

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

**Wednesday, 9:00 A.M.**  
**March 31, 2021**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

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I 9:00 A.M. SDAB-D-21-050

Change the Use from a Health Services Use to a Cannabis Retail Sales store and to construct interior alterations

13202 - 118 Avenue NW  
Project No.: 383794012-003

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II 10:30 A.M. SDAB-D-21-051

To operate a Major Home Based Business (MJS ENHANCE ESTHETIX INC. - facials and waxing). 5 visits per day by appointment only with no overlapping appointments. Expires on February 5, 2026

100 - Hillcrest Place NW  
Project No.: 384011200-001

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III 1:30 P.M. SDAB-D-21-052

Construct a 4 Dwelling unit Row House with Unenclosed Front Porches.

12042 - 103 Street NW  
Project No.: 313371321-001

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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-21-050

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 383794012-003

APPLICATION TO: Change the Use from a Health Services Use to a Cannabis Retail Sales store and to construct interior alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 4, 2021

DATE OF APPEAL: March 5, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 13202 - 118 Avenue NW

LEGAL DESCRIPTION: Plan 1464KS Blk 1 Lots 54,55U,56U,57U,58U

ZONE: (CSC) Shopping Centre Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

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***Grounds for Appeal***

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

The Appellant uploaded a previous SDAB decision - SDAB-D-19-181 and said they were appealing for the same reasons.

***General Matters***

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.

**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 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.

Under section 6.1, **Site** means “an area of land consisting of one or more abutting Lots.”

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.

***Section 70 – Cannabis Retail Sales***

1. **Any Cannabis Retail Sales shall not be located less than 200 m from any other Cannabis Retail Sales. For the purposes of this subsection only:**
  - a. **the 200 m separation distance shall be measured from the closest point of the Cannabis Retail Sales Use to the closest point of any other approved Cannabis Retail Sales Use;**
  - b. **A Development Officer shall not grant a variance to reduce the separation distance by more than 20 m in compliance with Section 11; and**
  - c. The issuance of a Development Permit which contains a variance to separation distance as described in 70(1)(b) shall be issued as a Class B Discretionary Development.
2. Any Site containing Cannabis Retail Sales shall not be located less than:
  - a. 200 m from any Site being used for a public library, at the time of the application for the Development Permit for the Cannabis Retail Sales; and
  - b. 100 m from any Site being used for Community Recreation Services Use, a community recreation facility or as public lands at the time of application for the Development Permit for the Cannabis Retail Sales.
3. For the purposes of subsection 2:
  - a. separation distances shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;
  - b. the term “public library” is limited to the collection of literary, artistic, musical and similar reference materials and learning resources in the form of books, electronic files, computers, manuscripts, recordings and films for public use, and does not include private libraries, museums or art galleries.

- c. the term “community recreation facilities” means indoor municipal facilities used primarily by members of the public to participate in recreational activities conducted at the facilities, as per the Municipal Government Act; and
  - d. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.
4. Subsection 105(3) of the Gaming, Liquor and Cannabis *Regulation*, is expressly varied by the following:
- a. any Site containing a Cannabis Retail Sales shall not be located less than:

***Public or private education***

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

***Provincial health care facility***

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

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

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

***Measurement of Separation Distances***

- b. For the purposes of this subsection, separation distances shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures.

***Sites Greater than Two Hectares***

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



- i. Subsection 70(2), and 70(4)(a) shall not apply; and
    - ii. the distances referred to in Subsection 105(3) of the *Gaming, Liquor and Cannabis Regulation* shall be expressly varied to 0 m.
  - d. For the purposes of subsection 70(4)(a)(i), the term "public or private education" means a school as defined in subsection (1)(y)(i) and (1)(y)(ii) of the *School Act (as amended from time to time)*.
5. Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 70(2), 70(3)(a) or 70(4).

### **Design Requirements**

6. Cannabis Retail Sales shall include design elements that readily allow for natural surveillance to promote a safe urban environment, where applicable and to the satisfaction of the Development Officer, including the following requirements:
  - a. customer access to the store is limited to a storefront that is visible from the street other than a Lane, or a shopping centre parking lot, or mall access that allows visibility from the interior of the mall into the store;
  - b. the exterior of all stores shall have ample transparency from the street;
  - c. Any outdoor lighting shall be designed to ensure a well-lit environment for pedestrians and illumination of the property; and
  - d. Landscaping shall be low-growing shrubs or deciduous trees with a high canopy at maturity to maintain natural surveillance.

