

**SUBDIVISION**  
**AND**  
**DEVELOPMENT APPEAL BOARD**  
**AGENDA**

**Wednesday, 9:00 A.M.**  
**March 10, 2021**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

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I 9:00 A.M. SDAB-D-21-037

Install (10) Fascia On-premises (window) Signs  
(HEALTH SQUARE MEDICAL CLINIC &  
PHARMACY)

11045 - 124 Street NW  
Project No.: 370976523-001

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II 10:30 A.M. SDAB-D-21-038

Construct a Rooftop Terrace with Privacy  
Screening and hot tub to a Single Detached House  
(privacy screen @ 1.67m in Height; hot tub,  
2.74m x 2.74m)

8712 - 120 Street NW  
Project No.: 346461136-001

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III 1:30 P.M. SDAB-D-21-039

Change the Use from a Personal Service Shop to a  
Liquor Store and to construct interior alterations  
was refused because it does not comply with the  
minimum setback requirement from other Liquor  
Stores

10838 - 124 Street NW  
Project No.: 379711853-002

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**NOTE:** *Unless otherwise stated, all references to "Section numbers" in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-21-037

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 370976523-001

APPLICATION TO: Install (10) Fascia On-premises (window) Signs  
(HEALTH SQUARE MEDICAL CLINIC &  
PHARMACY)

DECISION OF THE  
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 25, 2021

DATE OF APPEAL: February 8, 2021

MUNICIPAL DESCRIPTION  
OF SUBJECT PROPERTY: 11045 - 124 Street NW

LEGAL DESCRIPTION: Plan RN39B Blk 45 Lot 11

ZONE: (CB1) Low Intensity Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

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***Grounds for Appeal***

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

I would like to appeal the decision of the Development Authority for the following reasons:

1. Enhance the look of the building to make it look more modern and upbeat as it is an older building on 124st.

2. Privacy for the pharmacy since there is pharmaceutical drugs on site.
3. Privacy for the medical clinic since we want to protect the privacy of patients coming in and out of clinic.
4. Window covering act as a security film for break ins.
5. Block sunlight because of high sun exposure.

<b><i>General Matters</i></b>
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**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 the decision in accordance with subsection (2.1).

**(1.1)** A decision of a development authority must state whether an appeal lies to a subdivision and development appeal board or to the Municipal Government 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 the decision in accordance with subsection (2.1).

**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 clause (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

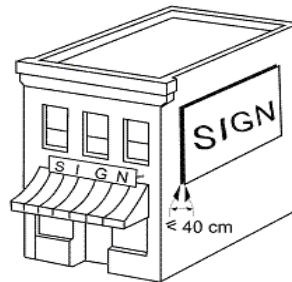
- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

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

Under section 330.2(21), a **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.



Section 819.5(2) states (in part) 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, and limited Residential-related 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 814.1 states that the **General Purpose** of the **Mains Street 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.

***Glazing***

Section 819.4(10) states A maximum of 10% of the first Storey glazing may be covered by Signs. The remainder of the glazing shall remain free from obstruction.

**Development Officer's Determination**

**1) 819.4(10): A maximum of 10% of the first Storey glazing may be covered by Signs. The remainder of the glazing shall remain free from obstruction.**

**PROPOSED: 100% of the windows are covered with signs.**

**Exceeds by: 90%**

[unedited]

***Community Consultation***

Section 819.5(3) states When the Development Officer determines that a Development Permit application does not comply with the regulations contained in this section of the Overlay the notification process outlined in subsection 819.4(15) shall apply.

Section 819.4(15) states When the Development Officer determines that a Development Permit application does not comply with the regulations contained in this Overlay:

1. the Development Officer shall send notice to the municipal address and assessed owners of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development, and the President of each affected Community League and each Business Improvement Area Association operating within the distance described above to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
2. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been mailed, unless the Development Officer receives feedback from all specified recipients; and

3. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit application in accordance with Section 11.3.


