

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
June 9, 2016**

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

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

I 9:00 A.M. SDAB-D-16-139

Construct and operate a General Industrial Use
building (Ace Pallets)

11261 - 224 Street NW
Project No.: 163263441-001

II 11:00 A.M. SDAB-D-16-140

Operate a Major Home Based Business (Storage
and sales of trucks with demos inside closed
shop- Hydro-Vac Unlimited Sales Ltd).

2340 - 28 Avenue SW
Project No.: 187777099-001

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-16-139

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 163263441-001

ADDRESS OF APPELLANT: 11261 - 224 Street NW

APPLICATION TO: Construct and operate a General Industrial Use building (Ace Pallets)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 29, 2016

DATE OF APPEAL: May 17, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11261 - 224 Street NW

LEGAL DESCRIPTION: Plan 8021483 Blk 1 Lot 4

ZONE: IM Medium Industrial Zone

OVERLAY: N/A

STATUTORY PLAN: Winterburn Industrial Area Structure Plan

Grounds for Appeal

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

According to 3.2.5.8(1) of Alta Bldg Code requirements are NOT needed. [unedited]

Board Officer's Comments

The Appellant references the Alberta Building Code in his grounds for appeal.

Section 3.2.5.8(1) of the Alberta Building Code 2014 provides as follows:

3.2.5.8. Standpipe Systems

1) Except as permitted by Sentence 3.2.5.9.(4), a standpipe system shall be installed in a *building* that is

- more than 3 storeys in *building height*,
- more than 14 m high measured between *grade* and the ceiling of the top storey, or
- not more than 14 m high measured between *grade* and the ceiling of the top storey but has a *building area* exceeding the area shown in Table 3.2.5.8. for the applicable *building height* unless the *building* is *sprinklered* throughout.

**Table 3.2.5.8.
Building Limits without Standpipe Systems
Forming Part of Sentence 3.2.5.8.(1)**

Occupancy Classification	Building Area, m ²		
	1 storey	2 storeys	3 storeys
Group A	2 500	2 000	1 500
Group C	2 000	1 500	1 000
Group D	4 000	3 000	2 000
Group F, Division 2	1 500	1 500	1 000
Group F, Division 3	3 000	2 000	1 000

Alberta’s *Safety Codes Act*, RSA 2000, c S-1, establishes various regulations, including Alberta’s *Building Code Regulation*, Alta Reg 31/2015.

Section 1(1) of the *Building Code Regulation* states: “The Alberta Building Code 2014, as established by the Safety Codes Council and published by the National Research Council of Canada, except section 9.36, Energy Efficiency, is declared in force with respect to buildings.”

The City of Edmonton’s *Safety Codes Permit Bylaw*, Bylaw 15894, was passed by Council on September 1, 2012. The purpose of the *Safety Codes Permit Bylaw* is outlined under Section 1, which states: “The purpose of this bylaw is to establish the application procedure and fees for permits issued pursuant to the Safety Codes Act, the Regulations and this bylaw.”

In a 2013 leave to appeal application to the Alberta Court of Appeal, the applicant submitted that the Board erred in failing to consider the existence of a garage without an approved building permit. The Court denied leave to appeal, and held that “Building permits are governed by different legislation, the *Alberta Safety Codes Act*, RSA 2000, c S-1 and the *Alberta Building Code Regulation*, Alta Reg 117/2007 and are not within the Board’s jurisdiction.” (*Pinilla v Calgary (Subdivision and Development Appeal Board)*, 2013 ABCA 291.)

General Matters

Appeal Information and Limitation Period:

Alberta’s *Municipal Government Act* RSA 2000, c M-26, provides as follows:

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
 - ...

The decision of the Development Authority was dated April 29, 2016. The Notice of Appeal was filed on May 17, 2016.

Jurisdiction of the Subdivision and Development Appeal Board (“SDAB”)

Section 627(1) of Alberta’s *Municipal Government Act* states that “A council must by bylaw establish a subdivision and development appeal board.” The City of Edmonton’s *Subdivision and Development Appeal Board Bylaw*, Bylaw 11136 (“SDAB Bylaw”), was passed by Council on November 28, 1995.