### **Development Officer's Determination**

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

**Required Setback: 200 m**  
**Proposed Setback: 135 m**  
**Deficient by 65 m**

**Under Sections 70.1(2) and 70.5 of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Cannabis Retail Store.**


[unedited]

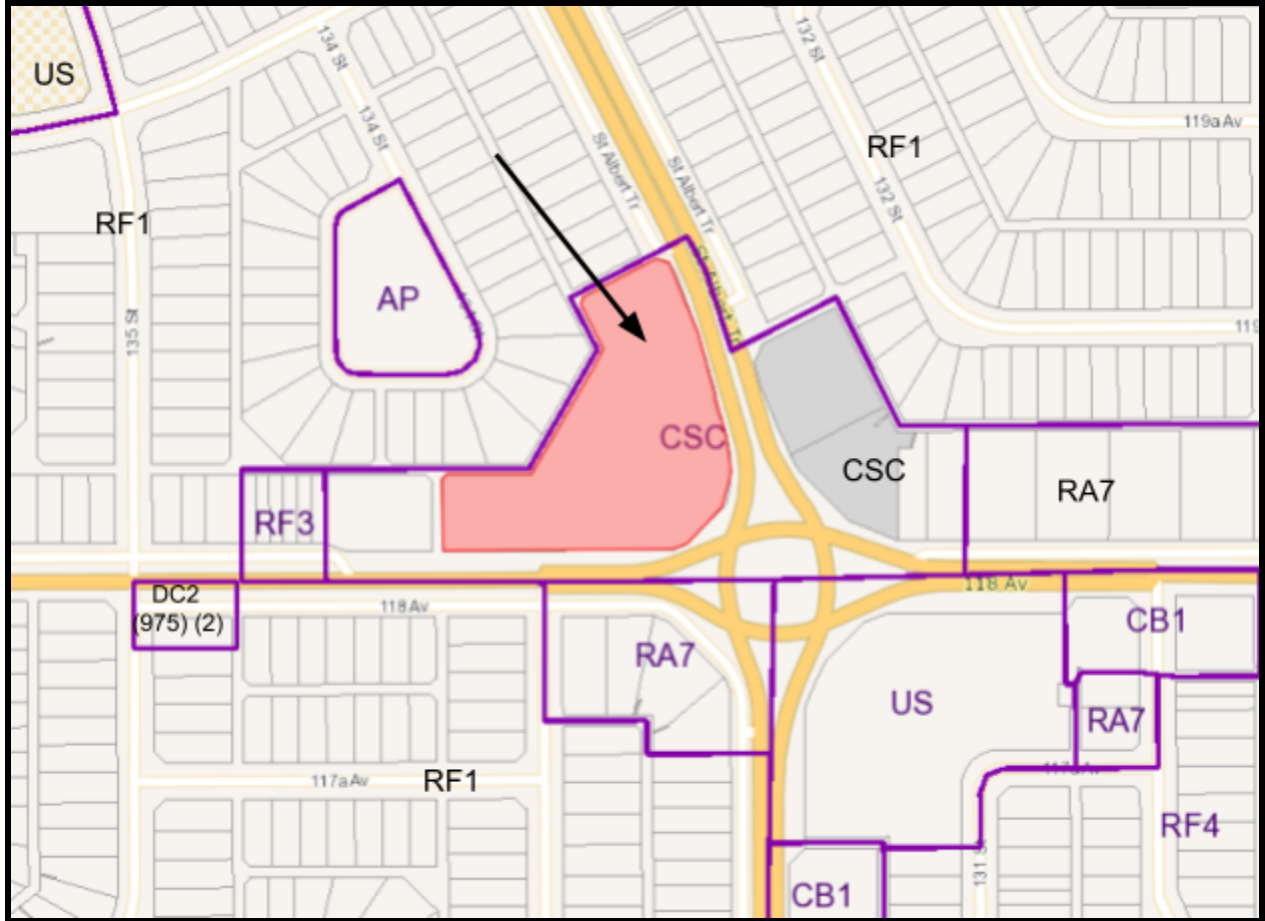
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Notice to Applicant/Appellant

