

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
January 10, 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-18-501

To comply with an Order to remove all vehicles exceeding 4600 KG from this property and refrain from parking vehicles over this weight on the property in the future. This Order must be complied with before December 7, 2017

226 - Lee Ridge Road NW  
Project No.: 263734077-002

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II 10:30 A.M. SDAB-D-18-004

**WITHDRAWN**

To operate a Major Home Based Business (licensed massage therapist - MASSAGE ME) expires November 23, 2022

2337 - Ware Crescent NW  
Project No.: 264284792-001

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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-18-501

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT AUTHORITY

APPELLANT:

APPLICATION NO.: 263734077-002

ORDER TO: Remove all vehicles exceeding 4600 KG from this property and refrain from parking vehicles over this weight on the property in the future. You must comply with this Order before December 7, 2017

ORDER ISSUED: November 16, 2017

DATE OF APPEAL: December 6, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 226 - Lee Ridge Road NW

LEGAL DESCRIPTION: Plan 12544TR Blk 24 Lot 34

ZONE: (RMH) Mobile Home 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 truck is an antique, bought to be restored for DISPLAY only.
- The truck has not been on the property for 3 years, two previous Enforcement Officers had deemed it acceptable.
- Selective enforcement has occurred, in which CSE had issued me an Order but ignored other violations in my neighbourhood.
- Alberta Transport has deemed this truck “non-certifiable for commercial use” due to age/modifications required (1959 truck).

***General Matters***

**Appeal Information:**

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

**Stop order**

**645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

**(2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

**(2.1)** A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

**(3)** A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

**Permit**

**683** Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

### **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) ...
  - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, [...]

### **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;

...

- (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 250.2(3), a **Mobile Home** is a **Permitted Use** in the (RMH) Mobile Home Zone.

Under section 6.1(2), **Accessory** means, “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.”

Section 150.1 states that the **General Purpose** of the **(RMH) Mobile Home Zone** is “to provide for Mobile Homes developed within a Mobile Home Park or Mobile Home Subdivision.”

***Enforcement and Penalties***

Section 23.1(9) states “Notwithstanding subsection 23.1(2), it is an offence to keep an object in a Residential Zone that is prohibited or restricted under Section 45 of this Bylaw without a valid and approved Development Permit when a Development Permit is required.”

***Objects Prohibited or Restricted in Residential Zones***

Section 45.7 states:

1. No person shall keep in any part of a Site in any Residential Zone:
  - a. any commercial vehicle, loaded or unloaded, having a maximum gross vehicle weight (G.V.W.R.) exceeding 4 600 kg;
  - b. more than one commercial vehicle having a maximum gross vehicle weight (G.V.W.R.) of 4 600 kg or less, for longer than reasonably necessary while loading or unloading such vehicle.
2. For the purpose of subsection 45(1) a commercial vehicle means a vehicle that:

- a. is intended or designed for commercial purposes; or
- b. is used for commercial purposes.

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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. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

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Citizen Services  
Community Standards

City of Edmonton  
2<sup>nd</sup> Floor, 10250 101 Street NW  
Edmonton, AB T5J 2R7  
  
edmonton.ca



Date: November 16, 2017

Reference/File No: 263734077-002

## **ORDER**

(Issued Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000 c. M-26)

**TO:**

**RE: Municipal Address:** 226 Lee Ridge Road NW, Edmonton, AB

**Legal Description:** Plan 2544TR Blk 24 Lot 34

**Tax Roll Number:** 9253469

**(hereinafter referred to as “the property”)**

As a result of an inspection of the property on November 10, 2017:

**I find that the use of the land is not in accordance with the City of Edmonton Zoning Bylaw (Bylaw 12800) as follows:**

Section 23.1 (9) Commercial vehicles exceeding a maximum gross vehicle weight of 4600 KG, loaded or unloaded, cannot be parked on a residential property

