

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

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

**Hearing Room No. 2  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 2**

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I 9:00 A.M. SDAB-D-18-167 Operate a Major Home Based Business  
(massage therapy service, hours of operation: 11  
AM to 7 PM weekdays and weekends with no  
overlapping appointments - C.A.M.  
THERAPEUTIC MASSAGE), expires on  
August 24, 2023  
116 – Ekota Crescent NW  
Project No.: 288693702-001

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II 10:30 A.M. SDAB-D-18-168 Change the use from a General Retail Store to a  
Cannabis Retail Sales  
8122 – Gateway Boulevard NW  
Project No.: 286639019-001

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-18-167

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

APPELLANT:

APPLICATION NO.: 288693702-001

APPLICATION TO: Operate a Major Home Based Business (massage therapy service, hours of operation: 11 AM to 7 PM weekdays and weekends with no overlapping appointments - C.A.M. THERAPEUTIC MASSAGE), expires on August 24, 2023

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: August 24, 2018

DATE OF APPEAL: September 19, 2018

NOTIFICATION PERIOD: Aug 24, 2018 through Sep 7, 2018

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 116 – Ekota Crescent NW

LEGAL DESCRIPTION: Plan 5262TR Blk 21 Lot 1

ZONE: RF1 Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

**Development Permit Cancelled**



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-168

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 286639019-001

APPLICATION TO: Change the use from a General Retail Store to a Cannabis Retail Sales

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 30, 2018

DATE OF APPEAL: September 18, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8122 - Gateway Boulevard NW

LEGAL DESCRIPTION: Plan 1244HW Blk 61 Lot B

ZONE: DC1 Direct Development Control Provision (Historical Commercial)

OVERLAY: Main Streets Overlay  
Whyte Avenue Commercial Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan

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*Grounds for Appeal*

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

The green room has been providing legal cannabis services to Edmontonians for over 3 years. It has done so without incident and has been an asset to the neighbourhood and community. The green room is a fully local company and has been happy to be a staple in the whyte ave area. The green room intends to continue to be an industry leader and a valued member of the community. It is absolutely crucial that this development permit be approved to keep this landmark business operating in this location.

***General Matters***

**Appeal Information:**

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

**Grounds for Appeal**

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

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

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

**Appeals**

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
  - (i) with respect to an application for a development permit,
    - (A) within 21 days after the date on which the written decision is given under section 642, [...]

**685(4)** Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

- (a) ...
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

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

Under section 4(f) of the **DC1 (Historical Commercial) Direct Development Control Provision** (the "DC1"), **Cannabis Retail Stores** is a **Listed Use**.

Under section 7.4(9), **Cannabis Retail Stores** 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 7.8(13), **Public Park** means:

development of public land specifically designed or reserved for the general public for active or passive recreational Use and includes all natural and man-made Landscaping, facilities, playing fields, buildings and other structures that are consistent with the general purposes of

public parkland, whether or not such recreational facilities are publicly operated or operated by other organizations pursuant to arrangements with the public authority owning the park. Typical Uses include tot lots, band shells, picnic grounds, pedestrian trails and paths, landscaped buffers, playgrounds and water features.

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

Section 3 of the **DC1** states that the **Rationale** of this **Provision** is intended to:

- a) apply detailed and sensitive control of development and redevelopment within the core historic commercial area of Strathcona;
- b) encourage a highly pedestrian, retail commercial environment with offices and others Uses on the upper floors;
- c) emphasize and retain the original, historic architectural and urban design characteristics of this area in future renovations and redevelopments; and
- d) provide detailed control over specific Sites, which are or may be in future designated as historic resources under the Alberta Historical Resources Act, in an area which is used for primarily commercial purposes.