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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	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: <b>383794012-003</b> Application Date: JAN 14, 2021 Printed: March 4, 2021 at 4:20 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: 40px; margin-top: 5px;"></div>	<b>Property Address(es) and Legal Description(s)</b> 13202 - 118 AVENUE NW Plan 1464KS Blk 1 Lots 54,55U,56U,57U,58U <hr/> <b>Specific Address(es)</b> Suite: 13210 - 118 AVENUE NW Entryway: 13210 - 118 AVENUE NW Building: 13204 - 118 AVENUE NW																					
<b>Scope of Application</b> To change the Use from a Health Services Use to a Cannabis Retail Sales store and to construct interior alterations.																						
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                     Class of Permit:                      Gross Floor Area (sq. m.):                      New Sewer Service Required: N                      Site Area (sq. m.):                 </td> <td style="width: 50%; border: none; vertical-align: top;">                     Contact Person:                      Lot Grading Needed?: N                      NumberOfMainFloorDwellings:                      Strat. 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: Strat. Plan Overlay/Annex Area: (none)																		
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<b>Development Application Decision</b> Refused <b>Issue Date:</b> Mar 04, 2021 <b>Development Authority:</b> CHOW, STEPHEN  <b>Reason for Refusal</b> The proposed Cannabis Retail Store does not comply with the minimum setback requirement from another Cannabis Retail Sales (Section 70.1):  Required Setback: 200 m Proposed Setback: 135 m Deficient by 65 m  Under Sections 70.1(2) and 70.5 of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Cannabis Retail Store.																						
<b>Rights of Appeal</b> The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.																						
<b>Fees</b> <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: left;">Receipt #</th> <th style="text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$5,600.00</td> <td style="text-align: right;">\$5,600.00</td> <td>071520210126000</td> <td>Jan 26, 2021</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;">\$5,600.00</td> <td style="text-align: right; border-top: 1px solid black;">\$5,600.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$5,600.00	\$5,600.00	071520210126000	Jan 26, 2021	Total GST Amount:	\$0.00				Totals for Permit:	\$5,600.00	\$5,600.00		
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THIS IS NOT A PERMIT																						



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

▲  
**N**

File: SDAB-D-21-050

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 384011200-001

APPLICATION TO: To operate a Major Home Based Business (MJS ENHANCE ESTHETIX INC. - facials and waxing). 5 visits per day by appointment only with no overlapping appointments. Expires on February 5, 2026

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: February 5, 2021

DATE OF APPEAL: March 3, 2021

NOTIFICATION PERIOD: February 11, 2021 through March 4, 2021

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 100 - Hillcrest Place NW (#209)

LEGAL DESCRIPTION: Plan 517RS Blk 4 Lot 3

ZONE: (RA7) Low Rise Apartment Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

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***Grounds for Appeal***

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

There is no designated parking for a MAJOR business. There is no designated access for a Major business. This location is a residential walk-up Condo/Apt complex located in the heart of Patricia Place / Rio Terrace neighborhood. Traffic and parking is already congested and unsafe as there is a major River Valley access point across the street from this Major business. The residents of Patricia Place are concerned about increase in traffic through our PRIVATE DRIVE making it unsafe for our children and grandchildren to play and ride bikes and scooters. The residents have concerns about the growth of the business and possibly other business start ups making the situation even worse. We have concerns about the hours of operation , days per week and the monitoring of this business. We also have concerns about how this will affect our property values. There is no valid reason to put a MAJOR business in the heart of a RESIDENTIAL development when there is so much inexpensive business space available in a business development.

<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 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.

**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 210.3(5), a **Major Home Based Business** is a **Discretionary Use** in the **(RA7) Low Rise Apartment Zone**.

Under section 7.3(7), **Major Home Based Business** means:

development consisting of the Use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses that may generate more than one business associated visit per day. The business Use must be secondary to the Residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use includes Bed and Breakfast Operations but does not include General Retail Sales, Cannabis Retail Sales or Cannabis Production and Distribution.

Section 210.1 states that the **General Purpose** of the **(RA7) Low Rise Apartment Zone** is “to provide a Zone for low rise Multi-unit Housing.”

