

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

Meeting No. 01HR3/15

**Wednesday, 9:00 A.M.  
January 7, 2015**

**Hearing Room No. 3 (7)  
Main Floor, Churchill Building**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 3 (7)**

---

9:00 A.M. 162219092-001	SDAB-D-15-001	Install three (3) Freestanding on-premises Signs (MACEWAN UNIVERSITY). 10050 – MacDonald Drive NW	I
----------------------------	---------------	--	---

---

**LUNCH BREAK – 11:15 A.M. TO 11:45 A.M.**

---

11:45 A.M. 162010978-003	SDAB-D-15-002	Construct an uncovered deck (irregular shape, 6.61 metres by 10.28 metres at 0.51 metres in height) and to install a hot tub (2.21 metres by 7.92 metres). 7559 – May Common NW	II
-----------------------------	---------------	---	----

---

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

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPLICATION NO.: 162219092-001.

ADDRESS OF APPELLANT: 8525 Argyll Road NW  
Edmonton, Alberta T6C 4B2.

APPLICATION TO: Install three (3) Freestanding On-  
premises Signs (MACEWAN  
UNIVERSITY).

DECISION OF THE  
DEVELOPMENT AUTHORITY: Refused.

DECISION DATE: November 25, 2014.

DATE OF APPEAL: December 2, 2014.

MUNICIPAL DESCRIPTION  
OF SUBJECT PROPERTY: 10050 - MacDonald Drive NW.

LEGAL DESCRIPTION: Lots C, D, E, Block OT, Plan RN2.

ZONE: CCA Core Commercial Arts Zone.

OVERLAY: Special Area Downtown Overlay.

STATUTORY PLAN: Capital City Downtown Plan.

---

DEVELOPMENT OFFICER'S DECISION

“REFUSED - The proposed development is refused for the following reason:

Freestanding On-premises Signs are neither a Permitted nor Discretionary Use in the Commercial Core Arts (CCA) Zone (Reference Sections 910.5(2) and (3)).”

---

APPELLANT'S SUBMISSION

“Street level monument signage is important for MacEwan University's Alberta College Campus for the following reasons:

1. Due to the design of our new logo we were unable to replace the large sign on top of our Alberta College Campus building. Our previous sign was visible from the south from a great distance (across the river) and this has resulted in far less exposure for the university overall. Although it was not visible as a person got closer to the building, we have had to look for other ways to get exposure to replace this large sign. Ground level signage was our best alternative.
2. There is only one approach to MacEwan University's Alberta College Campus. This means we have only one opportunity to be seen.
3. All of the approaches to the campus are from roads where visibility for MacEwan University buildings is limited.
  - a. Coming up Bellamy Hill Rd our only signage is far atop the main campus building. Due to the sharp corner coming up the hill as it heads towards Jasper Avenue, west-facing building signage is not in normal sight lines unless you are really looking for it. This creates a dangerous situation for someone trying to find our building since traffic flow is unusual on this corner. So when you pass the corner of McDougal Church a monument sign on the west side of the parking lot will be the first opportunity to see our location. You then have to head to Jasper Avenue and travel all the way around to MacDonald Dr. in order to access our building.
    - i. *Our proposed east parking lot sign is located in a flower bed and is well away from the normal flow of pedestrian traffic.*
  - b. MacDonald Drive is a one way street which is in front of the main south-facing doors. Building signage is limited due to architecture and only ground level signage would be visible to a person in the driver's seat of their car. A person driving has generally past our building by the time they happen to see an access point but our front entrance is not clearly marked with any kind of visible ground level signage.

APPELLANT’S SUBMISSION (CONTINUED)

4. The proposed east sign would alert drivers as they approach the alley entry way to our parking lot, which is just past the Telus parkade entrance. Telus has a large sign indicating an entrance to their parkade. *Our proposed east sign is located in a flower bed and is well away from the normal flow of pedestrian traffic.*
5. The proposed ground level sign near the front entrance of our building would alert foot traffic and provide drivers the opportunity to actually see where our building is located and serve as a sign for the second entrance to our parking lot, which is right past this front entrance sign. *This front entrance sign is well away from the normal flow of pedestrian traffic.*

**Similar Signs in the Area**

- The Telus sign right near our building as described in #4.
- Right across the street from our building is a ground level sign right in the middle of the sidewalk that describes the history of Edmonton.”