The powers of the Board are set out under Section 5 of the SDAB Bylaw, which states: “*The Board shall deal with subdivision and development appeals in accordance with the provisions of the [Municipal Government] Act and shall exercise any other powers, duties and functions given to it by any other bylaws of Council.*” [emphasis added]

The authority of the Board to hear appeals is, therefore, limited in part by Sections 685(1) and 686(1) [cited above] of the *Municipal Government Act*, and Section 687(3), which states:

In determining an appeal, the subdivision and development appeal board

- (a) must act in accordance with any applicable ALSA regional plan;
 - (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;
- (b) must have regard to but is not bound by the subdivision and development regulations;

(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*:

Section 420.1 states that the **General Purpose** of the **IM Medium Industrial Zone** is:

...to provide for manufacturing, processing, assembly, distribution, service and repair Uses that carry out a portion of their operation outdoors or require outdoor storage areas. Any nuisance associated with such Uses should not generally extend beyond the boundaries of the Site. This Zone should normally be applied on the interior of industrial areas adjacent to collector and local industrial public roadways such that Uses are separated from any adjacent residential areas by a higher quality Industrial or Commercial Zone.

Under Section 420.2(5), **General Industrial Uses** is a **Permitted Use** in the IM Medium Industrial Zone.

Section 7.5(2) states:

General Industrial Uses means development used principally for one or more of the following activities:

- a. the processing of raw materials;
- b. the making, manufacturing or assembling of semi-finished or finished goods, products or equipment;
- c. the cleaning, servicing, repairing or testing of materials, goods and equipment normally associated with industrial or commercial businesses or cleaning, servicing and repair operations to goods and equipment associated with personal or household use, where such

operations have impacts that would make them incompatible in Non-industrial Zones;

- d. the storage or transshipping of materials, goods and equipment;
- e. the distribution and sale of materials, goods and equipment to institutions or industrial and commercial businesses for their direct use or to General Retail Stores or other sales Use Classes defined in this Bylaw for resale to individual customers; or
- f. the training of personnel in general industrial operations.

This Use Class includes vehicle body repair and paint shops. This Use Class does not include Major Impact Utility Services and Minor Impact Utility Services or the preparation of food and beverages for direct sale to the public.

General Conditions of Development Applications

Section 13.1(3) states: “The Development Officer may require an applicant to submit such additional information as considered necessary to verify the compliance of the proposed Use or development with the regulations of this Bylaw.”

Development Officer’s Determination

- 1) The applicant shall provide additional information in support of their application, as per Section 13.1(3):

The applicant has not provided information regarding the proposed developments’ compliance with the Alberta Fire Code to the Development Officer’s satisfaction, in consultation with Fire Rescue Services. [unedited]

Conditions Attached to Development Permits

Section 15(4) states: “The Development Officer may, as a condition of issuing a Development Permit, require the applicant to make satisfactory arrangements for the supply of water, electric power, sewer service, vehicular and pedestrian access, or any of them, including payment of the costs of installation or constructing any such utility or facility by the applicant.”