**THEREFORE YOU ARE ORDERED TO:**

Remove all vehicles exceeding 4600 KG from this property and refrain from parking vehicles over this weight on the property in the future

**YOU MUST COMPLY WITH THIS ORDER BEFORE:** December 07, 2017

**Officer: Steven EMEO #62 Telephone: 780-496-1613**

Complaints and Investigations

Community Standards Branch



**OFFENCE FOR NON-COMPLIANCE:**

Pursuant to Section 557(a.3) of the Municipal Government Act (hereinafter referred to as the "Act") a person who contravenes or does not comply with an order under section 645 is guilty of an offence and liable to prosecution.

Pursuant to Section 566(1) of the Act a person who is guilty of an offence is liable,

- (a) to a fine of not more than \$10 000, or
  - (b) to imprisonment for not more than one year,
- or to both fine and imprisonment.

**ADDITIONAL CONSEQUENCES FOR NON-COMPLIANCE:**

Pursuant to Section 646(1) of the Act if a person fails or refuses to comply with an order under section 645 the municipality may, enter on the land or building and take any action necessary to carry out the order.

Pursuant to Section 553(1)(h.1) of the Act when an order is carried out under section 646(1) the expenses and costs incurred in carrying out the order may be placed on the tax roll of the property and that amount:

- a) is deemed for all purposes to be a tax imposed under Division 2 of Part 10 from the date it was added to the tax roll, and
- b) forms a special lien against the parcel of land in favour of the municipality from the date it was added to the tax roll.

If you fail to comply with the provisions of this order the City of Edmonton will, at its election, take action to enforce the order by , all expenses of which will be placed on the tax roll of the property.

**PROCEDURE FOR STARTING AN APPEAL OF THE ORDER**

Pursuant to section 685(1) of the Act a person affected by an order under section 645 may appeal to the Subdivision and Development Appeal Board.

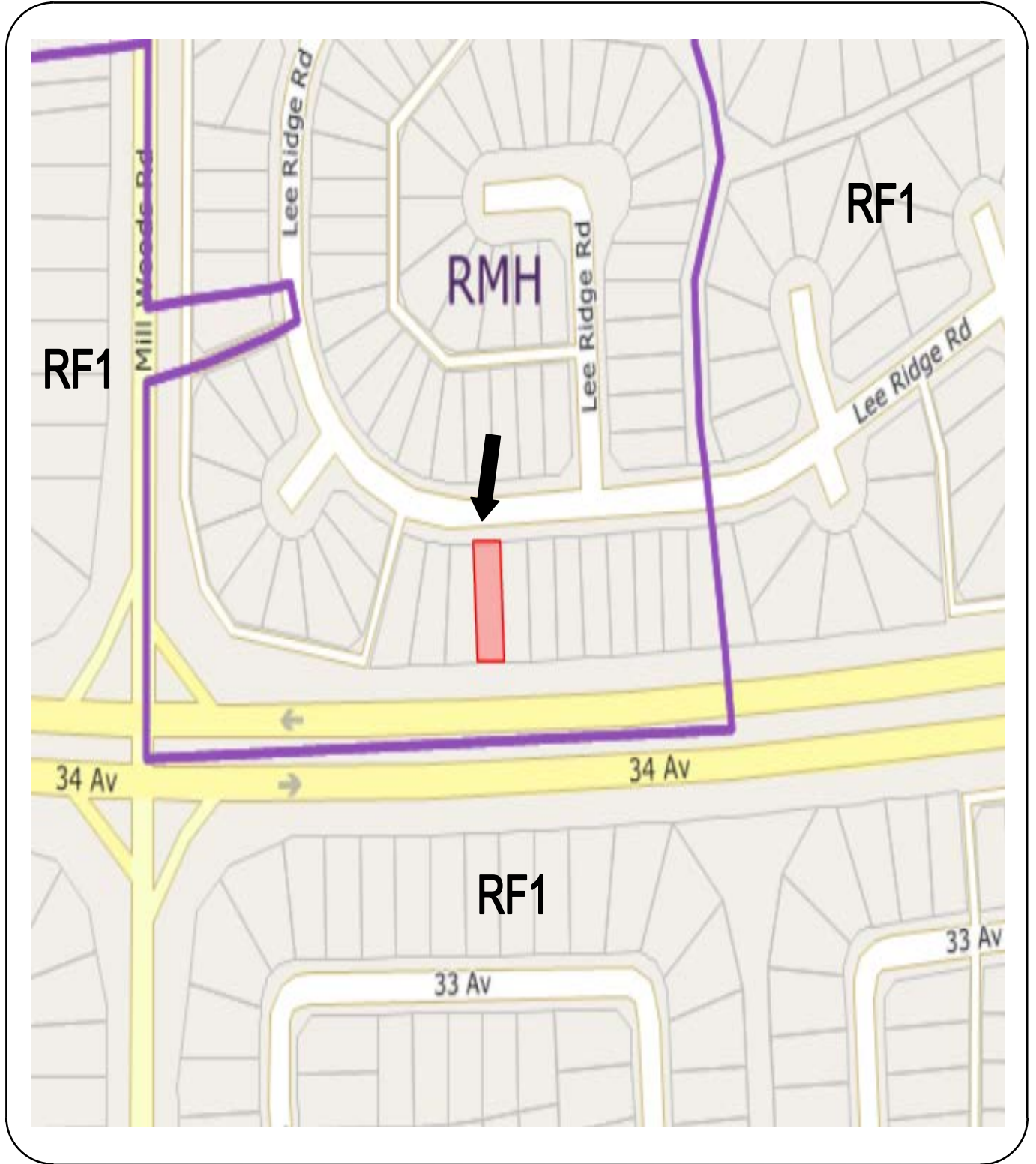
Pursuant to section 686(1) of the Act an appeal to the Subdivision and Development Appeal Board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days after the date on which the person is notified of the order under section 645.

