

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Wednesday, 9:00 A.M.
August 19, 2020

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

TO BE RAISED

I 9:00 A.M. SDAB-D-20-087

Construct exterior alterations to a Single Detached House (Driveway extension), existing without permits.

7 - Windermere Drive SW
Project No.: 360773000-002

II 1:30 P.M. SDAB-S-20-004

Create (2) two additional single detached residential lots

4841 - 115 Avenue NW
Project No.: 364096422-001

NOTE: *Unless otherwise stated, all references to "Section numbers" in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

TO BE RAISED

ITEM I: 9:00 A.M.

FILE: SDAB-D-20-087

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 360773000-002

APPLICATION TO: Construct exterior alterations to a Single Detached House
(Driveway extension), existing without permits

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 9, 2020

DATE OF APPEAL: June 16, 2020

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 7 - Windermere Drive SW

LEGAL DESCRIPTION: Plan 1324078 Blk 2 Lot 42

ZONE: DC1 - Direct Development Control Provision (Bylaw
16270)

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:

We are solicitors for MANMINDERPAL SINGH GREWAL and RAJINDER GREWAL, owners of the subject property and their

contractors, FIVE STAR HOMES INC. and we hereby appeal the referenced refusal on the grounds that:

- The proposed driveway is not atypical of driveways in the neighbourhood.
- There are no objections from neighbouring owners.
- City Transportation does not object to the driveway.
- The development, as proposed, will not negatively impact neighbouring properties or the amenities of the neighbourhood.
- The subject lot comprises 1/2 acre (+/-).
- Such further and other reasons as may be presented at the hearing of our appeal.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on July 8, 2020:

“That the appeal hearing be scheduled for August 19, 2020.

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 (DCI) Site Specific Control Provision Windermere (Bylaw 16270):

Under section 1 the **General Purpose** of this Provision is to accommodate the creation of large lot, single detached residential development with full municipal services that

establishes a transition and harmonious landscape relative to adjacent existing Country Residential Estate Development.

General Provisions from the *Edmonton Zoning Bylaw*:

Parking

Under section 6.1 **Parking Area** means an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.

Provisions in the *Edmonton Zoning Bylaw* - Prior to Open Space Parking Amendments

Under section 54.1(4) the Front Yard of any ground level Dwelling in any Residential Zone, or in the case of a corner Site, either the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The Driveway shall:

- a. lead directly from the roadway to the Garage or Parking Area;

...

Under section 54.2(2)(e)(i) except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, shall be located in accordance with the following:

- i. parking spaces shall not be located within a Front Yard in a Residential Zone;

...

Provisions in the *Edmonton Zoning Bylaw* effective July 2, 2020

Under section 23.1(12) Notwithstanding subsection 23.1(2), it is an offence to Hardsurface an area within a Front Yard or a flanking Side Yard in a way that contravenes Section 54.3 of this Bylaw without a valid and approved Development Permit when a Development Permit is required.”

Under section 54.3(3) the Front Yard of any ground level Dwelling that is not part of a Multi-Unit Project Development, or in the case of a corner Site, either the Front Yard or the flanking Side Yard, may include a maximum of one Driveway. The Driveway shall:

- a. lead directly from the roadway to the Garage or Parking Area;

Under section 54.1(4) unless otherwise specified, Parking Areas and loading facilities shall not be located within a Front Setback or a Side Setback Abutting the flanking public roadway, other than a Lane.

Development Officers Determination

1) The Front Yard of any ground level Dwelling in any Residential Zone may include a maximum of one Driveway (Section 54.1.4).

Proposed: The lot has two Driveways instead of one.

2) The Driveway shall lead directly from the roadway to the Garage or Parking Area (Section 54.1.4(a)).


Proposed: The Driveway does not lead directly from the roadway to the Garage.

3) Parking spaces shall not be located within a Front Yard in a Residential Zone;(Section 54.2.2(e)(i)).

Proposed: The additional Driveway creates parking spaces in the Front Yard of the home.

