



FIRE & FLOWER CANNABIS CO.

*Public Hearing
September 22, 2020*

11512 and 11514 Jasper Avenue, Edmonton Alberta (the “Site”)

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Background

Cannabis Retail Use Development Permits

June 12, 2018 – City Council passed third reading of Charter Bylaw 18387 adding Cannabis Retail Sales uses to the Zoning Bylaw.

- Direct Control districts were excluded as individual Bylaw amendments were required for each district.
- Delegated authority to the Development Officer to determine the process for submitting, receiving, determining complete and reviewing Development Permit applications for Cannabis Retail Sales.
- Development permits would expire if development had not commenced within nine months
 - An important protection to lottery did not create artificial barriers to entry and a secondary market for development permits.
- Minimum separation distances from sensitive uses (e.g. schools, parks, etc.) and other Cannabis Retail Sales uses.
 - Development Officer has some limited variance authority.
 - Except for Direct Control districts, further variance oversight is governed by the Development Appeal Board which may overturn a refusal if the 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. In Direct Control districts, variance authority lies with Council.

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Background

A Flawed Process Unique to the Oliver Area DC-1

June 13, 2018 – Administration accepted Expressions of Interest for a Random Selection Process to determine process for accepted

- Oliver Area DC-1 was excluded from the EOI/RSP lottery process.

October 16, 2018 – Interested parties were advised that City Council would be considering re-zoning of the Oliver Area DC-1 to permit cannabis retail sales on October 22, 2018.

October 22, 2018 – City Council passed three readings of Bylaws 18572 and 18573 adding cannabis retail sales uses to the list of uses for the Oliver Area DC-1.

- Contradictory messaging from Administration on timing of passage of Bylaws, and whether EMRB referral was required.



Background

A Flawed Process Unique to the Oliver Area DC-1 (cont.)

October 23, 2018 – Administration accepted applications for development permits in a race-to-file by email submission as of 12:00:00 AM.

- Effectively conducted a lottery by email, with inconsistent and contradictory information provided to applicants. Administration instructed Fire & Flower to submit to cannabislegalization@edmonton.ca, and subsequently refused to accept applications that were not submitted to cannabisdevelopmentpermit@edmonton.ca
- Administration refused to allow applicants to synchronize time clocks, rendering timing of submissions arbitrary.
- Multitude of applications received within milliseconds.
- Although Administration discouraged Fire & Flower from making multiple submissions, the first-place applicant made approximately **36 submissions within one minute**.

October 26, 2018 – Administration advised that the order of applications for cannabis retail development permits in the Oliver Area DC-1 would be as follows:

1. 11408 Jasper Avenue
2. 11639 Jasper Avenue
3. 11512/14 Jasper Avenue (Fire & Flower's Site)
4. 101, 11653 Jasper Avenue
5. 11725B Jasper Avenue

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Background

A Flawed Process Unique to the Oliver Area DC-1 (cont.)

January 23, 2019 – Cannabis Retail Sales Development Permits granted to 11408 Jasper Avenue and 11639 Jasper Avenue

January 25, 2019 – Administration refused Fire & Flower's application due to proximity to Cannabis Retail Sales Uses at 11408 Jasper Avenue (129 metres) and 11639 Jasper Avenue (153 metres)

February 25, 2019 – City Council passed Charter Bylaw 18720, removing the expiry of cannabis retail sales development permits if development is not commenced within nine months of issuance.

- This eroded a key aspect of the City's promise to avoid creating a secondary market for Development Permits.

August 9, 2019 – Administration renewed Cannabis Retail Sales Development Permit for 11408 Jasper Avenue.

- Development has not commenced.

December 3, 2019 – Administration renewed Cannabis Retail Sales Development Permit for 11639 Jasper Avenue.

FIRE & FLOWER Development has not commenced.



Background

A Flawed Process Unique to the Oliver Area DC-1 (cont.)

December 10, 2019 – Fire & Flower submitted an application for site-specific DC2 rezoning of the Site in consultation with Administration as the preferred approach for seeking a variance from the minimum separation distance requirement.

