

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Thursday, 9:00 A.M.
October 22, 2020

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-20-138

Operate a Major Home Based Business
(Administration office for general contractor -
M2K HOUSE RENO & BASEMENT
DEVELOPMENT). Expires Aug. 28, 2025

3523 - 56 Street NW
Project No.: 369839216-001

II 10:30 A.M. SDAB-D-20-139

Change the use from a Dance Studio to Cannabis
Retail Store ("Elevate") and to construct interior
alterations.

10604 - 105 Avenue NW
Project No.: 363145960-002

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-20-138

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 369839216-001

APPLICATION TO: Operate a Major Home Based Business (Administration office for general contractor - M2K HOUSE RENO & BASEMENT DEVELOPMENT). Expires Aug. 28, 2025

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: August 28, 2020

NOTIFICATION PERIOD: September 3, 2020 through September 24, 2020

DATE OF APPEAL: September 23, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3523 - 56 Street NW

LEGAL DESCRIPTION: Plan 7721468 Blk 19 Lot 16

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

This is in reference of your letter dated August 31, 2020 re: development permit that has been approved for a major home based business

(Administration office for general contractor - M2K HOUSE RENO & BASEMENT DEVELOPMENT) Expires Aug 28, 2025
Location: 3523 - 56 STREET NW, Neighborhood- Hillview
The legal description of this address is Plan 7721468 Blk 19 Lot 16
Zone: RF1 Single Detached Residential Zone
City File # 369839216 - 001

We would like to make an appeal regarding this kind of business. The said address is very close to our residence particularly their backyard is right in front of our garage. This business is very inconvenient for us because if they will use the backyard for their vehicles it would hinder our access to our garage because the alley is too narrow and its only one way entry. We hope that you give consideration to our concern. Thank you

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.

(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 110.3(4), a **Major Home Based Business** is a **Discretionary Use** in the **(RF1) Single Detached Residential 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 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.

Discretionary Use

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]

Major Home Based Business

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 shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;
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.

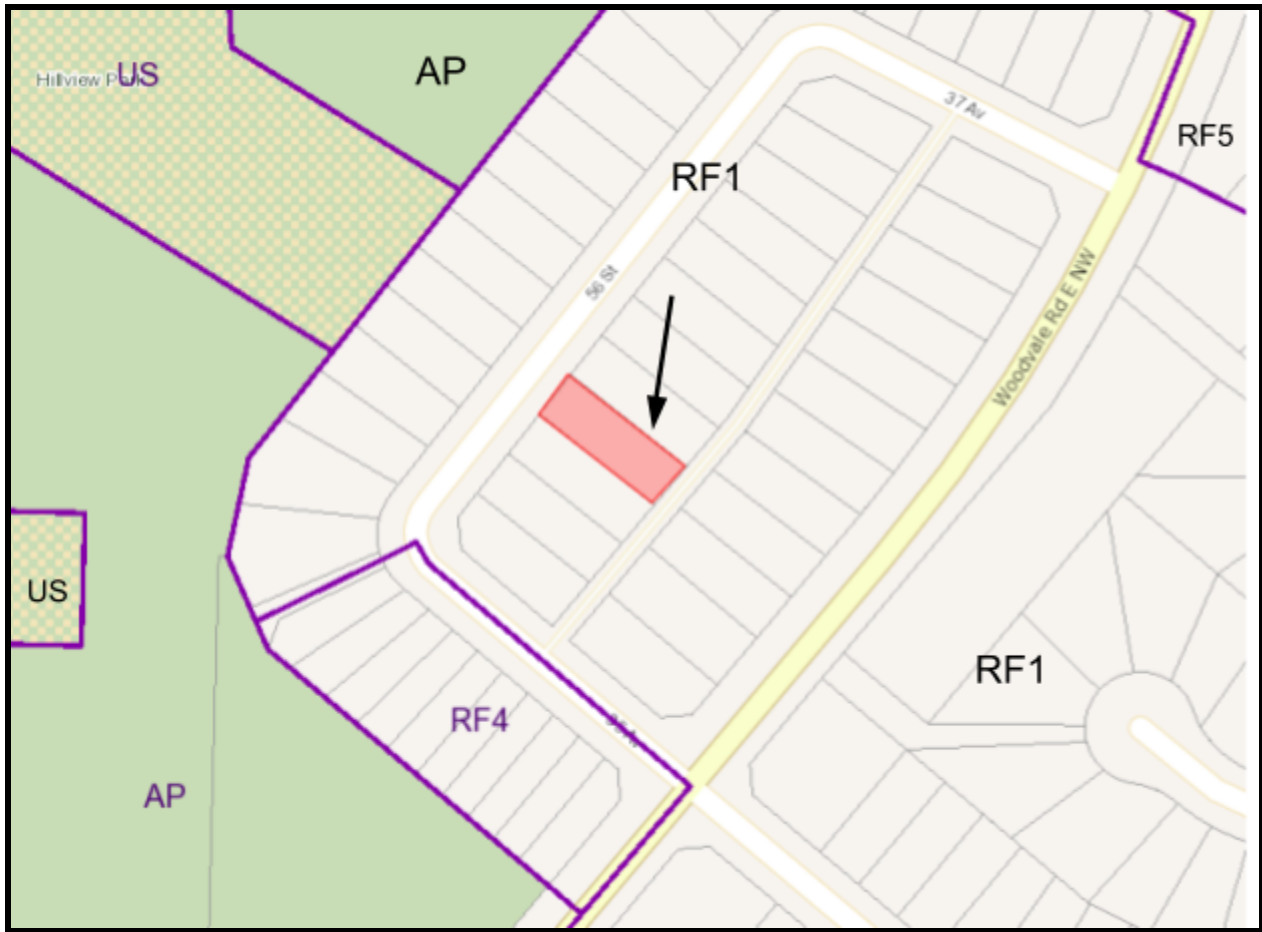
Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