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 Driveway Extension Permit</h2>			Project Number: 360773000-002 Application Date: APR 28, 2020 Printed: June 9, 2020 at 4:29 PM Page: 1 of 2														
This document is a Development Permit Decision for the development application described below.																		
Applicant	Property Address(es) and Legal Description(s) 7 - WINDERMERE DRIVE SW Plan 1324078 Blk 2 Lot 42																	
Scope of Application To construct exterior alterations to a Single Detached House (Driveway extension), existing without permits.																		
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class Of Permit: Stat. Plan Overlay/Annex Area: (none) </td> <td style="width: 50%; border: none;"> Site Area (sq. m.): 1881.65 </td> </tr> </table>				Class Of Permit: Stat. Plan Overlay/Annex Area: (none)	Site Area (sq. m.): 1881.65													
Class Of Permit: Stat. Plan Overlay/Annex Area: (none)	Site Area (sq. m.): 1881.65																	
Development Application Decision Refused Issue Date: Jun 09, 2020 Development Authority: WINGET, MARK Reason for Refusal 1) The Front Yard of any ground level Dwelling in any Residential Zone may include a maximum of one Driveway (Section 54.1.4). Proposed: The lot has two Driveways instead of one. 2) The Driveway shall lead directly from the roadway to the Garage or Parking Area (Section 54.1.4(a)). Proposed: The Driveway does not lead directly from the roadway to the Garage. 3) Parking spaces shall not be located within a Front Yard in a Residential Zone.(Section 54.2.2(e)(i)). Proposed: The additional Driveway creates parking spaces in the Front Yard of the home. 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.																		
Building Permit Decision Refused																		
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: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Existing Without Permit Dev Application Penalty Fee</td> <td style="text-align: right;">\$176.00</td> <td style="text-align: right;">\$176.00</td> <td>953381076210010</td> <td style="text-align: right;">May 07, 2020</td> </tr> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$176.00</td> <td style="text-align: right;">\$176.00</td> <td>950270052730010</td> <td style="text-align: right;">Apr 28, 2020</td> </tr> </tbody> </table>					Fee Amount	Amount Paid	Receipt #	Date Paid	Existing Without Permit Dev Application Penalty Fee	\$176.00	\$176.00	953381076210010	May 07, 2020	Development Application Fee	\$176.00	\$176.00	950270052730010	Apr 28, 2020
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THIS IS NOT A PERMIT																		