---

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER’S COMMENTS

This is an application to install three (3) Freestanding On-premises Signs (MACEWAN UNIVERSITY).

The site is located on the north side of MacDonald Drive, west of 100 Street, and is zoned CCA Core Commercial Arts Zone (CCA), Section 910.5 of the Edmonton Zoning Bylaw 12800. The site is within the Special Area Downtown Overlay, Section 910. The site is also within the Commercial Core (Sub Area 1) in the Commercial-Cultural Core of the Capital City Downtown Plan, under Bylaw 15200, approved by City Council on July 7, 2010.

Section 687(3) of the *Municipal Government Act* states “in determining an appeal, the subdivision and development appeal board

....

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS  
(CONTINUED)

(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.”**

A **Freestanding On-premises Sign** is neither a Permitted Use nor a Discretionary Use in the CCA Core Commercial Arts Zone.

Under Section 7.9(4), **Freestanding On-premises Signs** means any Sign supported independent of a building, displaying Copy that identifies or advertises a business, activity, service or product located on the premises or Site where the Sign is displayed.

Section 910.5(4)(g) states Signs shall comply with the regulations found in Schedule 59F.

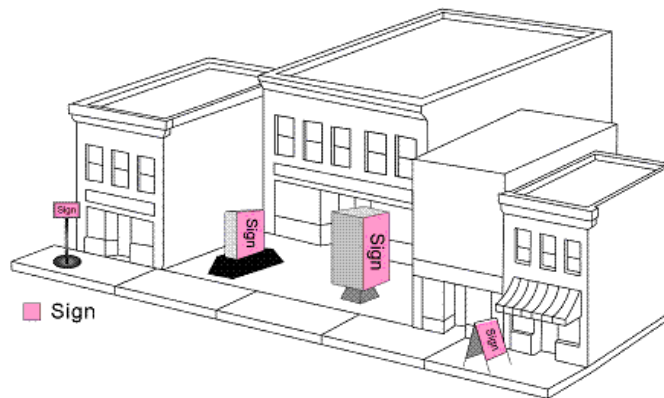
Schedule 59F.2(3) states Freestanding On-premises Signs shall be subject to the following regulations:

- a. the maximum Height of a Freestanding On-premises Sign is 8.0 metres. The Development Officer may allow a Freestanding On-premises Sign up to 10.0 metres in Height if a Residential Zone is not within 60.0 metres of the commercial Site. The distance shall be measured from the Sign location to the nearest Site zoned residential;
- b. the maximum allowable Freestanding On-premises Sign Area shall be 30 square metres;
- c. Freestanding On-premises Signs shall have a 45.0 metres radial separation distance from any other Freestanding On-premises Signs, or Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs or Minor Digital On-premises Off-premises Signs that is Freestanding Sign on the same Site. This excludes Digital Signs that are located on the same Freestanding Sign structure as the proposed Freestanding On-premises Sign;

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS  
(CONTINUED)

- d. Freestanding On-premises Signs locations shall have a minimum Setback of 3.0 metres where the Site shares a property line with another Site;
- e. The maximum number of Freestanding On-premises Signs, Roof On-premises Signs, Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs on a Site shall be four; and
- f. Freestanding On-premises Signs may be Mechanical Signs.

Under Section 6.2(8), **Freestanding Signs** means any On-premises or Off-premises Sign supported independently of a building. The Sign may take the form of single or multiple icons, product or corporate symbol, may involve a three dimensional or volumetric representation, may have single or multiple faces and may or may not be permanently fixed to the ground;



Section 910.5(1) states the purpose of the Core Commercial Arts Zone is to provide a Zone for a variety of high density and quality development that accommodates office, retail, service, institutional, residential, arts and entertainment Uses and meet the land use objectives for the Commercial Cultural Core. The intent is to further strengthen the Downtown's central area by providing continuous retail at grade, enhancing arts and entertainment activities, accommodating Residential Uses and making the Core more pedestrian friendly.