Development Officer’s Determination

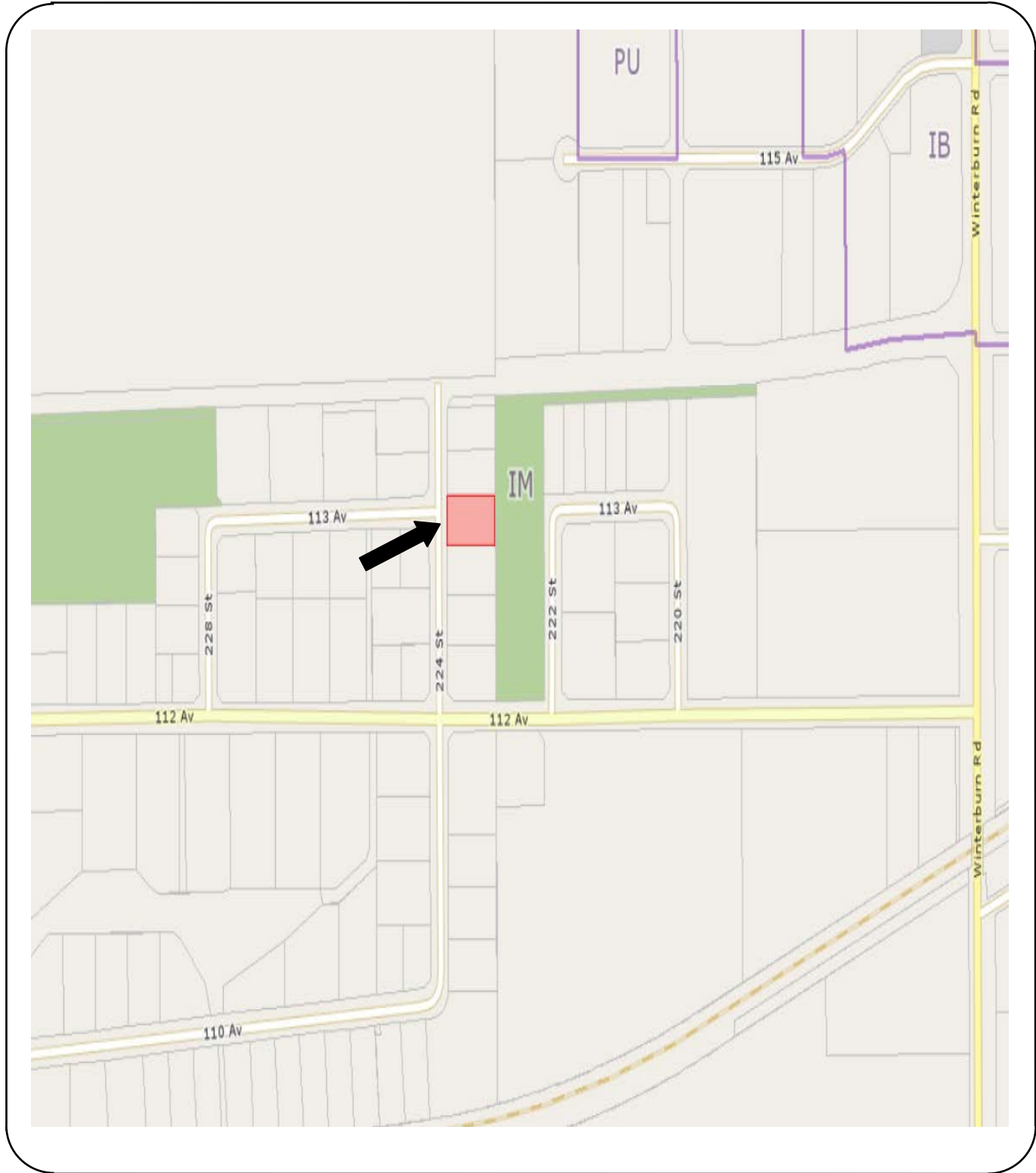
- 2) The applicant shall make satisfactory arrangements for utilities to the site, as per Section 15.4:

The applicant has failed to provide sufficient water capacity to the site to the Development Officer’s satisfaction, in consultation with Fire Rescue Services. [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: 163263441-001 Application Date: OCT 30, 2014 Printed: June 2, 2016 at 2:53 PM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Major Development Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
Applicant 	Property Address(es) and Legal Description(s) 11261 - 224 STREET NW Plan 8021483 Blk 1 Lot 4 Specific Address(es) Entryway: 11261 - 224 STREET NW Building: 11261 - 224 STREET NW																				
Scope of Application To construct and operate a General Industrial Use building (Ace Pallets).																					
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Class of Permit: Gross Floor Area (sq.m.): 223 New Sewer Service Required: N/A Site Area (sq. m.): 4137.73 </td> <td style="width: 50%; border: none; vertical-align: top;"> Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Gross Floor Area (sq.m.): 223 New Sewer Service Required: N/A Site Area (sq. m.): 4137.73	Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)																		
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I/We certify that the above noted details are correct. Applicant signature: _____																					
Development Application Decision Refused Reason for Refusal 1) The applicant shall provide additional information in support of their application, as per Section 13.1(3): The applicant has not provided information regarding the proposed developments? compliance with the Alberta Fire Code to the Development Officer's satisfaction, in consultation with Fire Rescue Services. 2) The applicant shall make satisfactory arrangements for utilities to the site, as per Section 15.4: The applicant has failed to provide sufficient water capacity to the site to the Development Officer's satisfaction, in consultation with Fire Rescue Services. 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: Apr 29, 2016 Development Authority: WELCH, IMAI Signature: _____																					
Fees <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;">\$811.00</td> <td style="text-align: right;">\$811.00</td> <td>02061924</td> <td>Nov 07, 2014</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$0.00</td> <td style="text-align: right; border-top: 1px solid black;"></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right;">\$811.00</td> <td style="text-align: right;">\$811.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$811.00	\$811.00	02061924	Nov 07, 2014	Total GST Amount:	\$0.00				Totals for Permit:	\$811.00	\$811.00		
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THIS IS NOT A PERMIT																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-139