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<b><i>Major Home Based Business</i></b>
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Under section 75 a **Major Home Based Business** shall comply with the following regulations:



1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. **there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;**
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;
7. a Bed and Breakfast Operation, operating as a Major Home Based Business may have more than two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units;
8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
9. the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.
10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

**Development Officer's Determination**

**You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.**

**Note: The proposed development complies with the Bylaw, and there are no variances to the development regulations.**

[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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	Project Number: <b>384011200-001</b> Application Date: JAN 18, 2021 Printed: February 5, 2021 at 2:50 PM Page: 1 of 3		
	<h2>Home Occupation</h2>		
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.			
<b>Applicant</b> 	<b>Property Address(es) and Legal Description(s)</b> 100 - HILLCREST PLACE NW Plan 517RS Blk 4 Lot 3  <b>Specific Address(es)</b> Suite: 209 - HILLCREST PLACE NW Entryway: 209 - HILLCREST PLACE NW Building: 100 - HILLCREST PLACE NW		
<b>Scope of Permit</b> To operate a Major Home Based Business (MJ'S ENHANCE ESTHETIX INC. - facials and waxing). 5 visits per day by appointment only with no overlapping appointments. Expires on February 5, 2026.			
<b>Permit Details</b> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;">                     # of business related visits/day: 5                      Administration Office Only?: N                      Class of Permit: Class B                       Do you live at the property?: Y                      Outdoor storage on site?: N                 </td> <td style="width: 50%; vertical-align: top;">                     # of vehicles at one time:                      Business has Trailers or Equipment?: N                      Description of Business: Facials and waxing. 4 visits per day by appointment only with no overlapping appointments. Operating out of the living room. Expires on February 5, 2026.                      Expiry Date: 2026-02-05 00:00:00                 </td> </tr> </table>		# of business related visits/day: 5 Administration Office Only?: N Class of Permit: Class B  Do you live at the property?: Y Outdoor storage on site?: N	# of vehicles at one time: Business has Trailers or Equipment?: N Description of Business: Facials and waxing. 4 visits per day by appointment only with no overlapping appointments. Operating out of the living room. Expires on February 5, 2026. Expiry Date: 2026-02-05 00:00:00
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<b>Development Permit Decision</b> Approved <b>Issue Date:</b> Feb 05, 2021 <b>Development Authority:</b> NICHOLAS, CAROLYN			

## Home Occupation

### Subject to the Following Conditions

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

1. The business owner must live at the site. The business use must be secondary to the residential use of the building and shall not change the residential character of the Dwelling or Accessory Building (Section 7.3(7)).
2. There shall be no exterior display or advertisement other than an identification plaque or sign a maximum of 20 cm (8") x 30.5 cm (12") in size located on the dwelling (Section 75.1).
3. The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located (Section 75.3).
4. There shall be no non-resident employees or business partners working on-site.
5. There shall be no more than 5 visits associated with the business per day.
6. Clients visit must be by-appointment only and appointments shall not overlap.
7. There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
8. The business must only operate in the living room area.
9. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
10. The business use must maintain the privacy and enjoyment of adjacent residences and the characteristic of the neighborhood.
13. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
14. This approval is for a 5 year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on February 5, 2026.

### Notes:

1. 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 such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site (Section 5.2).
2. This Development Permit is not a Business License.
3. Subject to the right of appeal. The permit is not valid until the required Notification Period expires (date noted below in accordance with Section 21.1 and 17.1).

### Variations

You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.

Note: The proposed development complies with the Bylaw, and there are no variations to the development regulations.



Project Number: **384011200-001**  
Application Date: JAN 18, 2021  
Printed: February 5, 2021 at 2:50 PM  
Page: 3 of 3