September 1, 2020 – Cannabis Retail Sales Development Permit granted to 11452 Jasper Avenue

- Fire & Flower was not notified of this Development Permit application or its approval.
- This site was not among the October 26, 2018 applicants.
- Circumvented Administration's race-to-file process for determining order of processing Cannabis Retail Sales Use Development Permit applications in the Oliver Area.
- Unclear how this Development Permit was issued despite proximity to 11408 Jasper Avenue.
- Demonstrates Administration's willingness to work with certain applicants to the exclusion of others, and to support proximate locations along Jasper Avenue in the dense Oliver neighbourhood.

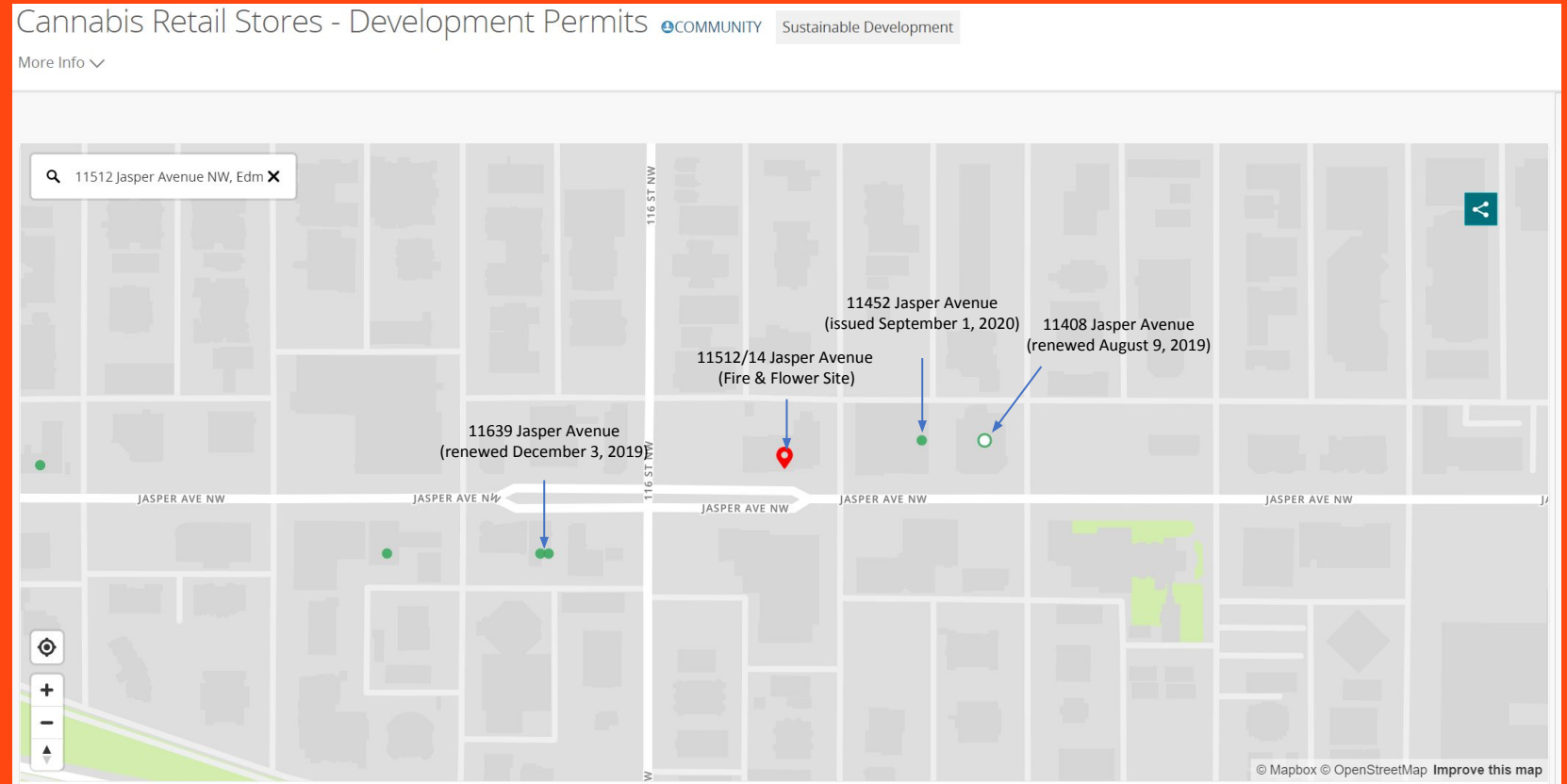
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Nearly two years after legalization, no Cannabis Retailer is licensed or operating in the Oliver DC-1 Area.