	Project Number: 369839216-001 Application Date: AUG 08, 2020 Printed: August 28, 2020 at 11:11 AM 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.			
Applicant	Property Address(es) and Legal Description(s) 3523 - 56 STREET NW Plan 7721468 Blk 19 Lot 16 Specific Address(es) Entryway: 3523 - 56 STREET NW Building: 3523 - 56 STREET NW		
Scope of Permit To operate a Major Home Based Business (Administration office for general contractor - MJK HOUSE RENO & BASEMENT DEVELOPMENT). Expires Aug. 28, 2025.			
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> # of business related visits/day: 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?: Description of Business: Administration office for contractor. Expiry Date: 2025-08-28 00:00:00 </td> </tr> </table>		# of business related visits/day: 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?: Description of Business: Administration office for contractor. Expiry Date: 2025-08-28 00:00:00
# of business related visits/day: 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?: Description of Business: Administration office for contractor. Expiry Date: 2025-08-28 00:00:00		
Development Permit Decision Approved Issue Date: Aug 28, 2020 Development Authority: FOLKMAN, JEREMY			

	Project Number: 369839216-001 Application Date: AUG 08, 2020 Printed: August 28, 2020 at 11:11 AM Page: 2 of 3
<h2>Home Occupation</h2>	
<p>Subject to the Following Conditions</p>	
<p>Unless otherwise stated, all references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw #12800, as amended.</p>	
<p>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)).</p>	
<p>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).</p>	
<p>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).</p>	
<p>4. If non-resident employees or business partners are working on-site, the maximum number shall not exceed the number applied for with this application.</p>	
<p>5. If there are visits associated with the business the number shall not exceed the number applied for with this application.</p>	
<p>6. The site shall not be used as a daily rendezvous for employees or business partners.</p>	
<p>7. There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).</p>	
<p>8. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.</p>	
<p>9. Fabrications of business related materials are prohibited.</p>	
<p>10. All commercial and industrial equipment, including but not limited to Bobcats, are not permitted at the site. The equipment shall be stored at an approved storage facility.</p>	
<p>11. All commercial, industrial and overweight vehicles shall be parked at an approved storage facility. The Development Permit may be revoked if any commercial, industrial and overweight vehicles are parked or stored at the residential site.</p>	
<p>12. One or more enclosed or empty non-enclosed trailer with less than 4500kg gross vehicle weight shall be parked at an approved storage facility, unless a variance has been granted for an enclosed or empty non-enclosed trailer for this Major Home Based Business.</p>	
<p>13. All parking for the Dwelling and Home Based Business must be accommodated on site, unless a parking variance has been granted for this Major Home Based Business.</p>	
<p>14. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).</p>	
<p>15. 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 Aug. 28, 2025.</p>	
<p>Notes:</p>	
<p>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).</p>	
<p>2. This Development Permit is not a Business License.</p>	

	Project Number: 369839216-001 Application Date: AUG 08, 2020 Printed: August 28, 2020 at 11:11 AM Page: 3 of 3			
Home Occupation				
<p>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).</p> <p>Variances 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.</p> <p>Note: The proposed development complies with the Bylaw, and there are no variances to the development regulations.</p> <p>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.</p> <p>Notice Period Begins: Sep 03, 2020 Ends: Sep 24, 2020</p>				
Fees				
	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$327.00	\$327.00	993109094612001	Aug 24, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	\$327.00	\$327.00		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-138

▲
N

ITEM II: 10:30 A.M.