## Home Occupation

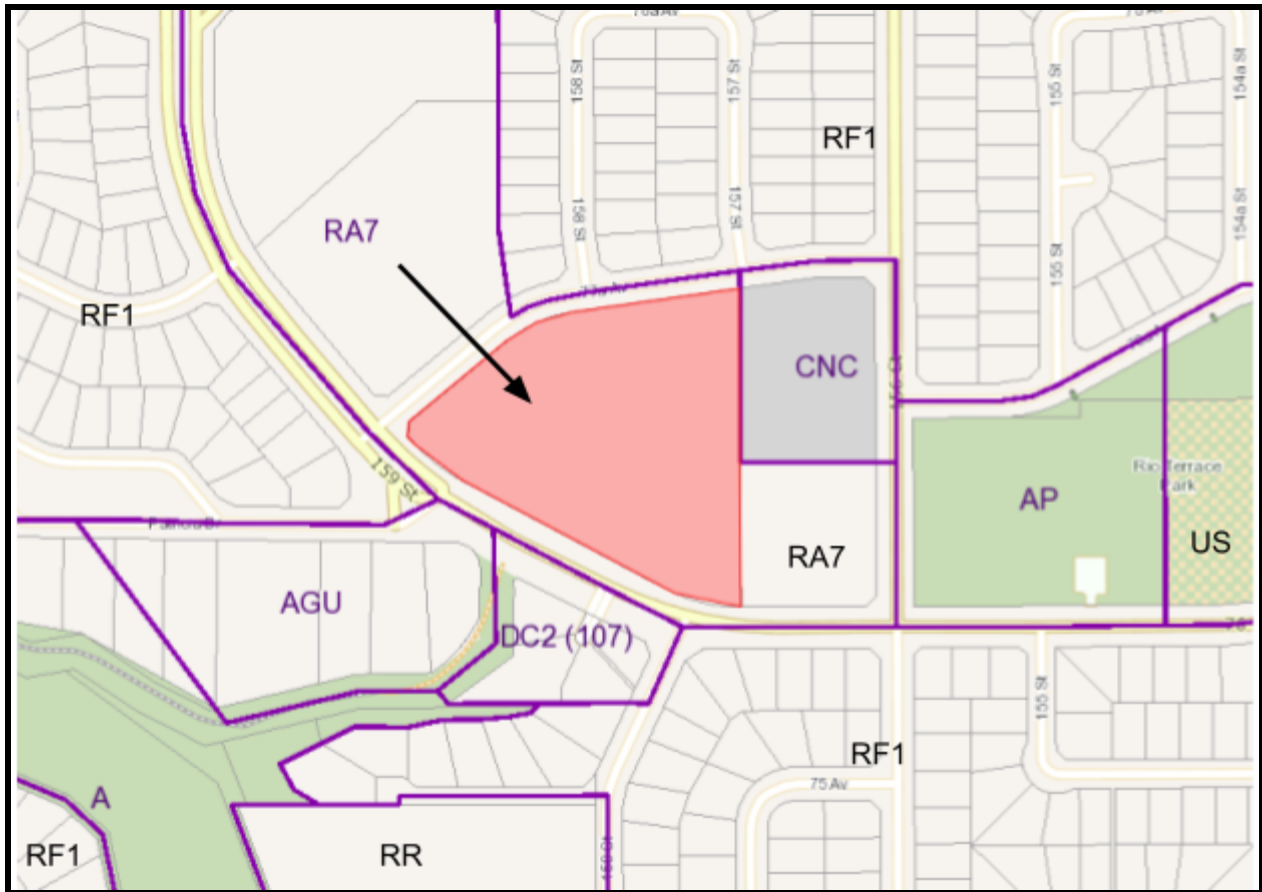
### Rights of Appeal

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 11, 2021      **Ends:** Mar 04, 2021

### Fees

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Dev. Application Fee	\$327.00	\$327.00	053202071624001	Jan 26, 2021
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$327.00</u>	<u>\$327.00</u>		



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-21-051

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AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 313371321-001

APPLICATION TO: Construct a 4 Dwelling unit Row House with Unenclosed Front Porches

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 25, 2021

DATE OF APPEAL: March 8, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12042 - 103 Street NW

LEGAL DESCRIPTION: Plan RN52 Blk 3 Lot 41

ZONE: (RF3) Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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***Grounds for Appeal***

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

Our variance is only 5.9' into the rear setback, and 3 other 4-plexes within walking distance all fell within the same variance (rear setback) and they were all approved. The Prince Charles neighbourhood, which is a few minutes away, has a 4-plex on every single corner, and the majority of these lots are 140' long, which is about 10' less than the average 4-plex lot in the city. After doing further research, almost every 4-plex I found on a

50' x 150' lot, had the same variance (rear setback). Lastly, the city was willing to approve my application if I could get the neighbour to sign a support letter. After speaking to the neighbour, their concerns had nothing to do with the 5.9' variance. Their concern was #1) parking and #2) windows facing their yard. If I take 5' off of the build, this will not alleviate the neighbours concerns. If I take 10' off of the build, this still will not alleviate the neighbours concerns. If we build a 2 storey duplex with a master bed in the front and 2 bedrooms facing into the back, there will still be windows facing into their yard. If we put legal suites into the basements of a 2 storey duplex, we will still require the same amount of parking stalls. To conclude, I do not believe the reasons for non-support from the neighbour of this development has anything to do with the actual variance being refused.

