557</td> <td>Jan 24, 2018</td> </tr> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$948.00</td> <td style="text-align: right;">\$948.00</td> <td>04760557</td> <td>Jan 24, 2018</td> </tr> <tr> <td>Sanitary Sewer Trunk Fund 2012+</td> <td style="text-align: right;">\$41,868.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$46,302.00</td> <td style="text-align: right; border-top: 1px solid black;">\$4,434.00</td> <td></td> <td></td> </tr> <tr> <td colspan="5">(\$41,868.00 outstanding)</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee for GFA	\$576.00	\$576.00	04760557	Jan 24, 2018	Development Permit Inspection Fee	\$510.00	\$510.00	04760557	Jan 24, 2018	Dev. Application Fee # of dwelling units	\$2,400.00	\$2,400.00	04760557	Jan 24, 2018	Major Dev. Application Fee	\$948.00	\$948.00	04760557	Jan 24, 2018	Sanitary Sewer Trunk Fund 2012+	\$41,868.00				Total GST Amount:	\$0.00				Totals for Permit:	\$46,302.00	\$4,434.00			(\$41,868.00 outstanding)				
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-169



ITEM II: 1:30 P.M.

FILE: SDAB-D-18-170

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT PROPERTY OWNER

APPELLANT:

APPLICATION NO.: 286803282-001

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

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: September 17, 2018

DATE OF APPEAL: September 20, 2018

RESPONDENT: 2125810 Alberta Ltd.

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 13160 - 118 Avenue NW

LEGAL DESCRIPTION: Plan 5401KS Blk 17 Lot 62

ZONE: (CSC) Shopping Centre Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

In October 2012, I acquired the location of 11839 - St. Albert Trail for the sole end purpose of becoming a cannabis dispensary when legal. In 6 years, I became a director of the business association and began working with local MLA and Deputy Minister Sarah Hoffman. I have diligently, responsibly and with full integrity introduced cannabis to this community.

I HAVE ALL DOCUMENTATION, EMAILS, COMMUNICATION etc. over the last 6 years communicating my intentions and goals. This would be communication to the "Owner" , both property management companies, business associations, local media including CBC and Global News.

The EOI created an opportunity for the building owner and current applicant Mr. Hrebenuk to act out of deceit and submit their own application. The current restaurant they are applying for is a shared wall. Literally, they are trying to open a cannabis business directly beside mine. The owner lied to me. The property manager lied to me (Admitted to my face) and they withheld information from me. Their sole intention is to destroy and cannibalize my business, my hard work, my income, my family. I wasn't able to submit my own application because I needed owner approval. This was the catalyst to create an opening. The owner even sabotaged the lease; not allowing me to create non-compete initiatives. I resigned the lease (Which rates doubled) with communication from the owner that "He preferred I stay accessory until legalization". Again, documented from the property management company. I have letters of support from fellow business owners as well as "The Crossroads Business Association". The actions taken by these people for lack of a better word is "Greedy and Disgusting". Not once did they provide communication, I was told to wait and found out publicly on the website that they had submitted. This is one of the most shameful maneuvers I have seen in 20 years of being an entrepreneur. Again, I have EVERYTHING documented from October 2012 discussing my dispensary and cannabis retail initiatives. I am clearly upset and rightly so. They should be ashamed. My only initiative is to find justice to these actions. This is on top of the fact that I have already been working with legal counsel. I will not watch as they destroy my business and clientele after 6 years. I am a small business owner committed to helping people. They have multiple locations and approvals, this was a calculated agenda without integrity. Thank you for your time, reflection and consideration to this ugly matter.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

(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).