ITEM II: 11:00 A.M.

FILE: SDAB-D-16-140

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 187777099-001

ADDRESS OF APPELLANT: 2340 - 28 Avenue SW

APPLICATION TO: Operate a Major Home Based Business
(Storage and sales of trucks with demos
inside closed shop- Hydro-Vac Unlimited
Sales Ltd).

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 29, 2016

DATE OF APPEAL: May 17, 2016

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 2340 - 28 Avenue SW

LEGAL DESCRIPTION: Plan 7521733 Blk 2 Lot 3

ZONE: RR Rural 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:

I apologize for missing the April 22/16 deadline, as I do my paperwork on Sunday mornings.I hope this info can still be considered in your info.

I am forwarding the letter that was sent with the application dated February 22/16.

I have no other choice but to fight this, and hiring a lawyer, as my wife's health does not allow me to be away for more than a few hours and I cannot get a caregiver that is scent free.

In reference to point number one in your reply, there are only three trucks over 4500kg that are associated with the business. We do not have any trucks over 4500kg that are not business related.

I'm not sure why the city wants to take a run at me, as Mr. [REDACTED] of 2370-28 Ave SW has been approved for three trucks and trailers that go in and out every day. My three trucks do not go in and out, nor do I have employees coming and going.

Also Mr. [REDACTED] of 3020-28 Ave SW has been approved for the same, and his trucks go in and out every day, with no building to house them.

I have letters of support from all the neighbours except one. We have issues with this neighbor since moving in, in 1998.

We have been working on selling the business and hope to do so in the next six months, condition being that the company be moved. [unedited]

Board Officer's Comments

In his grounds for appeal, the Appellant states: "I apologize for missing the April 22/16 deadline."

The decision of the Development Authority was dated April 29, 2016. The Development Authority submitted a Canada Post registered mail receipt, confirming delivery of the Development Permit refusal on May 6, 2016. The Notice of Appeal was filed on May 17, 2016.

Alberta's *Municipal Government Act*, RSA 2000, c M-26, provides as follows:

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
 - ...

General Matters

Appeal Information:

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.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 240.1 states that the **General Purpose** of the **RR Rural Residential Zone** is:

...to provide for Single Detached Residential development of a permanent nature in a rural setting, generally without the provision of the full range of urban utility services. The RR Zone is intended to regulate rural residential development within existing rural residential subdivisions that existed prior to the passage of this Bylaw, and is not intended to facilitate future rural residential development and subdivision, which is contrary to the Municipal Development Plan.

Under Section 240.3(6), **Major Home Based Business** is a **Discretionary Use** in the RR Rural Residential Zone Zone.

Section 7.3(7) states:

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 such businesses 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 Class includes Bed and Breakfast Operations but does not include General Retail Sales.

Purpose of the RR Rural Residential Zone

Development Officer's Determination

1. The purpose of (RR) Rural Residential Zone is to provide for Single Detached Residential development of a permanent nature in a rural setting, generally without the provision of the full range of urban utility services. The RR Zone is intended to regulate rural residential development within existing rural residential subdivisions that existed prior to the passage of this Bylaw, and is not intended to facilitate future rural residential development and subdivision, which is contrary to the Municipal Development Plan. (Reference Section 240.1).
 - The proposed Major HBB using trucks over the 4600 kg weight does meet the purpose of the RR Zone. [unedited]

Prohibited Objects

Section 45(1)(a) states that “No person shall keep in any part of a Site in any Residential Zone... any commercial vehicle, loaded or unloaded, having a maximum gross vehicle weight (G.V.W.R.) exceeding 4 600 kg”.