Requests for review must be received by:

Subdivision and Development Appeal Board  
Office of the City Clerk  
10019 – 103 Avenue NW  
Edmonton, AB T5J 0G9

Telephone: (780) 496-6079  
Fax: (780) 496-8175

The Notice of Appeal must be accompanied by a cheque or money order in the sum of \$72.00 payable to the City of Edmonton or it is not considered complete and will not be processed. If you are delivering your notice of appeal in person you may pay with cash.



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-501



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-004

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

APPELLANT:

APPLICATION NO.: 264284792-001

APPLICATION TO: Operate a Major Home Based Business (licensed massage therapist - MASSAGE ME) expires November 23, 2022

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: November 23, 2017

DATE OF APPEAL: December 13, 2017

NOTIFICATION PERIOD: November 30, 2017 through December 21, 2017

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2337 - Ware Crescent NW

LEGAL DESCRIPTION: Plan 1323982 Blk 6 Lot 47

ZONE: (RF4) Semi-detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN(S): Windermere Area Structure Plan  
Windermere Neighbourhood Structure Plan

***Grounds for Appeal***

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

I recently appealed an identical business directly next to my home.... now an additional one is attempting to open within 300 feet of my house. As each additional business is opens, the residential traffic and safety considerations become more and more concerning. I'm not sure the

amount of 'Major home businesses' in a residential area constitute a dramatic change to the designs of the area. I see several major home businesses with a block or two of my house and am getting quite concerned. If not a refusal of the permit based on this then at the very least the same restrictions placed on an identical business located at 2221 Ware Court NW (Project Number: 251733131-001 File Number: SDAB-D-17-132)

Some of my concern(s) include:

- 1) TRAFFIC – We would now have up to 4 Major businesses within approx. 1 block radius.
- 2) SAFETY – This would bring a lot of people into our neighborhood increasing the chances for an accident.
- 3) RESALE - Either resale value reduced or salability reduced due to several major home business's being in such a small area.
- 4) PARKING - There is already a lack of parking for the neighborhood, this is a duplex street
- 5) OPERATIONAL –
  - a. BUSINESS - Hours of operation are a concern,
  - b. SAFETY – Biohazard concerns as such as acupuncture as well as any other message related accessories or treatments that may be included in services. Are these services being offered and how would this be handled & controlled and inspected?
  - c. PARKING
    - i. Clientele
    - ii. Employees
    - iii. Business receiving of goods etc.
- 6) SCHOOLS – two Elementary schools within 100 meters

Some of the key restrictions of Project Number 251733131-001 include but not limited to:

- Operating hours - Monday to Friday 9a - 3pm
- Staggered visits - no overlapping of customers
- no more than 25 visits per week
- Parking on premises only
- New non-family member employees
- Limited to one room in home
- No signage

***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 decision is made 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;

...

- (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 150.3(5), a **Major Home Based Business** is a **Discretionary Use** in the (RF4) Semi-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.

Section 150.1 states that the **General Purpose** of the **(RF4) Semi-detached Residential Zone** is “to provide a zone primarily for Semi-detached Housing and Duplex Housing.”

**Development Officer’s Determination**

**Discretionary Use - Major Home Based Business is approved as a Discretionary Use (Section 150.3.5).** [unedited].

***Major Home Based Business regulations***

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.

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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. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

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Project Number: **264284792-001**  
 Application Date: OCT 10, 2017  
 Printed: November 23, 2017 at 2:50 PM  
 Page: 1 of 2

## Home Occupation

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> 2337 - WARE CRESCENT NW Plan 1323982 Blk 6 Lot 47
	<b>Specific Address(es)</b> Entryway: 2337 - WARE CRESCENT NW Building: 2335 - WARE CRESCENT NW

**Scope of Permit**  
 To operate a Major Home Based Business (licensed massage therapist - MASSAGE ME) expires November 23, 2022.

<b>Permit Details</b>	
# of businesss 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: 1 Business has Trailers or Equipment?: N Description of Business: Licensed massage therapist Expiry Date: 2022-11-23 00:00:00

I/We certify that the above noted details are correct.  
 Applicant signature: \_\_\_\_\_

**Development Permit Decision**  
 Approved



Project Number: **264284792-001**  
 Application Date: OCT 10, 2017  
 Printed: November 23, 2017 at 2:50 PM  
 Page: 2 of 2

## 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. The number of non-resident employees or business partners working on-site shall not exceed two at any one time (Section 75.4).
5. The number of visits associated with the business shall not exceed the number approved with this application.
6. There shall be no outdoor business activities, or outdoor storage of material or equipment associated with the business (Section 75.5).
7. No offensive noise, odour, vibration, smoke, litter, heat or other objectionable effect shall be produced.
8. The business use must maintain the privacy and enjoyment of adjacent residences and the characteristic of the neighbourhood.
9. 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.
10. This Development Permit may be cancelled at any time if the Home Based Business as stated in the Permit Details changes (Section 17.2).
11. 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 \*\*\*\*November 23, 2022\*\*\*\*.
12. Clients visit must be by-appointment only and appointments shall no overlap.
13. Maximum business associated visits shall not exceed 5 per day.
14. Hours of operations must be between 10:00AM to 8:00PM on Wednesdays, Thursdays, Fridays, Saturdays and Sundays.

**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).

**VariANCES**

Discretionary Use - Major Home Based Business is approved as a Discretionary Use (Section 150.3.5).

**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.

**Issue Date:** Nov 23, 2017    **Development Authority:** ANGELES, JOSELITO    **Signature:** \_\_\_\_\_  
**Notice Period Begins:** Nov 30, 2017    **Ends:** Dec 14, 2017

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$309.00	\$309.00	04515648	Oct 10, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$309.00	\$309.00		



### SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-004

