

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
August 16, 2017**

**Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

I 9:00 A.M. SDAB-D-17-146

Operate a Major Home Based Business
(Ordersunshine Music & Art Studio)
2619 - Wheaton Close NW
Project No.: 252325505-001

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-17-146

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 252325505-001

APPLICATION TO: Operate a Major Home Based Business
(Ordersunshine Music & Art Studio)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 21, 2017

DATE OF APPEAL: July 21, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2619 - Wheaton Close NW

LEGAL DESCRIPTION: Plan 1323984 Blk 10 Lot 29

ZONE: (RSL) Residential Small Lot 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:

1. I have several plans/solutions for the traffic and parking issue.
2. I am willing to downsize the students' number per class to 2-4 and limit the classes number per day to 1-2.
3. My neighbours' concern is very important to me and I am willing to take responsibility for all the traffic and parking issues. I will talk to all the parents of our students and we will try our best to work on it.

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.

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 within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the 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 115.3(6), a **Major Home Based Business** is a **Discretionary Use** in the (RSL) Residential Small Lot Zone.

Under sections 115.2 and 115.3, **Commercial Schools** is **neither** a Permitted Use **nor** a Discretionary Use in the (RSL) Residential Small Lot Zone, respectively.

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.

Under section 7.4(12), **Commercial Schools** means:

development used for training and instruction in a specific trade, skill, service or artistic endeavour. This Use does not include schools defined as Public Education Services or Private Education Services. Typical Uses include secretarial, business, hairdressing, beauty culture, dancing or music schools.

Section 7 provides the following with respect to *Use Definitions*:

7.1 General

1. Uses, as set out in subsections 7.2 through 7.9 inclusive, are grouped according to common functional or physical impact characteristics.
2. Use definitions are used to define the range of Uses, which are Permitted Uses or Discretionary Uses, within the various Zones of this Bylaw.
3. The following guidelines shall be applied in interpreting the Use definitions:
 - a. the typical purposes or activities, which may be listed in the definitions, are not intended to be exclusive or restrictive;

- b. where specific purposes or activities do not conform to any Use definition or generally conform to the wording of two or more Use definitions, the Development Officer may, at their discretion, deem that the purposes or activities conform to and are included in that Use which they consider to be the most appropriate. In such a case, the Use shall be considered a Discretionary Use, whether or not the Use is listed as a Permitted Use or Discretionary Use within the applicable Zone; and
- c. the headings such as Residential Uses or Commercial Uses do not mean that the Uses listed under these headings are permitted only in Residential or Commercial Zones of this Bylaw. Reference must be made to the lists of Permitted Uses and Discretionary Uses within each Zone.

Under section 6.1(119), **Use** means:

the purposes or activities for which a piece of land or its buildings are designed, arranged, developed or intended, or for which it is occupied or maintained.

Section 115.1 states that the **General Purpose** of the **(RSL) Residential Small Lot Zone** is:

to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites.

Major Home Based Business regulations

Section 75.3 states:

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.

Development Officer's Determination

Section 75(3) - The amount of traffic that will be generated as a result of this development will be in excess of what is characteristic of the RSL (Single Lot Residential) Zone. [unedited].

Section 75.9 states:

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.

Development Officer's Determination

Section 75(9) - The proposed Major Home Based Business, at the intensity of Use proposed, is more appropriately located in a Commercial or Industrial Zone. [unedited].

Appropriate Use

Section 11.1(1)(d) states:


the Development Officer shall receive all applications for development and shall review each Development Permit Application to ascertain its appropriate Use, and may require the applicant to apply for a different Use.

Development Officer's Determination

Section 11.1(1)(d) - It is the opinion of the Development Officer that the appropriate Use Class for this proposed development is a Commercial Schools Use. [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. 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*.

	Project Number: 252325505-001 Application Date: MAY 20, 2017 Printed: July 24, 2017 at 11:08 AM Page: 1 of 2
<h2 style="margin: 0;">Application for Home Occupation</h2>	
This document is a Development Permit Decision for the development application described below.	
Applicant	Property Address(es) and Legal Description(s) 2619 - WHEATON CLOSE NW Plan 1323984 Blk 10 Lot 29
Scope of Application To operate a Major Home Based Business (Ordersunshine Music & Art Studio).	
Permit Details	
# of business related visits/day: 10 Administration Office Only?: N Class of Permit: Do you live at the property?: Y Outdoor storage on site?: N	# of vehicles at one time: 3 Business has Trailers or Equipment?: N Description of Business: Ordersunshine Music & Art Studio is a music & art classes provider and music event planner. We will provide piano, voice, dance, drawing group class (up to 10 students per class) and private class. We will plan and perform music events such as concert and music birthday party. Expiry Date:
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Application Decision Refused Reason for Refusal Section 75(3) - The amount of traffic that will be generated as a result of this development will be in excess of what is characteristic of the RSL (Single Lot Residential) Zone. Section 75(9) - The proposed Major Home Based Business, at the intensity of Use proposed, is more appropriately located in a Commercial or Industrial Zone. Section 11.1(1)(d) - It is the opinion of the Development Officer that the appropriate Use Class for this proposed development is a Commercial Schools Use. Rights of Appeal The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.	
Issue Date: Jul 21, 2017 Development Authority: LEE, CHRISTIAN Signature: _____	
THIS IS NOT A PERMIT	