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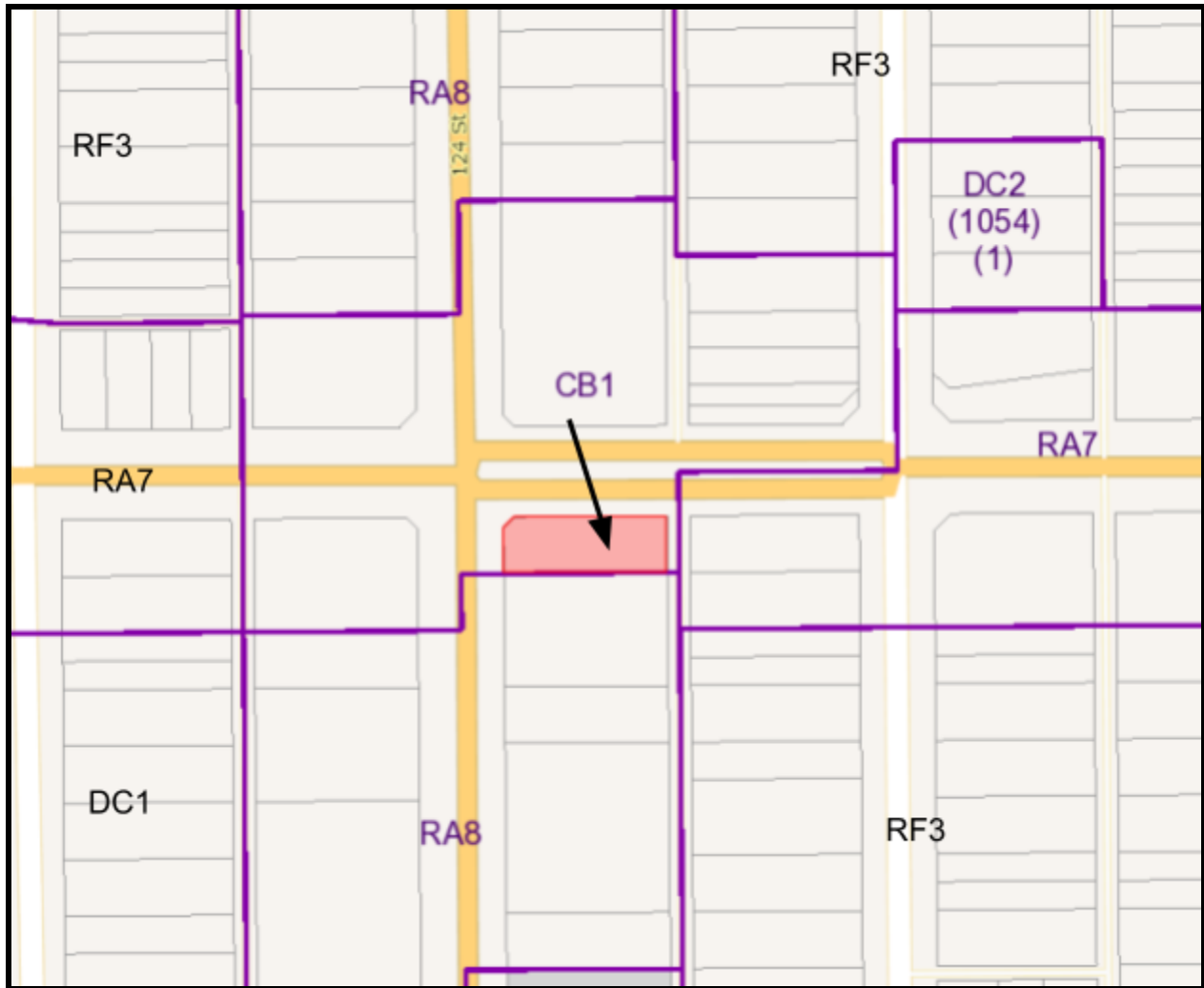
Notice to Applicant/Appellant

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.

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	<h2 style="margin: 0;">Application for Sign Permit</h2>	Project Number: <b>370976523-001</b> Application Date: AUG 21, 2020 Printed: January 25, 2021 at 1:29 PM Page: 1 of 1																				
This document is a Development Permit Decision for the development application described below.																						
<b>Applicant</b> <div style="background-color: black; width: 100%; height: 50px; margin-top: 5px;"></div>	<b>Property Address(es) and Legal Description(s)</b> 11045 - 124 STREET NW Plan RN39B Blk 45 Lot 11																					
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<b>Development Application Decision</b> Refused <b>Issue Date:</b> Jan 25, 2021 <b>Development Authority:</b> NOORMAN, BRENDA <b>Reason for Refusal</b> 1) 819.4(10): A maximum of 10% of the first Storey glazing may be covered by Signs. The remainder of the glazing shall remain free from obstruction.  PROPOSED: 100% of the windows are covered with signs. Exceeds by: 90%  <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; font-weight: normal;">Fee Amount</th> <th style="text-align: right; font-weight: normal;">Amount Paid</th> <th style="text-align: right; font-weight: normal;">Receipt #</th> <th style="text-align: right; font-weight: normal;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Sign Development Application Fee</td> <td style="text-align: right;">\$960.00</td> <td style="text-align: right;">\$960.00</td> <td style="text-align: right;">06722131</td> <td style="text-align: right;">Sep 14, 2020</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;">\$960.00</td> <td style="text-align: right; border-top: 1px solid black;">\$960.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Sign Development Application Fee	\$960.00	\$960.00	06722131	Sep 14, 2020	Total GST Amount:	\$0.00				Totals for Permit:	\$960.00	\$960.00		
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<b>THIS IS NOT A PERMIT</b>																						