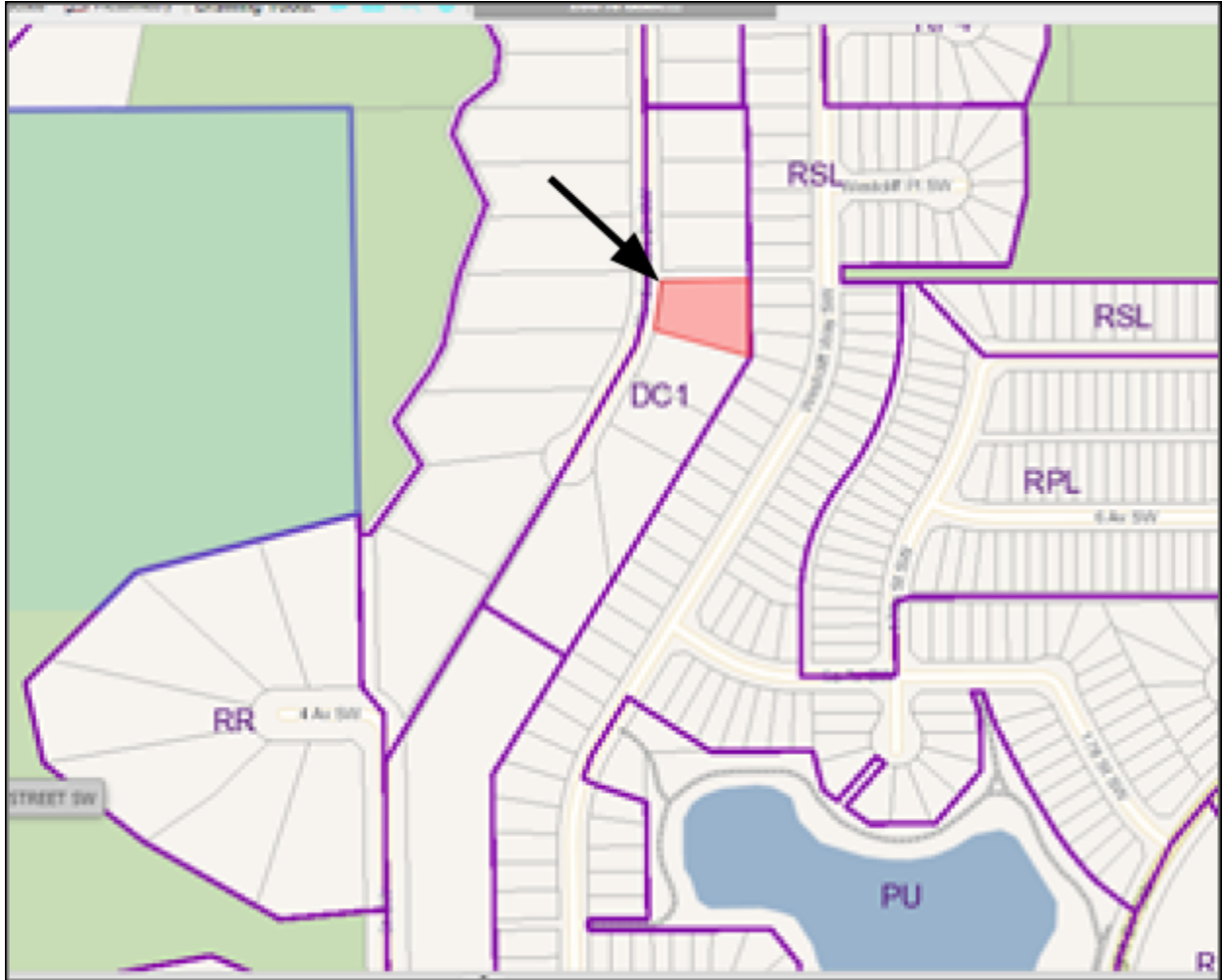
Application for Driveway Extension Permit

Project Number: **360773000-002**
Application Date: APR 28, 2020
Printed: June 9, 2020 at 4:29 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$352.00</u>	<u>\$352.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

▲
N

File: SDAB-D-20-087

ITEM II: 1:30 P.M.

FILE: SDAB-S-20-004

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 364096422-001

APPLICATION TO: Create (2) two additional single detached residential lots

DECISION OF THE
SUBDIVISION AUTHORITY: Refused

DECISION DATE: July 23, 2020

DATE OF APPEAL: July 24, 2020

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 4841 - 115 Avenue NW

LEGAL DESCRIPTION: Plan 3468HW Blk 24 Lot 2

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

The current lot is a 75' wide lot and the request is to split It into 3 - 25'-0" lots. The zoning is to stay the same as RF1 - no change from the current. The lot subdivision would have been approved if it was a 50' lot into 2 lots - each 25'-0" wide, but due to the wording of a bylaw it has been refused. The end result of the subdividing the 75' lot into 3, is a standard 25' wide lot, exactly the same end result if it was a 50' lot split into 2. There are currently several 25' wide homes in the area. Two recently completed ones are a mere few doors over from this site. Further down the block there is a

75' corner lot that was redeveloped into a 50' duplex unit (2 lots) and a single family dwelling. Plenty of other homes can be shown already done in the area, so this will not be a new product into the community. This subdividing falls under the intent of the Abbottsfield / Rundle Heights Community Redevelopment Plan as well as the City's "The way we Grow" plan to encourage redevelopment in older areas and build vibrant growing communities where new families want to live.

We are appealing the Subdivision Refusal because the end result is a standard, city allowed, 25'-0" wide lot that is already currently approved in the immediate area. Whether the original lot was 50' wide or 75' wide, as it is in our case, should not be relevant as the end result is identical in both scenarios.