<b><i>General Matters</i></b>
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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.

#### **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 140.2(5), **Multi-unit Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development Zone**.

Under section 7.2(4), **Multi-unit Housing** means:

development that consists of three or more principal Dwellings arranged in any configuration and in any number of buildings.

Section 140.1 states that the **General Purpose** of the **(RF3) Small Scale Infill Development Zone** is “to provide for a mix of small scale housing.”

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

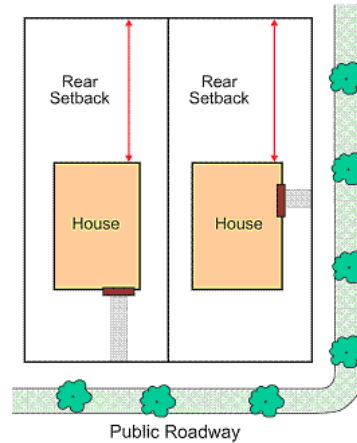
to regulate residential development in Edmonton’s mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the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

***Rear Setback***

Section 814.3(4) states “The minimum Rear Setback shall be 40% of Site Depth, [...]”

Under section 6.1, **Rear Setback** means:

the distance that a development or a specified portion of it, must be set back from a Rear Lot Line. A Rear Setback is not a Rear Yard, Amenity Space or Separation Space.



### **Development Officers Determination**

**Reduced Rear Setback - The distance from the row house to the rear property line (abutting the alley) is 16.5m instead of 18.3m (Section 814.3.4).**

[unedited]

### ***Mature Neighbourhood Overlay - Community Consultation***

Section 814.5(1) states:

When the Development Officer receives a Development Permit Application for a new principal building or new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) or 814.3(9) of this Overlay:

- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives

feedback from the specified affected parties in accordance with Table 814.5(2); and

- c. 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 Sections 11.3 and 11.4.

Section 814.5(2) states:


<b>Tier #</b>	<b>Recipient Parties</b>	<b>Affected Parties</b>	<b>Regulation of this Overlay Proposed to be Varied</b>
Tier 2	The municipal address and assessed owners of the land Abutting the Site, directly adjacent across a Lane from the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site and directly adjacent across a Lane from the Site of the proposed development	814.3(4) – Rear Setback