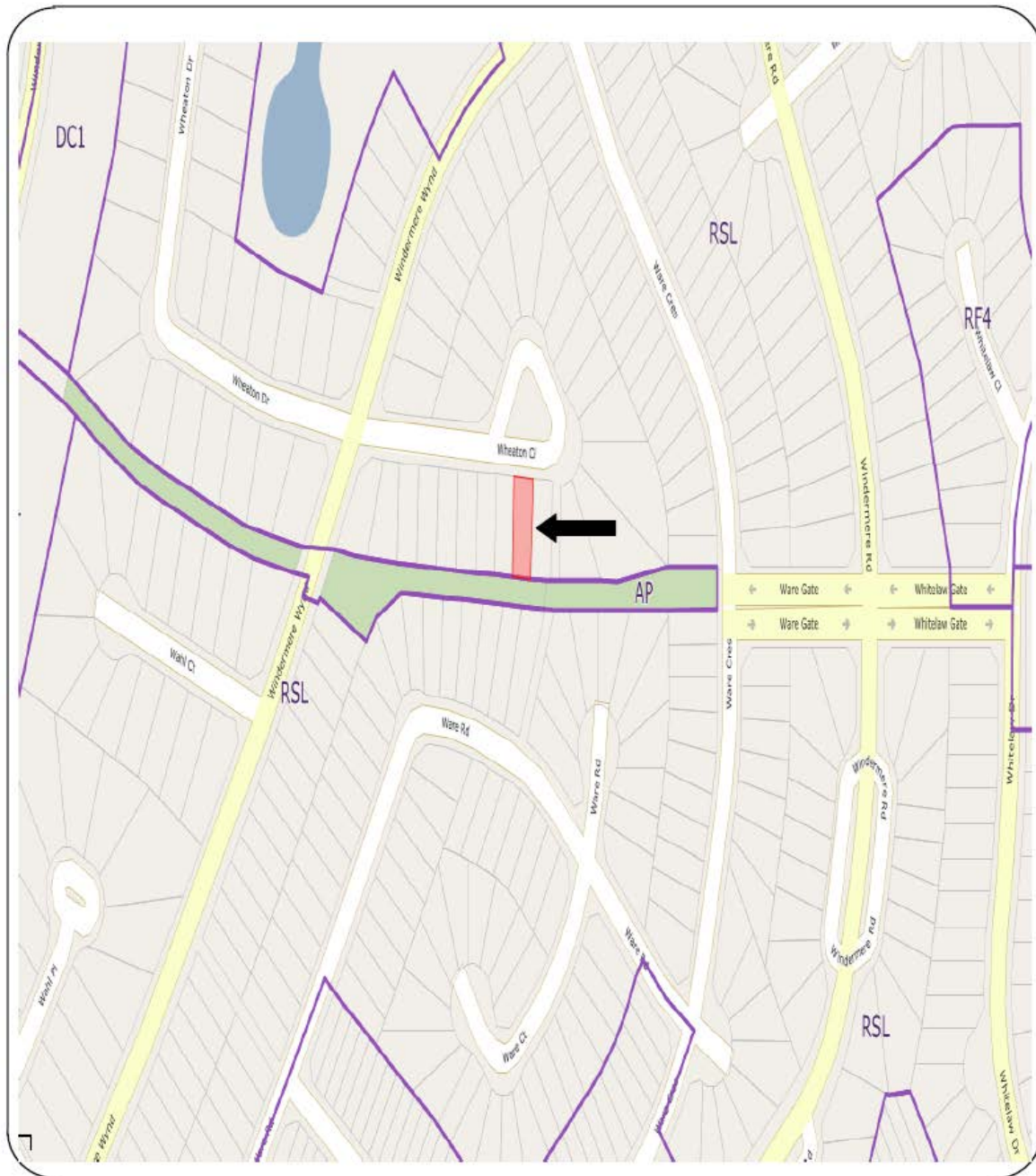
Application for Home Occupation

Project Number: **252325505-001**
Application Date: MAY 20, 2017
Printed: July 24, 2017 at 11:08 AM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$309.00	\$309.00	4549Z001001343M	May 20, 2017
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$309.00	<u>\$309.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-146