<i>General Matters</i>

Appeal Information:

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

Appeals

678(1) The decision of a subdivision authority on an application for subdivision approval may be appealed

- (a) by the applicant for the approval,
- (b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- (c) by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the municipal planning commission of the municipality is not the subdivision authority, or
- (d) by a school board with respect to
 - (i) the allocation of municipal reserve and school reserve or money in place of the reserve,
 - (ii) the location of school reserve allocated to it, or
 - (iii) the amount of school reserve or money in place of the reserve.

(2) An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681

- (a) with the Municipal Government Board
 - (i) if the land that is the subject of the application is within the Green Area as classified by the Minister responsible for the Public Lands Act,
 - (ii) if the land that is the subject of the application contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site, or
 - (iii) in any other circumstances described in the regulations under section 694(1)(h.2),

or

- (b) in all other cases, with the subdivision and development appeal board.

(2.1) Despite subsection (2)(a), if the land that is the subject-matter of the appeal would have been in an area described in subsection (2)(a) except that the affected Government department agreed, in writing, to vary the distance under the subdivision and development regulations, the notice of appeal must be filed with the subdivision and development appeal board.

(3) For the purpose of subsection (2), the date of receipt of the decision is deemed to be 7 days from the date the decision is mailed.

(4) A notice of appeal under this section must contain

- (a) the legal description and municipal location, if applicable, of the land proposed to be subdivided, and
- (b) the reasons for appeal, including the issues in the decision or the conditions imposed in the approval that are the subject of the appeal.

(5) If the applicant files a notice of appeal within 14 days after receipt of the written decision or the deemed refusal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with

it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board.

Hearing and decision

680(1) The board hearing an appeal under section 678 is not required to hear from any person or entity other than

- (a) a person or entity that was notified pursuant to section 679(1), and
- (b) each owner of adjacent land to the land that is the subject of the appeal,

or a person acting on any of those persons' behalf.

(1.1) For the purposes of subsection (1), “adjacent land” and “owner” have the same meanings as in section 653.

(2) In determining an appeal, the board hearing the appeal

- (a) must act in accordance with any applicable ALSA regional plan;
- (a.1) must have regard to any statutory plan;
- (b) must conform with the uses of land referred to in a land use bylaw;
- (c) must be consistent with the land use policies;
- (d) must have regard to but is not bound by the subdivision and development regulations;
- (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;
- (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

Approval of application

654(1) A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any growth plan under Part 17.1, any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,
- (c) the proposed subdivision complies with this Part and Part 17.1 and the regulations under those Parts, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.

(1.1) Repealed 2018 c11 s13.

(1.2) If the subdivision authority is of the opinion that there may be a conflict or inconsistency between statutory plans, section 638 applies in respect of the conflict or inconsistency.

(2) A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,

- (a) the proposed subdivision would not
 - (i) unduly interfere with the amenities of the neighbourhood, or
 - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.

(3) A subdivision authority may approve or refuse an application for subdivision approval.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.2(6), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 6.1, **Site Width** means:

the horizontal distance between the side boundaries of the Site measured at a distance from the Front Lot Line equal to the required Front Setback for the Zone.

Section 41.1(3) states:

The Subdivision Authority may not approve the subdivision of a Lot zoned RF1, as it existed on March 16, 2015 into more than two lots, notwithstanding the Site Width in the RF1 Zone. Subdivision into more than two Lots may only be approved where the proposed subdivision:

- a. is supported by one or more City Council approved Statutory Plans or City Council approved Policies; or
- b. has a Site Width deemed by the Subdivision Authority to be in character with Lots on the same block.

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.

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.