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

▲  
**N**

File: SDAB-D-21-037

ITEM II: 10:30 A.M.

FILE: SDAB-D-21-038

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT(S):

APPLICATION NO.: 346461136-001

APPLICATION TO: Construct a Rooftop Terrace with Privacy Screening and hot tub to a Single Detached House (privacy screen @ 1.67m in Height; hot tub, 2.74m x 2.74m)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: January 27, 2021

DATE OF APPEAL(S): February 9, 2021 and February 17, 2021

NOTIFICATION PERIOD: February 2, 2021 through February 23, 2021

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8712 - 120 Street NW

LEGAL DESCRIPTION: Plan 1722108 Blk 10 Lot 19

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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***Grounds for Appeal***

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

M. Jacka

The property has a rooftop privacy screen that is setback 0.3 m from the building facades instead of the 1.0 m required in Section 61.1 (b). This is concerning for the following reasons:

1. it impairs the visual appeal of this building from all aspects and creates a substantial shadow;
2. it renders the construction of similar structures permissible by establishing a precedent and therefore effectively changes the property code;
3. it facilitates the construction of other buildings and other similar deviations from property codes to be made without consultation of neighbours and without adherence to the established property codes and then followed by similar requests for permission after the construction has already been completed.

It would be appropriate to revise the structure to conform to property code of the city for these reasons.

L. Kong

The property has a rooftop privacy screen that is setback 0.3 m from the building facades instead of the 1.0 m required in Section 61.1 (b).

This is concerning for the following reasons:

1. Sun-shadowing effect, the privacy screen, made by wooden strips, creates large and unpleasant sun-shadowing, especially in cold winter.
2. Noises, Parties are often held and last until late night on the top.
3. Privacy: (a) On the front of the top, it could be easily to look into the inside of my house through my front window; (b) In the middle of the top, it could be easily to look into the inside of my house through my side window. (c) In most of the top (middle to the end), it could be easily to look into my backyard.
4. Privacy. when go up to and go down from the top using the side stairs, everything in my living room is revealed through my side window. I would be hesitate to open side window in summer.

These issues may not go away completely but certainly would be reduced to a great extent if the 1.0 m setback requirement is met.

<b><i>General Matters</i></b>
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**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 the decision in accordance with subsection (2.1).

**(1.1)** A decision of a development authority must state whether an appeal lies to a subdivision and development appeal board or to the Municipal Government 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 the decision in accordance with subsection (2.1).

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

...

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

and

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

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

Under section 110.2(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

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

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

Section 110.1 states that the **General Purpose** of the **(RF1) Single Detached Residential Zone** is:

to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.

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

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

Under section 6.1, **Rooftop Terrace** means an elevated structure intended for use as an outdoor Amenity Area that may be surrounded by guardrails, parapet walls or similar features, and is located above:

- a. the uppermost Habitable Room;
- b. the uppermost Commercial Floor Area intended for occupancy; or
- c. in the case of an Accessory building other than a Garden Suite, any roof.

This definition does not include a Platform Structure.

Under Section 6.1, **Privacy Screening** means a feature that obscures direct and otherwise unimpeded sightlines. Common examples include: vegetative screening, such as shrubs and trees, lattice, masonry or wooden walls, parapet walls, translucent glass or any combination of these or like features. Privacy Screening does not include a balustrade railing or similar railing system.