FILE: SDAB-D-20-139

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 363145960-002

APPLICATION TO: Change the use from a Dance Studio to Cannabis Retail Store ("Elevate") and to construct interior alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 16, 2020

DATE OF APPEAL: September 25, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10604 - 105 Avenue NW

LEGAL DESCRIPTION: Plan B4 Blk 6 Lots 193-195

ZONE: (DC1) Direct Development Control Provision (Area 2 - Precinct 'D' of the Central McDougall / Queen Mark Park Area Redevelopment Plan)

OVERLAY: N/A

STATUTORY PLAN: Central McDougall / Queen Mary Park Area Redevelopment Plan

Grounds for Appeal

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

Please be advised that we are counsel for 2205336 Alberta Ltd. operating as Elevate Cannabis ("Elevate").

Notice of Appeal

Pursuant to section 686 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 as amended (the "MGA") Elevate hereby appeals the deemed refusal of the City of Edmonton (the "City") to grant a Major Development Permit identified as Permit #363145960-002 (the "Permit Application") to construct interior alterations to premises located at 10604 - 105 Avenue, Edmonton, Alberta, T5Z 2T5 (the "Property") for the purpose of operating a cannabis retail space (the "Business"). A copy of the Development Permit Application, which was refused on September 16, 2020, is enclosed [Tab 1].

Pursuant to previous correspondence received from Stephen Chow, Planner I, Development Services, Urban Form and Corporate Strategic Development of the City dated July 7, 2020, the "only thing that would prevent the approval of [Elevate's] Application" is the existence of "a park or a land that is zoned AP just North of the proposed location" (the "Refusal"). A copy of the correspondence from Stephen Chow is enclosed [Tab 2].

The proposed Property would be located at the Northeast corner of the MacEwan Square building located on 105 Avenue between 106 Street and 107 Avenue (the "Building"). A site plan of the building showing the proposed location is enclosed [Tab 3]. In addition, we enclose a certified copy of title [Tab 4]; a search from Alberta Corporate Registry for the landlord, Limak Investments Inc. [Tab 5]; a letter of Authorization executed by the landlord permitting Elevate to act as its authorized representative [Tab 6] and the proposed floorplan for the Business [Tab 7].

Grounds for Appeal

Elevate submits that there are meritorious reasons for the Subdivision and Development Appeal Board (the "SDAB") to grant the appropriate variance to allow for the development and operation of a cannabis retail store. These grounds include, *inter alia*, the following:

1. Elevate is committed to install a state of the art security system exceeding all regulatory requirements and designed to deter crime including 24/7 video surveillance, panic buttons at each cash till, 24 hour live monitoring as well as a quick response system in the event of an emergency.
2. All Elevate staff will be trained and familiar with the relevant AGLC rules and regulations.
3. All inventory that is not on the active sales floor will be kept in a secure storage room in accordance with AGLC guidelines.

4. Elevate is focused on ensuring that the sale of cannabis products is managed properly and safely utilizing only Federally regulated cannabis products from Federally licenced producers.
5. The park in question is located at the Northwest corner of 107 Street and 106 Avenue located away from the entrance to the cannabis retail store. A Google Earth photograph of the park and proposed Property is enclosed **[Tab 8]**.
6. The park does not contain a playground; nor is it located near any schools.
7. The park does not contain any lines or equipment indicating baseball diamonds, soccer fields, football goal posts, tennis courts nor any other visible sports or play equipment.
8. The park is surrounded on three sides by industrial/commercial businesses.
9. Presently, the park is fenced and being utilized by the City of Edmonton to store construction materials **[Tab 9]**.
10. The public entrance to the cannabis retail store is located on 105 street and is not visible to the park; nor is the park visible to the cannabis retail store **[Tab 10]**.
11. If you measure form the front entrance of the store to the park, the distance to the park exceeds 200m irrespective of which direction is taken **[Tab 11]**.
12. Operating a cannabis retail store is a permitted use for the Property.
13. Signage will be designed to be discreet.
14. Granting Elevate a development permit during a global pandemic and unprecedented economic recession felt here in Edmonton would be a benefit to assist in the stimulation of our local economy and will create full time jobs for employees of Elevate on a long term basis, as well as hiring the contractors required to build out the space to meet and exceed AGLC regulations and specifications.
15. It would be beneficial to grant Elevate the required permit because of their existing relationship with MacEwan University. The President and Founder of Elevate, Mr. Joshua Vera, who was born and raised in Edmonton, is a MacEwan University Alumni having graduated from the School of Business in 2015, obtaining his Bachelor of Commerce Degree with a Management Major.
16. Elevate has a well established educational based philosophy with respect to the safe and responsible consumption of cannabis. So much so that during the 2018-2019 Week of Welcome hosted by MacEwan