Subdivision Authority

7th Floor, Edmonton Tower
10111 – 104 Avenue NW
Edmonton, Alberta T5J 0J4

July 23, 2020

File No. LDA20-0170

RE: Tentative plan of subdivision to create two (2) additional single detached residential lots from Lot 2, Block 24, Plan 3468 HW, located south of 115 Avenue NW and east of 50 Street NW; **BEVERLY HEIGHTS**

The Subdivision by Plan is **REFUSED** on July 23, 2020 for the following reasons:

1. This application for subdivision in the (RF1) Single Detached Residential Zone does not comply with the Development Regulations identified in Section 41.1(3) of the City of Edmonton Zoning Bylaw 12800: "The Subdivision Authority may not approve the subdivision of a Lot zoned RF1, as it existed on March 16, 2015 into more than two lots, notwithstanding the Site Width in the RF1 Zone. Subdivision into more than two Lots may only be approved where the proposed subdivision has a Site Width deemed by the Subdivision Authority to be in character with Lots on the same block." This application proposes to create two (2) additional single detached residential lots, which would combine for a total of three (3) lots. This is one (1) lot more than is allowed in Section 41.1(3) of the City of Edmonton Zoning Bylaw 12800;
2. This proposal will result in a site width, and ultimately a lot size, that is uncharacteristically small when compared to properties on the adjacent block faces. For example, the site widths on the same block generally range from approximately 12.19 metres to 15.85 metres, with only a few exceptions. The proposed lot width for Lots 2A, 2B and 2C is 7.62 metres, which is significantly smaller than those of other properties characteristic to the adjacent block faces.

Please be advised that an appeal may be lodged in accordance to Section 678 of the Municipal Government Act with the Subdivision and Development Appeal Board, 10019 - 103 Avenue NW, Edmonton, Alberta, T5J 0G9, within 14 days from the date of the receipt of this decision. The date of receipt of the decision is deemed to be seven (7) days from the date the decision is mailed.

If you have further questions, please contact subdivisions@edmonton.ca.

Regards,

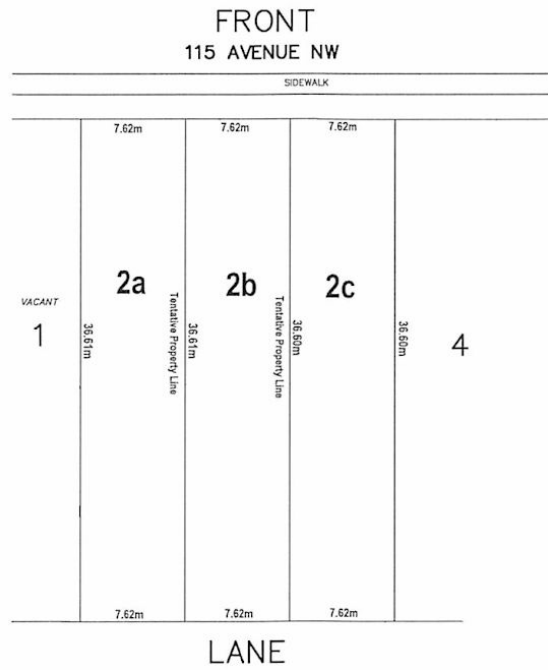
Blair McDowell
Subdivision Authority

BM/cs/Posse #364096422-001
Enclosure



Tentative Subdivision of Lot 2 Block 24 Plan 3468HW

		115 AVENUE NW													
50 STREET NW	7.82	22.860	10.66	12.19	15.24	10.06	13.40	14.63	15.23	14.63	15.84	15.23	15.85	48 STREET NW	
	36.61	36.61	36.60	36.60	36.58	36.58	36.59	36.58	36.58	36.58	36.56	36.57	36.59		
	1	2	4	5	8&9	10A	13A	14	E	F	G	21&22	23&24		
	7.82	22.860	10.67	12.19	15.24	10.06	13.41	14.63	15.24	14.63	15.85	15.24	15.85		
LANE															