### ***Rooftop Terraces***

Section 61 states:

1. On a Site Abutting a Site zoned to allow Single Detached Housing as a Permitted Use, or a Site zoned RF5 Row Housing Zone, Rooftop Terraces and Privacy

Screening, excluding vegetative screening constructed on a Rooftop Terrace, shall be developed in accordance with the following development regulations:

- a. Privacy Screening, excluding vegetative screening, shall be required along the full length of the portion of the Rooftop Terrace facing an interior Side Lot Line.
  - i. Notwithstanding Section 61.1(a), where a Stepback of 2.0 m or greater is provided from any building Façade facing an interior Side Lot Line for a Rooftop Terrace, Privacy Screening shall not be required.
- b. The minimum Stepback for Privacy Screening shall be 1.0 m from any building Façade.**
- c. Privacy Screening, excluding vegetative screening, constructed on a Rooftop Terrace shall be a minimum Height of 1.5 m and shall not exceed 1.7 m in Height, when measured from the surface of a Rooftop Terrace.

**Development Officer's Determination**

**Stepback - The Privacy Screening stepbacks 0.3m from the building Façades instead of 1.0 m . (Section 61.1(b))**

[unedited]



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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.

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	<b>Project Number: 346461136-001</b> Application Date: NOV 13, 2019 Printed: January 27, 2021 at 11:12 AM Page: 1 of 3		
<h2>Home Improvement Permit</h2>			
<p>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.</p>			
<b>Applicant</b> 	<b>Property Address(es) and Legal Description(s)</b> 8712 - 120 STREET NW Plan 1722108 Blk 10 Lot 19		
<b>Scope of Permit</b> To construct a Rooftop Terrace with Privacy Screening and hot tub to a Single Detached House (privacy screen @ 1.67m in Height; hot tub, 2.74m x 2.74m).			
<b>Permit Details</b> <table border="1" data-bbox="245 831 1385 915"><tr><td data-bbox="245 831 816 915">Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay</td><td data-bbox="816 831 1385 915">Site Area (sq. m.): 658.79</td></tr></table>		Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 658.79
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 658.79		
<b>Development Permit Decision</b> Approved <b>Issue Date: Jan 27, 2021    Development Authority: LAI, ECHO</b>			



Project Number: **346461136-001**  
 Application Date: NOV 13, 2019  
 Printed: January 27, 2021 at 11:12 AM  
 Page: 2 of 3

## Home Improvement Permit

**Subject to the Following Conditions**

Subject to the right of appeal this Development Permit is NOT VALID until the required Notification Period expires (date noted below) in accordance with Sections 21.1 and 17.1.

This Development Permit authorizes the development of a Rooftop Terrace with Privacy Screening and hot tub to a Single Detached House (privacy screen @ 1.67m in Height; hot tub, 2.74m x 2.74m).

The development shall be constructed in accordance with the stamped and approved drawings.

Immediately upon completion of the exterior alterations, the site shall be cleared of all debris.

As far as reasonably practicable, the design and use of exterior finishing materials used shall be similar to, or better than, the standard of surrounding development.

**ADVISEMENTS:**

A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.

Any proposed change from the original approved drawings is subject to a revision/re-examination fee. The fee will be determined by the reviewing officer based on the scope of the request and in accordance with current fee schedules. A review fee may be collected for each change request.

Unless otherwise stated, all the above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.

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.

**Variances**

Stepback - The Privacy Screening setbacks 0.3m from the building Façades instead of 1.0 m . (Section 61.1(b))

**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.

**Notice Period Begins:**Feb 02, 2021

**Ends:** Feb 23, 2021

**Building Permit Decision**

No decision has yet been made.

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Building Permit Fee (Construction Value)	\$271.00	\$271.00	89710601181D001	Nov 13, 2019
Building Permit Fee (Swimming Pool and Hot Tub)	\$110.00	\$110.00	90136506814D001	Nov 26, 2019
Development Application Fee	\$173.00	\$173.00	89710601181D001	Nov 13, 2019
Safety Codes Fee	\$15.24	\$15.24	89710601181D001	Nov 26, 2019