Neither property that received a Development Permit as a result of the October 26, 2018 race-to-file have been developed. Both have been extended and actively marketed for transfer.

Current State in Oliver



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Re-zoning

Application No. 341648386-001 (continued)

Rationale for re-zoning application:

1. The Site exceeds the development provisions of the closest equivalent conventional Zone.
2. The Site is located in a uniquely dense and diverse neighbourhood capable of supporting a multitude of adult-oriented commercial uses.
3. The Site is fully built-out but cannot currently be used to operate a cannabis retail store without an exemption to the minimum separation distance requirement.
4. Without recourse to the SDAB, Council is the preferred authority for granting a variance to the minimum separation distance requirements based on a factual assessment of the impact on the neighbourhood.

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Re-zoning

Application No. 341648386-001 (continued)

Reasons for re-zoning:

1. Promotes pedestrian-friendly retail experiences, consistent with the Oliver Area Restructure Plan, Mature Neighbourhood Overlay and Main Streets Overlay.
2. Consistent with the City of Edmonton's stated goal of promoting density and diversity of businesses in the Oliver Area.
3. Would not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring properties in the densest urban neighbourhood in Edmonton.
4. Consistent with similar variances granted by SDAB in conventional zones and other authorizations within the Oliver Area.

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Re-zoning

Application No. 341648386-001 (continued)

Reasons for re-zoning (cont.):

5. Re-zoning application is specific to Fire & Flower's Site and would not create a precedent for future applications in the Oliver DC-1 or elsewhere.
6. There is no assurance that any of the other approved Cannabis Retail Sales Uses will be approved by the AGLC to receive a Cannabis Retail Licence. Development has not commenced at any of the nearby sites.
7. Fire & Flower operates 40 AGLC-licensed cannabis retail stores in Alberta. The subject Site is fully constructed and can be licensed and operating shortly after the re-zoning application is passed.
8. The Fire & Flower Site has been praised by numerous world-wide media agencies, including the New York Times and Vancouver Magazine, as a premiere, showcase location.

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Re-zoning

Application No. 341648386-001 (continued)

Administration's Refusal to Support

- Administration has demonstrated a bias against variances to the minimum separation distance requirements of any kind, and fails to acknowledge Council as the appropriate decision-maker for granting variances in Direct Control districts.
- Administration has refused to provide any supporting details of objections or concerns received.
- Fire & Flower reached out to the Oliver Community League and neighbouring businesses, and has received no objections.
- The concerns expressed appear to mimic Administration's views rather than those of the community.

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Fire & Flower Site

The New York Times



Diana Zygiel tidying a display case in Fire & Flower's concept store in Edmonton, Alberta, last week. Amber Bracken for The New York Times

<https://www.nytimes.com/2018/10/16/world/canada/marijuana-legalization-explainer.html>

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VANCOUVER
MAGAZINE

TASTE DRINK CITY GO STYLE RESTAURANT AWARDS MADE IN VANCOUVER AWARDS

WHERE TO FIND US

HOME DECOR

The Most Stylish Weed Store in Canada is in...Edmonton

The Northern Albertans are starting the cannabis game very strong.

By Neal McLennan / Oct 17, 2018

SIPPIN' IN AUTUMN

92

Popular Science - October 2016

<http://vanmag.com/style/the-most-stylish-weed-store-in-canada-is-in-edmonton/>

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Conclusion



- Fire & Flower is committed.
- The Site is ready for operation, pending final approvals.
- Rezoning is consistent with the City's overall objectives, and would not otherwise adversely affect neighbouring properties given the density and demographics of the Oliver area and the uniqueness of the Site.

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