<p><b><i>Section 70 - Cannabis Retail Sales regulations</i></b></p>
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1. Any Cannabis Retail Sales shall not be located less than 200 m from any other Cannabis Retail Sales. For the purposes of this subsection only:
  - a. the 200 m separation distance shall be measured from the closest point of the Cannabis Retail Sales Use to the closest point of any other approved Cannabis Retail Sales Use;
  - b. A Development Officer shall not grant a variance to reduce the separation distance by more than 20 m in compliance with Section 11; and
  - c. The issuance of a Development Permit which contains a variance to separation distance as described in 70(1)b shall be issued as a Class B Discretionary Development.
2. Any Site containing a Cannabis Retail Sales shall not be located less than 200 m from any Site being used for a public library, or for public or private education at the time of the application for the Development Permit for the Cannabis Retail Sales. For the purposes of this subsection only:

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



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

**Development Officer's Determination**

1) The proposed Cannabis Retail Store does not comply with the minimum setback requirement from public lands (Section 70.3):

Required Setback: 100 m

Proposed Setback: 21 m

Deficient by 79 m

2) The proposed Cannabis Retail Store does not comply with the minimum setback requirement from an approved Cannabis Retail Sales (DP 285831371-001) (Section 70.1):

Required Setback: 200 m

Proposed Setback: 153 m

Deficient by 47 m


Under Sections 70.1(b) and 70.4 of the Zoning Bylaw, the Development Officer is prohibited from granting variances to the minimum setbacks to allow for the proposed Cannabis Retail Store.

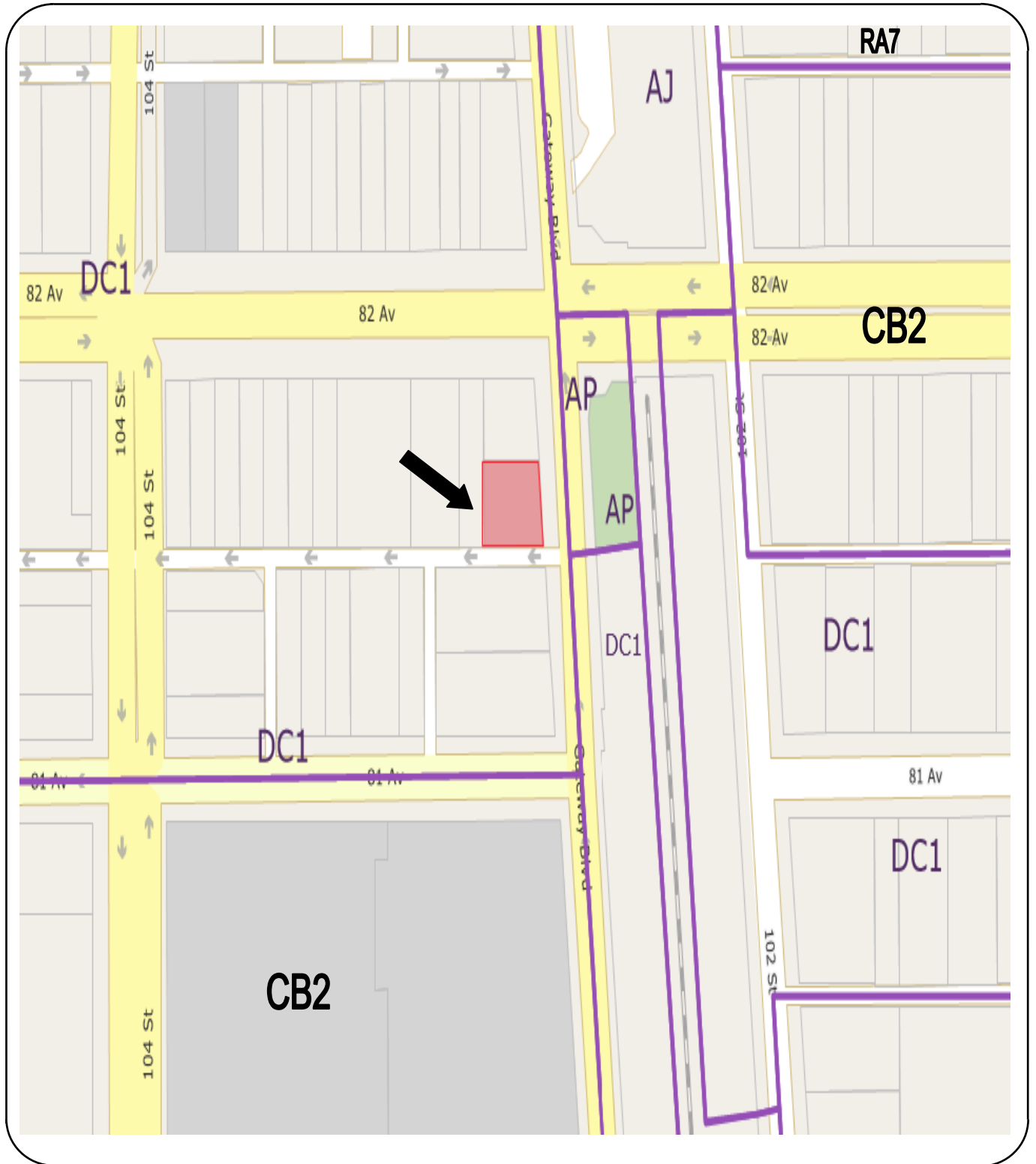
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Notice to Applicant/Appellant