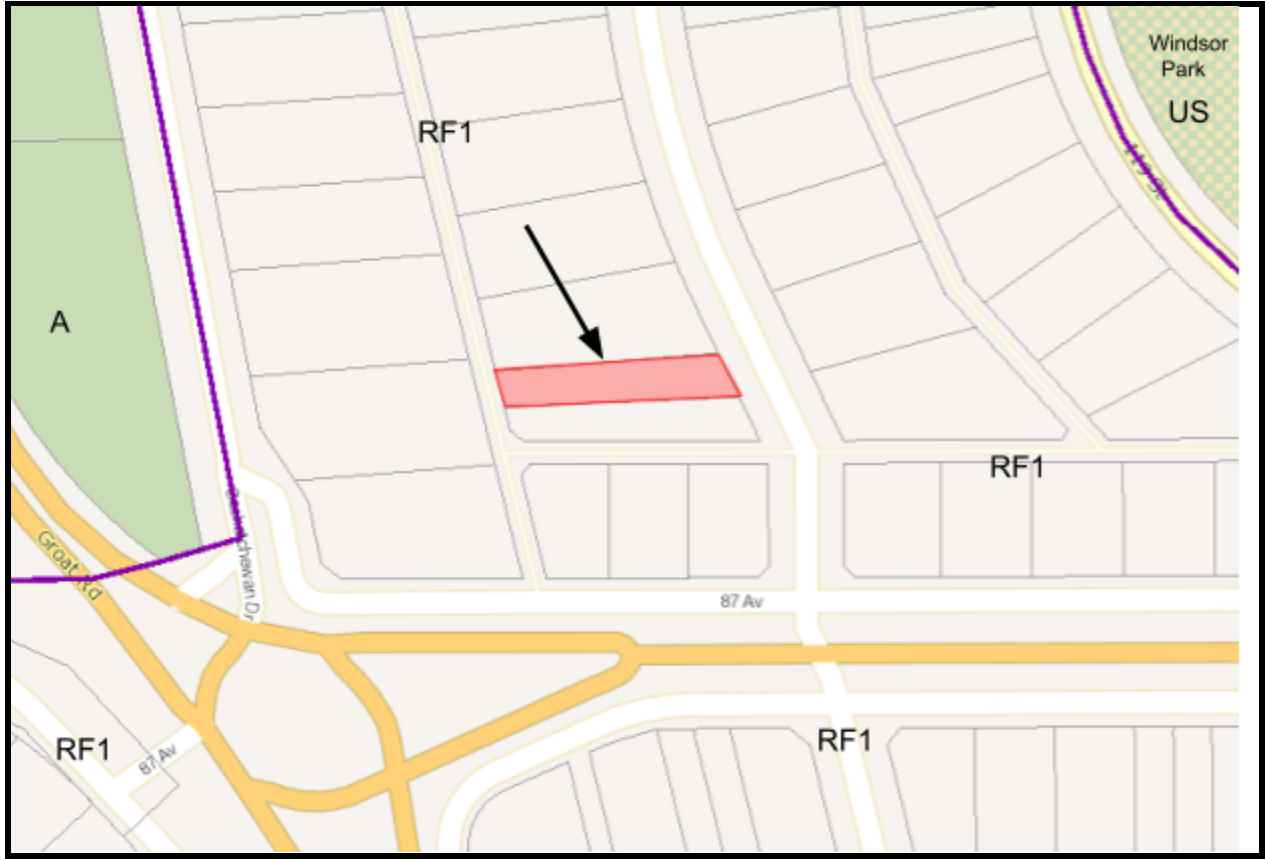


Project Number: **346461136-001**  
Application Date: NOV 13, 2019  
Printed: January 27, 2021 at 11:12 AM  
Page: 3 of 3

## Home Improvement Permit

### Fees

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$569.24</u>	<u>\$569.24</u>		



**SURROUNDING LAND USE DISTRICTS**

Site Location ←      File: SDAB-D-21-038      ▲  
N

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 379711853-002

APPLICATION TO: Change the Use from a Personal Service Shop to a Liquor Store and to construct interior alterations was refused because it does not comply with the minimum setback requirement from other Liquor Stores

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 21, 2021

DATE OF APPEAL: February 10, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10838 - 124 Street NW

LEGAL DESCRIPTION: Plan RN22 Blk 27 Lot 17

ZONE: (CB1) Low Intensity Business Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

---

***Grounds for Appeal***

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

To Whom it May Concern,

Please accept this letter as an expression of our intent to appeal the Development Permit Decision (refusal) for DP 379711853-002. The purpose of this DP application was to change the existing use at 10842 –

124 Street NW from Personal Service Shop to a Liquor Store and to construct interior alterations. The property is zoned CB1 – Low Intensity Business Zone, with Liquor Stores falling under Discretionary Uses.