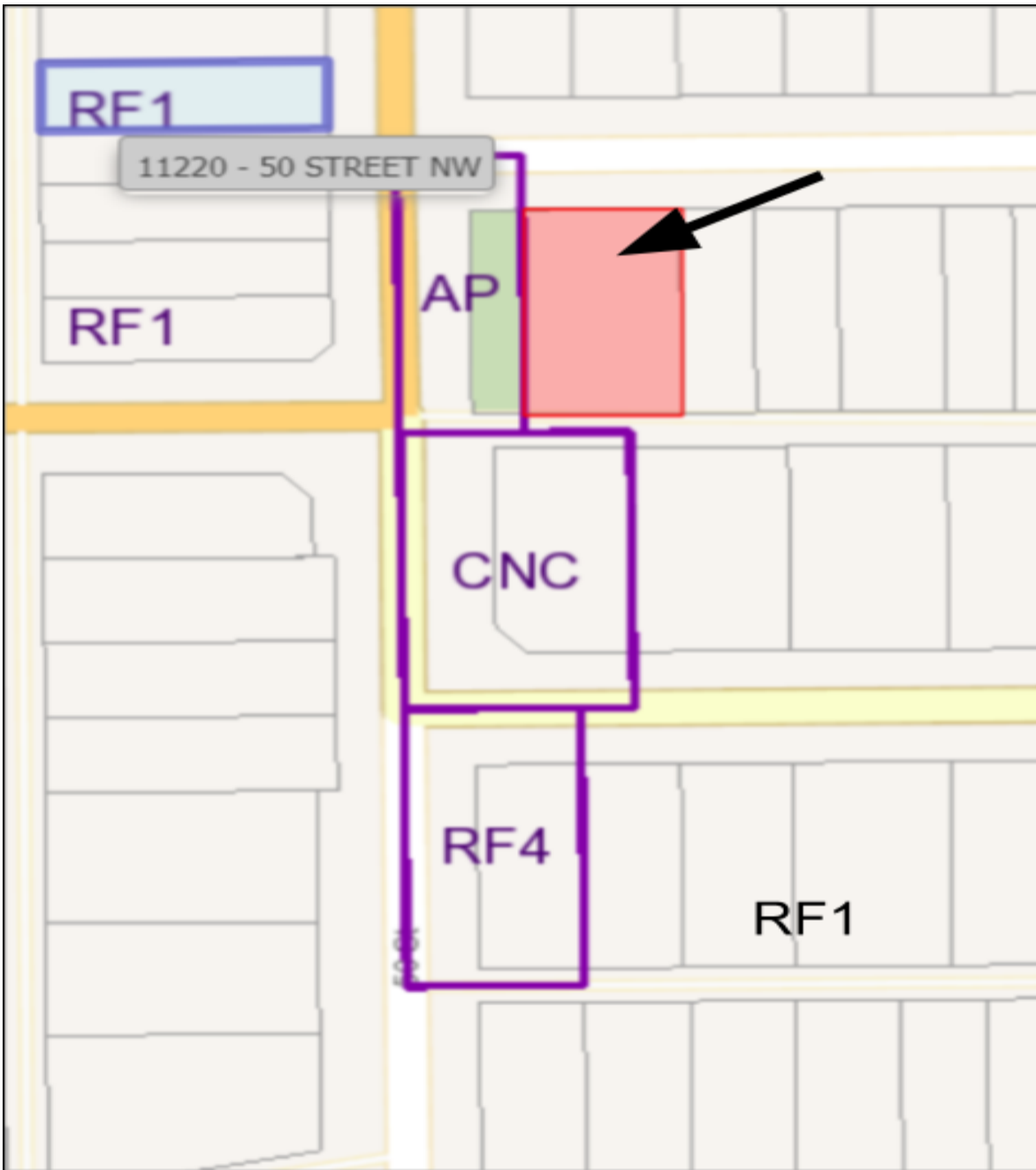


SCALE 1:300 RF1 / MNO



340 MacGraw Boulevard NW, Edmonton AB, T6R 0M7 phone: 780-993-4048
myriad.contracting@yahoo.ca

Legal Description
LOT 2 BLOCK 24 PLAN 3468HW
BEVERLY HEIGHTS
Municipal Address
4841 - 115 AVENUE NW
EDMONTON
Builder Myriad Contracting Ltd
Title Tentative Subdivision Plan



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-S-20-004



N