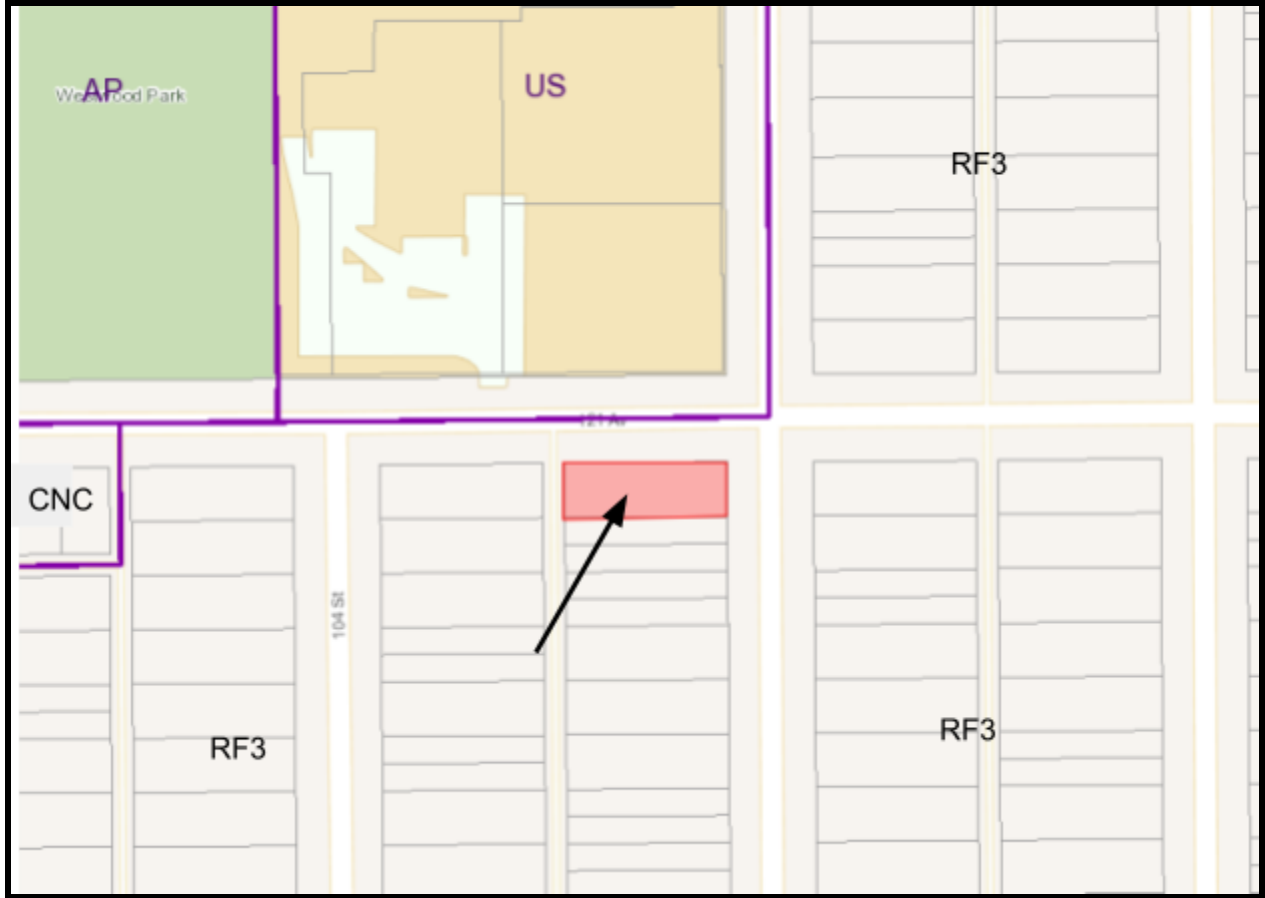
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Notice to Applicant/Appellant

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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		Project Number: <b>313371321-001</b> Application Date: MAY 10, 2019 Printed: February 25, 2021 at 1:49 PM Page: 1 of 1		
<h2>Application for Minor Development Permit</h2>				
This document is a Development Permit Decision for the development application described below.				
<b>Applicant</b>  		<b>Property Address(es) and Legal Description(s)</b> 12042 - 103 STREET NW Plan RN52 Blk 3 Lot 41		
		<b>Specific Address(es)</b> Entryway: 12042 - 103 STREET NW Building: 12042 - 103 STREET NW		
<b>Scope of Application</b> To construct a 4 Dwelling unit Row House with Unenclosed Front Porches.				
<b>Permit Details</b>				
# of Dwelling Units Add/Remove: 3 # of Secondary Suite Dwelling Units To Construct: Client File Reference Number: Minor Dev. Application Fee: Row House up to 4 dwellings Secondary Suite Included?: N		# of Primary Dwelling Units To Construct: 4 Class of Permit: Class B Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay		
<b>Development Application Decision</b> Refused <b>Issue Date:</b> Feb 25, 2021 <b>Development Authority:</b> YEUNG, KENNETH <b>Reason for Refusal</b> Reduced Rear Setback - The distance from the row house to the rear property line (abutting the alley) is 16.5m instead of 18.3m (Section 814.3.4). <b>Rights of Appeal</b> The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.				
<b>Fees</b>				
	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Lot Grading Fee	\$468.00	\$468.00	836490016409001	May 13, 2019
Development Permit Inspection Fee	\$518.00	\$518.00	836490016409001	May 13, 2019
Dev. Application Fee	\$848.00	\$848.00	836490016409001	May 13, 2019
Sanitary Sewer Trunk Fund	\$3,738.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$5,572.00	\$1,834.00		
(\$3,738.00 outstanding)				
<b>THIS IS NOT A PERMIT</b>				



**SURROUNDING LAND USE DISTRICTS**

**Site Location** ←                      File: SDAB-D-21-052                      ▲  
**N**