The Development Officer (DO) refused this DP application based on Section 85.1 of the City of Edmonton’s Land Use Bylaw, which stipulates a minimum required setback of 500 m between proposed Liquor Stores and existing Liquor Stores. There is an existing Liquor Store that is 425 m to the north of the proposed site at 11007 124 Street NW, fronting onto 124 Street NW, and a second Liquor Store that is 328 m to the south of the proposed site at 12411 107 Avenue NW, fronting on to 107 Avenue NW. Under Section 85.6 of the Zoning Bylaw, the DO cannot grant variances to the minimum setback to allow for the proposed Liquor Store use.

The rationale for this Appeal is that the separation distance between the proposed Liquor Store use at the existing Liquor Store at 11007 124 Street NW is deficient by only 15% of what is required; and, that due to fronting onto 107 Avenue NW rather than 124 Street NW, the separation distance between the proposed Liquor Store use and the existing Liquor Store at 12411 107 Avenue NW effectively meets the intent of the 500 m separation distance despite being within 328 m of one another.

Previous Subdivision and Development Appeal Board decisions concerning Liquor Store separation distance requirements indicate that separation distance alone is not the only factor that should be considered in determining whether a proposed Liquor Store is appropriate. We believe that this proposed Liquor Store will not interfere with existing amenities in the neighbourhood nor interfere with or affect the use, enjoyment, or value of neighbouring parcels of land in the neighbourhood. Thank you for your consideration.

<i>General Matters</i>
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**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 the decision in accordance with subsection (2.1).

**(1.1)** A decision of a development authority must state whether an appeal lies to a subdivision and development appeal board or to the Municipal Government 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 the decision in accordance with subsection (2.1).

### **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 clause (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 330.3(16), a **Liquor Store** is a **Discretionary Use** in the **(CB1) Low Intensity Business Zone**.

Under section 7.4(30) **Liquor Stores** means development used for the retail sale of any and all types of alcoholic beverages to the public for off-site consumption. This Use may include retail sales of related products such as soft drinks and snack foods.

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, and limited Residential-related 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 814.1 states that the **General Purpose** of the **Mains Street 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.

### ***Section 85 - Liquor Stores***

- 1. Any Liquor Store shall not be located less than 500 m from any other Liquor Store.**
2. Notwithstanding subsection 85(1), a Liquor Store may be located less than 500 m from any other Liquor Store if located:
  - a. outside the boundary shown in Appendix 1 to Section 85, provided:
    - i. the Liquor Stores are located on separate Sites, and
    - ii. at least one Liquor Store is located on a Site greater than 2.5 ha in size that is zoned CSCa, UVCa, GVC, TC-C, DC1, DC2, CSC, CB1, CB2, CHY, CO or CB3.
3. For the purposes of Section 85, the 500 m separation distance shall be measured from the closest point of the Liquor Store to the closest point of any other approved Liquor Store.
4. Any Site containing a Liquor Store shall not be located less than 100 m from any Site being used for community or recreation activities, public or private education, or public lands at the time of the application for the Development Permit for the Liquor Store. Sites that are greater than 2.0 ha in size and zoned either CSC or DC2, are exempt from this restriction. 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 or recreation activities" is limited to Community Recreation Services, as defined in subsection 7.8(1) of this Bylaw, which

- includes community league buildings and facilities, and children's playgrounds and play areas. This term does not include arenas or other public assembly Uses, Child Care Services, Public Libraries and Cultural Exhibits, or Religious Assembly;
- c. the term "public or private education facilities" is limited to elementary through to high schools inclusive only, and does not include dance schools, driving schools or other Commercial Schools; and
  - d. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.
5. Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 85(4).
  6. **Notwithstanding Section 11 of this Bylaw, a Development Officer shall only grant a variance to subsection 85(1) or subsection 85(2) as outlined in subsections 85(7), 85(8) and 85(9).**
  7. When the Development Officer receives an application for a Development Permit that is for the purpose of accommodating the temporary relocation of an approved Liquor Store within 500 m of its original location, a variance to subsection 85(1) or subsection 85(2) may be granted where:
    - a. the application for the Development Permit is for a Temporary Development, in order to limit the introduction of an additional Liquor Store within 500 m of the original approved Development Permit;
    - b. the temporary location for any Liquor Store is not within 500 m of any legally conforming Liquor Store; and
    - c. the application for a Development Permit will not result in a total Floor Area for a Liquor Store that is 10.0% greater than the Floor Area of the existing approved Liquor Store, to a maximum increase of 50 m<sup>2</sup>.
  8. When a Development Officer receives an application for a Development Permit that is for the purpose of accommodating the reversion of an existing approved Liquor Store back to its original location on a Site, a variance of subsection 85(1) or subsection 85(2) may only be granted where the application for the reversion is submitted to the Development Officer within 5 years of the date of vacating the original location and the application will not result in a total Floor Area that is greater than the original approved Liquor Store.
  9. The issuance of a Development Permit which contains a variance pursuant to subsection 85(7) shall be issued as a Temporary Development for a duration of up to 5 years or less, to be determined by the Development Officer.