Appeals

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

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

Hearing and Decision

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;

- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;
- ...
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

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

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

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

Under section 6.1, **Cannabis** means:

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

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

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

<i>Section 70 - Cannabis Retail Sales regulations</i>
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1. Any Cannabis Retail Sales shall not be located less than 200 m from any other Cannabis Retail Sales. For the purposes of this subsection only:
 - a. the 200 m separation distance shall be measured from the closest point of the Cannabis Retail Sales Use to the closest point of any other approved Cannabis Retail Sales Use;
 - b. A Development Officer shall not grant a variance to reduce the separation distance by more than 20 m in compliance with Section 11; and

- c. The issuance of a Development Permit which contains a variance to separation distance as described in 70(1)b shall be issued as a Class B Discretionary Development.
2. Any Site containing a Cannabis Retail Sales shall not be located less than 200 m from any Site being used for a public library, or for public or private education at the time of the application for the Development Permit for the Cannabis Retail Sales. For the purposes of this subsection only:
 - a. the 200 m separation distance shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;
 - b. the term “public library” is limited to the collection of literary, artistic, musical and similar reference materials in the form of books, manuscripts, recordings and films for public use, and does not include private libraries, museums or art galleries; and
 - c. the term "public or private education" is limited to elementary through to high schools inclusive only, and does not include dance schools, driving schools or other Commercial Schools.
3. Any Site containing a Cannabis Retail Sales shall not be located less than 100 m from any Site being used for Community Recreation Services Use, a community recreation facility, a provincial health care facility, as public lands, or any Site that is designated as school reserve or municipal and school reserve at the time of the application for the Development Permit for the Cannabis Retail Sales. For the purposes of this subsection only:
 - a. the 100 m separation distance shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;
 - b. the term “community recreation facilities” means indoor municipal facilities used primarily by members of the public to participate in recreational activities conducted at the facilities, as per the Municipal Government Act; and
 - c. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.
4. Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 70(2) or 70(3).
5. Cannabis Retail Sales shall include design elements that readily allow for natural surveillance to promote a safe urban environment, where

applicable and to the satisfaction of the development officer, including the following requirements:


- a. customer access to the store is limited to a store front that is visible from the street other than a Lane, or a shopping centre parking lot, or a mall access that allows visibility from the interior of the mall into the store;
 - b. the exterior of all stores shall have ample transparency from the street;
 - c. Any outdoor lighting shall be designed to ensure a well-lit environment for pedestrians and illumination of the property; and
 - d. Landscaping shall be low-growing shrubs or deciduous trees with a high canopy at maturity to maintain natural surveillance.
6. The Development Officer shall impose a condition on any Development Permit issued for Cannabis Retail Sales requiring that the development:
- a. shall not commence until authorized by and compliant with superior legislation; and
 - b. must commence within nine (9) months of the date of approval of the Development Permit.
7. For the purposes of Section 70(6), development commences when the Cannabis Retail Sales Use is established or begins operation.

Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-07-209	Operate a Private Club (Adult Recreation Centre and Spa) and to construct interior alterations	October 5, 2007; the appeal be DENIED and the DEVELOPMENT 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.

	Project Number: 286803282-001 Application Date: JUL 05, 2018 Printed: September 20, 2018 at 1:44 PM Page: 1 of 2		
Major Development Permit			
This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.			
Applicant	Property Address(es) and Legal Description(s) 13160 - 118 AVENUE NW Plan 5401KS Blk 17 Lot 62 Specific Address(es) Suite: 11835 - ST ALBERT TRAIL NW Entryway: 11835 - ST ALBERT TRAIL NW Building: 13160 - 118 AVENUE NW		
Scope of Permit To change the use from a Restaurant to a Cannabis Retail Store			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 266 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 266	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 266	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: _____			
Development Permit Decision Approved Issue Date: Sep 17, 2018 Development Authority: Chow, Stephen			
(Empty space for additional information or comments)			



Project Number: **286803282-001**
 Application Date: JUL 05, 2018
 Printed: September 20, 2018 at 1:44 PM
 Page: 2 of 2

Major Development Permit

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 authorised 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 4.5m (14.76 ft.) setback. (Reference Section 340.4(3) & (5).)
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:

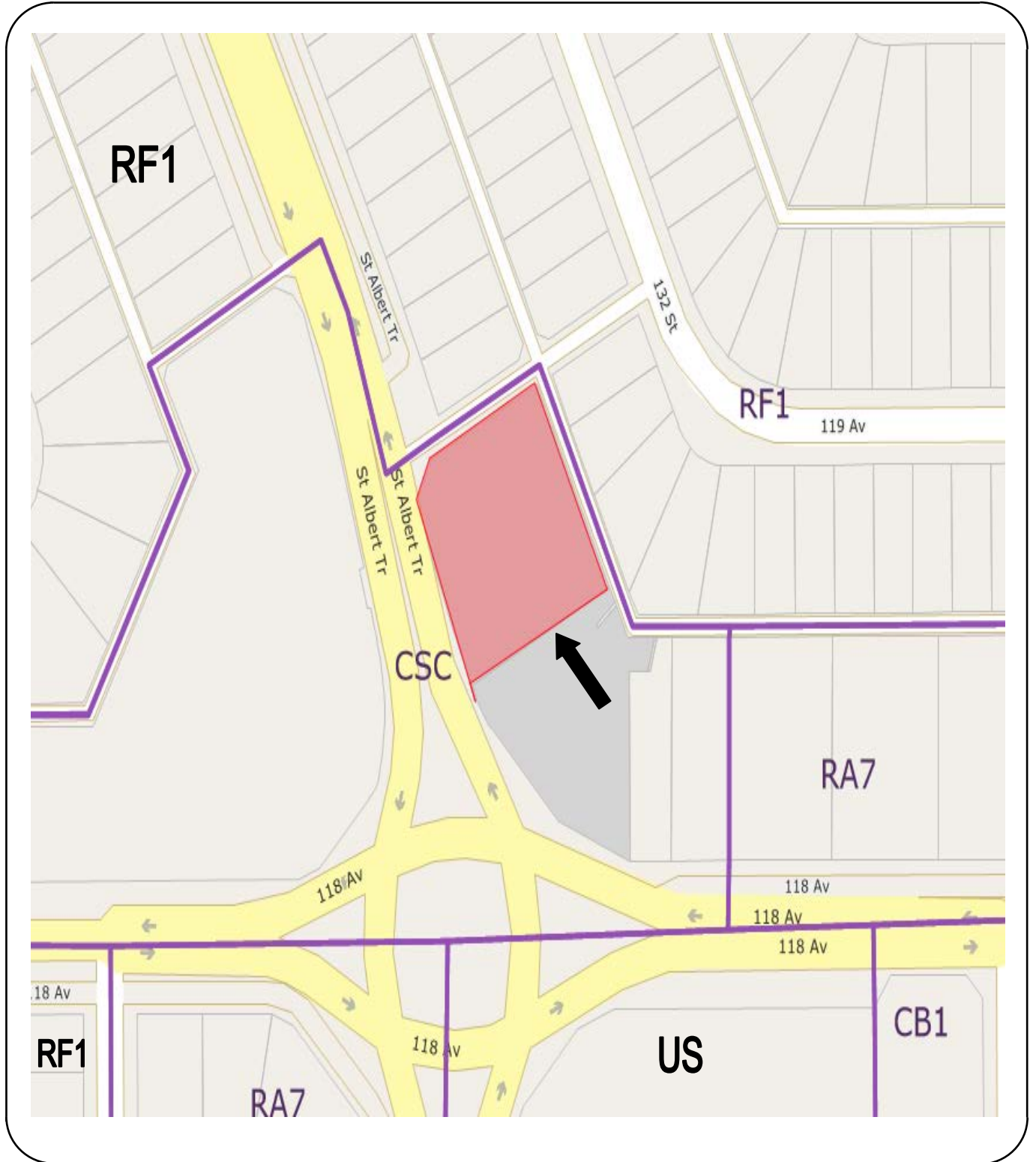
- a. This Development Permit is NOT a Business Licence. A separate application must be made for a Business Licence. Please contact the 311 Call Centre (780-442-5311) for further information.
- b. Signs require separate Development Applications.
- c. A building permit is required for any construction 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.

Rights of Appeal

This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$5,600.00	\$5,600.00	05162168	Jul 05, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$5,600.00	\$5,600.00		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-170