Development Officer’s Determination

The Development Officer referenced Section 45(1) and made the following determination:

- The application indicated that there are 3 trucks associated with this business exceeding the GVW (4500 kg) requirement. [unedited]

Outdoor Storage

Section 75(5) states that “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”.

Development Officer’s Determination

The Development Officer referenced Section 75(5) and made the following determination:

- 3 trucks associated with this business are behind shop & trees. This is considered an outdoor storage. [unedited]

Development Officer’s Discretion

Section 75(9) states that “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

- In the opinion of the development officer, the proposed Use would be appropriately located in a Commercial or Industrial Zone. [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: 187777099-001 Application Date: FEB 26, 2016 Printed: June 2, 2016 at 4:15 PM 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) 2340 - 28 AVENUE SW Plan 7521733 Blk 2 Lot 3 Specific Address(es) Suite: 2340 - 28 AVENUE SW Entryway: 2340 - 28 AVENUE SW Building: 2340 - 28 AVENUE SW		
Scope of Application To operate a Major Home Based Business (Storage and sales of trucks with demos inside closed shop- Hydro-Vac Unlimited Sales Ltd).			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> # of business related visits/day: 2 Administration Office Only?: N Class of Permit: (none) Do you live at the property?: Y Outdoor storage on site?: Y </td> <td style="width: 50%; border: none; vertical-align: top;"> # of vehicles at one time: 3 Business has Trailers or Equipment?: Y Description of Business: Storage and sales of trucks with demos inside closed shop 1 Hydro-Vac trailer for demo Storage of 3 trucks max. with demonstration inside closed shop Expiry Date: </td> </tr> </table>		# of business related visits/day: 2 Administration Office Only?: N Class of Permit: (none) Do you live at the property?: Y Outdoor storage on site?: Y	# of vehicles at one time: 3 Business has Trailers or Equipment?: Y Description of Business: Storage and sales of trucks with demos inside closed shop 1 Hydro-Vac trailer for demo Storage of 3 trucks max. with demonstration inside closed shop Expiry Date:
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I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused			
THIS IS NOT A PERMIT			



Project Number: **187777099-001**
 Application Date: FEB 26, 2016
 Printed: June 2, 2016 at 4:15 PM
 Page: 2 of 2

Application for Home Occupation

Reason for Refusal

1. The purpose of (RR) Rural Residential Zone is to provide for Single Detached Residential development of a permanent nature in a rural setting, generally without the provision of the full range of urban utility services. The RR Zone is intended to regulate rural residential development within existing rural residential subdivisions that existed prior to the passage of this Bylaw, and is not intended to facilitate future rural residential development and subdivision, which is contrary to the Municipal Development Plan. (Reference Section 240.1).

- The proposed Major HBB using trucks over the 4600 kg weight does meet the purpose of the RR Zone.

2. No person shall keep in any part of a Site in any Residential Zone any commercial vehicle, loaded or unloaded, having a maximum gross vehicle weight (G.V.W.) exceeding 4 600 kg (Reference Section 45(1)(a)).

- The application indicated that there are 3 trucks associated with this business exceeding the GVW (4500 kg) requirement.

3. 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 (Reference Section 75(5)).

- 3 trucks associated with this business are behind shop & trees. This is considered an outdoor storage.

4. 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.

- In the opinion of the development officer, the proposed Use would be appropriately located in a Commercial or Industrial Zone.

NOTE: All references to 'Section', unless otherwise noted, are under the authority of the Edmonton Zoning Bylaw 12800.

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: Apr 29, 2016 **Development Authority:** ANGELES, JOSELITO **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$297.00	\$297.00	03110794	Mar 07, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$297.00	\$297.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-140



BUSINESS LAID OVER

SDAB-D-16-133	An appeal to change the use of a Single Detached House to a Child Care Service and to construct interior alterations. <i>June 22, 2016</i>
SDAB-D-16-136	An appeal to extend the duration of a Freestanding Minor Digital Off-premises Sign (3.05m x 10.37m Single Sided Facing South) <i>August 17 or 18, 2016</i>
SDAB-D-16-144	An appeal to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>November 30 or December 1, 2016</i>