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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	<p><b>Application for Major Development Permit</b></p>	<p>Project Number: <b>286639019-001</b>                  Application Date: JUL 04, 2018                  Printed: September 18, 2018 at 11:31 AM                  Page: 1 of 2</p>										
<p>This document is a Development Permit Decision for the development application described below.</p>												
<p><b>Applicant</b></p> <div style="border: 1px solid black; width: 150px; height: 50px; margin: 10px auto;"></div>	<p><b>Property Address(es) and Legal Description(s)</b>                  8122 - GATEWAY BOULEVARD NW                  Plan 1244HW Blk 61 Lot B</p> <hr/> <p><b>Specific Address(es)</b>                  Suite: 8126 - GATEWAY BOULEVARD NW                  Entryway: 8126 - GATEWAY BOULEVARD NW                  Building: 8122 - GATEWAY BOULEVARD NW</p>											
<p><b>Scope of Application</b>                  To change the use from a General Retail Store to a Cannabis Retail Sales. <span style="float: right;">DCI</span></p>												
<p><b>Permit Details</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">                 Class of Permit:                  Gross Floor Area (sq.m.):                  New Sewer Service Required: N                  Site Area (sq. m.):             </td> <td style="width: 50%; border: none;">                 Contact Person:                  Lot Grading Needed?: N                  NumberOfMainFloorDwellings:                  Stat. Plan Overlay/Annex Area: (none)             </td> </tr> </table>			Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)								
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<p>I/We certify that the above noted details are correct.                  Applicant signature: _____</p>												
<p><b>Development Application Decision</b>                  Refused  <b>Issue Date:</b> Aug 30, 2018 <b>Development Authority:</b> WELCH, IMAI</p> <p><b>Reason for Refusal</b></p> <p>1) The proposed Cannabis Retail Store does not comply with the minimum setback requirement from public lands (Section 70.3):</p> <p style="margin-left: 40px;">Required Setback: 100 m                  Proposed Setback: 21 m                  Deficient by 79 m</p> <p>2) The proposed Cannabis Retail Store does not comply with the minimum setback requirement from an approved Cannabis Retail Sales (DP 285831371-001) (Section 70.1):</p> <p style="margin-left: 40px;">Required Setback: 200 m                  Proposed Setback: 153 m                  Deficient by 47 m</p> <p>Under Sections 70.1(b) and 70.4 of the Zoning Bylaw, the Development Officer is prohibited from granting variances to the minimum setbacks to allow for the proposed Cannabis Retail Store.</p> <p><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.</p>												
<p><b>Fees</b></p> <table style="width: 100%; border: none;"> <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;">\$5,600.00</td> <td style="text-align: center;">\$5,600.00</td> <td style="text-align: center;">05157569</td> <td style="text-align: center;">Jul 04, 2018</td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$5,600.00	\$5,600.00	05157569	Jul 04, 2018
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Major Dev. Application Fee	\$5,600.00	\$5,600.00	05157569	Jul 04, 2018								
<p><b>THIS IS NOT A PERMIT</b></p>												



**SURROUNDING LAND USE DISTRICTS**

Site Location 

File: SDAB-D-18-168