University at the start of their academic calendar in September (pre-legalization), MacEwan University specifically chose Elevate to be the only cannabis retailer on its campus, because it was the only cannabis retail store that promoted / highlighted the benefits of safe and responsible cannabis use.

17. Furthermore, Elevate was also given the same opportunity by the University of Alberta the following week as the only cannabis retailer on campus, based on their intent to continue pushing the message of safe and responsible use, especially amongst the student demographic (aged 18-25).
18. Elevate was subsequently invited by a Senior Business Economics Professor at the University of Alberta, Guy Boutilier (former provincial MLA) to give a couple of lectures to several hundred of his 4th year Economics students.
19. All of the above demonstrate Elevate's steadfast commitment from pre-legalization and onward, by educating and informing the communities that it serves. This commitment continues to this day as its founding philosophy, therefore its safe and responsible use will bode well for the MacEwan University area.
20. Elevate has two well established cannabis retail stores in the Edmonton area, both of which have been owned and operated since legalization while abiding by the rules and regulations set forth by the City of Edmonton, Province of Alberta, and Health Canada without incident. This pattern of compliance will not waiver or falter if granted the opportunity to grow organically at this proposed location.
21. Elevate, which is a locally owned and operated cannabis retail store, founded and grown organically here in the City of Edmonton was one of the top 5 nominees for Canada's Top Cannabis Retail Store in 2019.
22. In addition, the President and Founder of Elevate, Mr. Joshua Vera, was also nominated for Canadian Cannabis Entrepreneur of the Year, 2019.
23. Such further and other grounds as may be submitted at the hearing of this Appeal.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

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

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

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

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

- (a) ...

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

General Provisions from the (DC1) Direct Development Control Provision (Area 2 - Precinct 'D' of the Central McDougall / Queen Mary Park Area Redevelopment Plan ("DC1")):

Under section 3.d, **Cannabis Retail Sales** is a **Listed Use** in the **DC1**.

Section 4.w states "Cannabis Retail Sales shall comply with section 70 of the Zoning Bylaw."

Section 2 states that the **Rationale** of the **DC1** is:

To accommodate a business residential mixed use node that creates a compatible and diverse mixture of residential, office, and commercial land uses at a human scale with a built form that has a strong relationship to the street and accommodates pedestrian activity along the 105 Avenue Multi-use Trail Corridor.

General Provisions from the Edmonton Zoning Bylaw:

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.”

<i>Section 70 – Cannabis Retail Sales</i>
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1. Any Cannabis Retail Sales shall not be located less than 200 m from any other Cannabis Retail Sales. For the purposes of this subsection only:
 - a. the 200 m separation distance shall be measured from the closest point of the Cannabis Retail Sales Use to the closest point of any other approved Cannabis Retail Sales Use;
 - b. A Development Officer shall not grant a variance to reduce the separation distance by more than 20 m in compliance with Section 11; and
 - c. The issuance of a Development Permit which contains a variance to separation distance as described in 70(1)(b) shall be issued as a Class B Discretionary Development.

2. Any Site containing 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 a Public Lands zoned A or AP (Section 70.2.2):