10. The Development Officer may require lighting, signage or screening measures that ensure the proposed development is compatible with adjacent or nearby Residential Uses or Commercial Uses.
11. Liquor Stores shall include the following to allow for natural surveillance to promote safe surroundings:
  - a. Customer access is oriented to:
    - i. a public or internal roadway, other than a Lane;
    - ii. a shopping centre parking lot in front of the store; or
    - iii. a mall access that allows visibility from the interior of the mall into the store.
  - b. Premises located at ground level shall include:
    - i. Ample transparency to maintain sight lines into and out of the premises. To ensure transparency and sight lines are maintained:
      1. Not more than 10% of the windows may be covered by Signs, the remainder shall be clear, untinted, and free from obstruction.
    - ii. Outdoor lighting is required to provide a well-lit environment for pedestrians entering and exiting the premises and to illuminate the property. The Development Officer shall require the applicant to provide a plan showing the location and details of perimeter lighting to ensure adequate lighting.
    - iii. Landscaping shall be located such that it does not obstruct sight lines into the premises.

**Development Officer's Determination**

**1. Section 85.1 - The proposed new Liquor Store does not comply with the minimum setback requirement from other Liquor Stores:**

**175935747-001  
11007 124 Street NW  
Required Setback: 500 m  
Proposed Setback: 425 m  
Deficient by 75 m**

**103447411-001  
12411 107 Ave NW  
Required Setback: 500 m  
Proposed Setback: 328 m  
Deficient by 172 m**


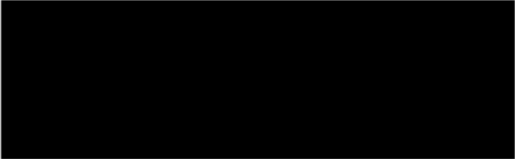
**Under Sections 85.6 Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Liquor Store.**

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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.

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	<h2 style="margin: 0;">Application for Major Development Permit</h2>				Project Number: <b>379711853-002</b> Application Date: DEC 01, 2020 Printed: January 21, 2021 at 3:37 PM Page: 1 of 2									
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> 10838 - 124 STREET NW Plan RN22 Blk 27 Lot 17  <b>Specific Address(es)</b> Suite: 10842 - 124 STREET NW Entryway: 10842 - 124 STREET NW Building: 10838 - 124 STREET NW													
<b>Scope of Application</b> To change the Use from a Personal Service Shop to a Liquor Store and to construct interior alterations.														
<b>Permit Details</b> <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top; border-right: 1px solid black; padding-right: 10px;">                     Class of Permit:                      Gross Floor Area (sq. m.):                      New Sewer Service Required: N                      Site Area (sq. m.):                 </td> <td style="width: 50%; vertical-align: top; padding-left: 10px;">                     Contact Person:                      Lot Grading Needed?: N                      NumberOfMainFloorDwellings:                      Stat. Plan Overlay/Annex Area: (none)                 </td> </tr> </table>					Class of Permit: Gross Floor Area (sq. m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)								
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<b>Development Application Decision</b> Refused <b>Issue Date:</b> Jan 21, 2021 <b>Development Authority:</b> CHOW, STEPHEN  <b>Reason for Refusal</b> 1. Section 85.1 - The proposed new Liquor Store does not comply with the minimum setback requirement from other Liquor Stores:  175935747-001 11007 124 Street NW Required Setback: 500 m Proposed Setback: 425 m Deficient by 75 m  103447411-001 12411 107 Ave NW Required Setback: 500 m Proposed Setback: 328 m Deficient by 172 m  Under Sections 85.6 Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Liquor 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 border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: center;">Fee Amount</th> <th style="text-align: center;">Amount Paid</th> <th style="text-align: center;">Receipt #</th> <th style="text-align: center;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: center;">\$528.00</td> <td style="text-align: center;">\$528.00</td> <td style="text-align: center;">06852524</td> <td style="text-align: center;">Dec 09, 2020</td> </tr> </tbody> </table>						Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$528.00	\$528.00	06852524	Dec 09, 2020
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<b>THIS IS NOT A PERMIT</b>														