Required Setback: 100 m

Proposed Setback: 68 m


Deficient by 32 m

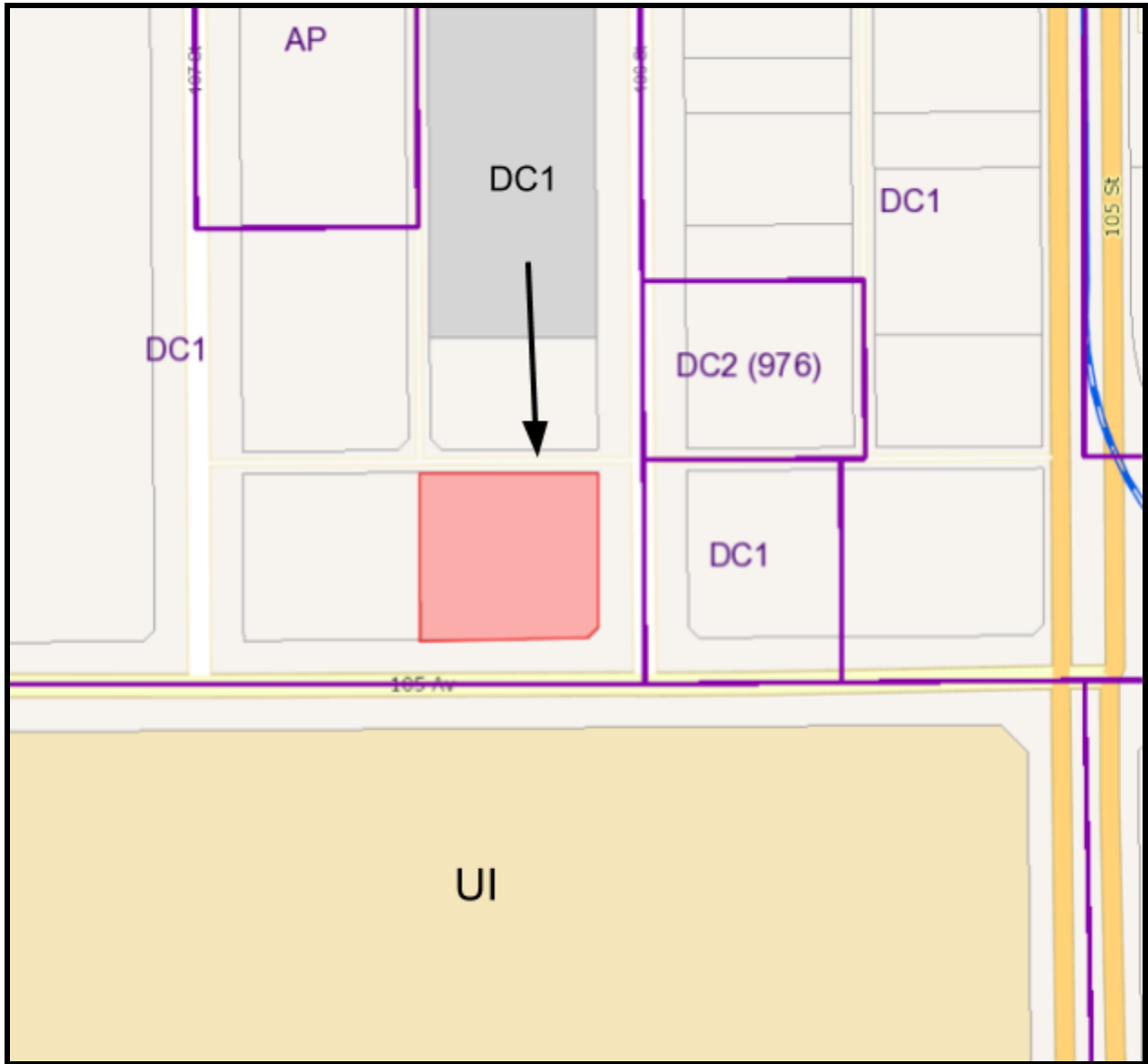
Under Sections 70.1(b) and 70.5 of the Zoning Bylaw, the Development Officer is prohibited from granting a variance to the minimum setback to allow for the proposed Cannabis Retail Store.

[unedited]

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.

	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: 363145960-002 Application Date: MAY 25, 2020 Printed: September 16, 2020 at 3:38 PM Page: 1 of 1		
This document is a Development Permit Decision for the development application described below.				
Applicant	Property Address(es) and Legal Description(s) 10604 - 105 AVENUE NW Plan B4 Blk 6 Lots 193-195			
	Specific Address(es) Suite: 10604 - 105 AVENUE NW Entryway: 10604 - 105 AVENUE NW Building: 10604 - 105 AVENUE NW			
Scope of Application To change the use from a Dance Studio to Cannabis Retail Store ("Elevate") and to construct interior alterations.				
Permit Details				
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)			
Development Application Decision Refused				
Issue Date: Development Authority: CHOW, STEPHEN				
Reason for Refusal The proposed Cannabis Retail Store does not comply with the minimum setback requirement from a Public Lands zoned A or AP (Section 70.2.2): Required Setback: 100 m Proposed Setback: 68 m Deficient by 32 m Under Sections 70.1(b) 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.				
Rights of Appeal 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.				
Fees				
	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$5,600.00	\$5,600.00	06589622	Jun 25, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	\$5,600.00	\$5,600.00		
THIS IS NOT A PERMIT				



SURROUNDING LAND USE DISTRICTS

Site Location ← File: SDAB-D-20-139 ▲
N