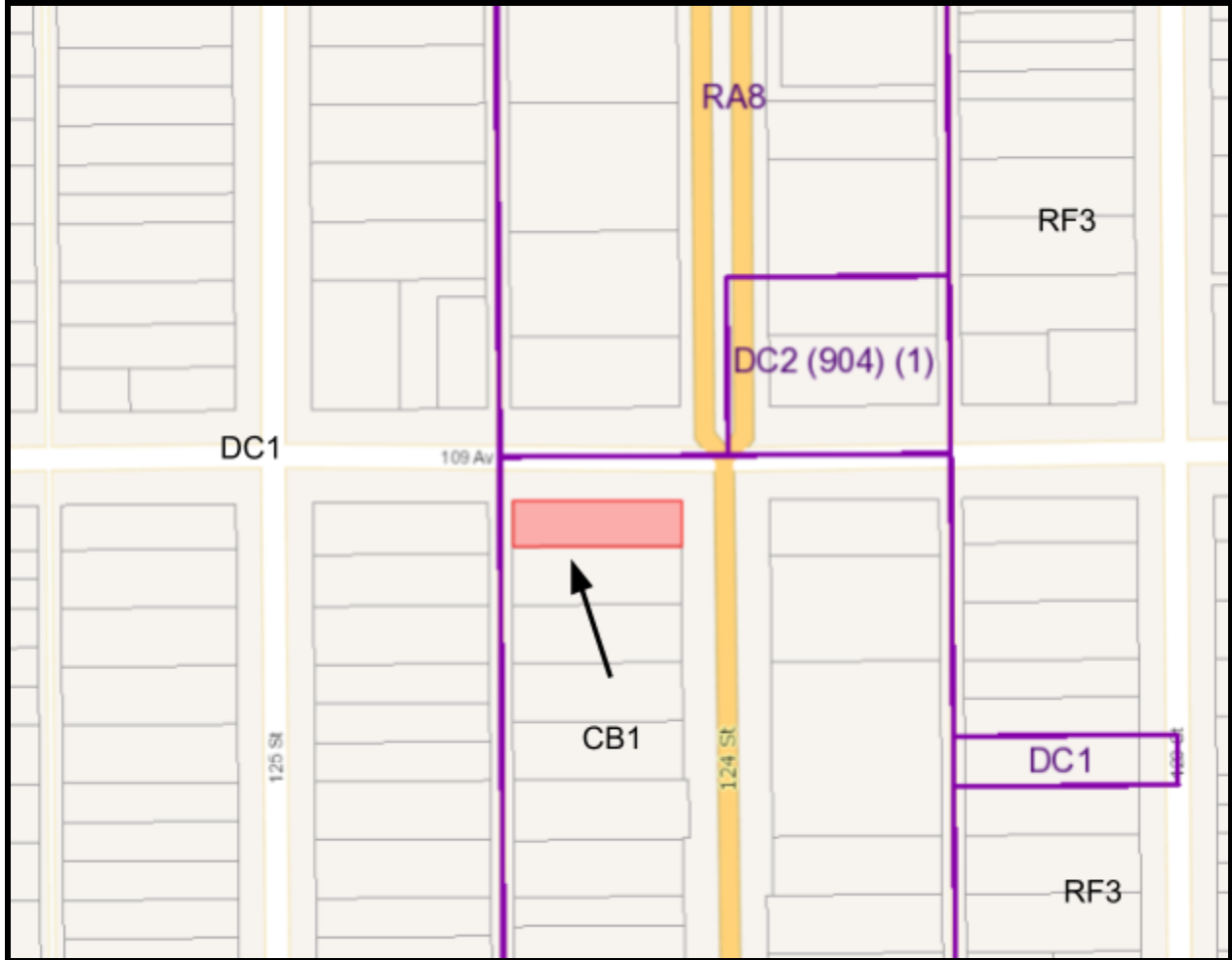
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Page: 2 of 2

## Application for Major Development Permit

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$528.00</u>	<u>\$528.00</u>		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

**Site Location** ←      **File: SDAB-D-21-039**      **N** ▲