---

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.

---





**SURROUNDING LAND USE DISTRICTS**

 Site Location

File: SDAB-D-15-001



AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPLICATION NO.:	162010978-003.
ADDRESS OF APPELLANT:	3203 – 93 Street NW Edmonton, Alberta T6N 0B2.
APPLICATION TO:	Construct an uncovered deck (irregular shape, 6.61 metres by 10.28 metres at 0.51 metres in height) and to install a hot tub (2.21 metres by 7.92 metres).
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused.
DECISION DATE:	November 26, 2014.
DATE OF APPEAL:	December 1, 2014.
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	7559 - May Common NW.
LEGAL DESCRIPTION:	Lot 29, Block 2, Plan 1027095.
ZONE:	RSL Residential Small Lot Zone.
OVERLAY:	N/A.
STATUTORY PLAN:	Magrath Heights Neighbourhood Area Structure Plan.

---

DEVELOPMENT OFFICER'S DECISION

“REFUSED - The proposed development is refused for the following reasons:

Proposed Development does not meet Zoning Bylaw requirements as per:

Section 811.3.3

"Any development on a Site that abuts or is partially or wholly contained within the North Saskatchewan River Valley and Ravine System, as shown in Appendix I to this Overlay, shall be accompanied by a report prepared by a registered Professional Engineer, and as set out in subsection 14.1 of this Bylaw, that details:

- a. the minimum Setback for structures on the Site; and
- b. any development conditions for the property required to prolong the stability of the bank.

The Development Officer shall seek the advice of Transportation Services with respect to these applications and may approve the conditions or refuse such applications accordingly".

The documents submitted with the application were reviewed by the Senior Geotechnical Engineer in Transportation Services, who provided the following comments:

"Based on the information provided, it appears that the proposed hot tub is not in compliance with the major recommendations of the geotechnical report and the requirements of the restrictive covenant. In my opinion, the proposed hot tub would fall within the definition of a 'Swimming Pool' as outlined in Article 1h of the restrictive covenant, where: 'Swimming Pool' means a swimming pool, ornamental pond, or other permanent structure designed to retain water on or below the ground surface.

Such facilities would not be deemed permissible at this property as per Article 6.1 of the restrictive covenant, which states: No 'Swimming Pool' shall be constructed or installed.

Article 9 also identifies the following requirement: No person shall submit an application for a development permit or a building permit that is contrary to or inconsistent with this Restrictive Covenant.

DEVELOPMENT OFFICER'S DECISION (CONTINUED)

Engineering Services would therefore not support the approval of this application based on the available information."

It is the opinion of the Development Officer, in consultation with the Senior Geotechnical Engineer in Transportation Services, that the Site is not suitable for the intended development based on the following:

- The opinion and comments as stated by the Geotechnical Engineer.
- The proposed development is not in compliance with the major recommendations of the geotechnical report which provided the technical framework for the Restrictive Covenant. Further, the proposed development does not meet the conditions enshrined in the covenant, which are intended to "prolong the stability of the bank".

Note: The applicant is advised to research the Land Title for this property and to be aware of any restrictions in the Top Of Bank Restrictive Covenant # 102 447 455. This decision does not imply consent for any structure that does not meet the requirements of the Restrictive Covenant.

Note: All areas denoted as "Future poured concrete in place concrete stairs" on the plot plan provided, prepared by Pals Geomatics Corp., dated November 5, 2014 were not evaluated as part of this Development Permit application. Any future installation of concrete stairs in the Side Yard may require development and building permit approvals. The applicant is advised to consult with Drainage Services before installing such hardsurfacing material in the Side Yard, in order to ensure compliance with all drainage requirements."

---

APPELLANT'S SUBMISSION

"The development officer's interpretation that what is being applied for is a "swimming pool" is incorrect. The application is for what is legally classified as a "temporary hot tub", which based on what is written in the blanket restrictive covenant: 10244756 in December 2010, would be allowed.

APPELLANT'S SUBMISSION CONTINUED

What I am getting from the City is that it is not just what was written, but what they "intended". I argue that the City must follow what was actually registered, and nonetheless, we also have addressed the concerns of the slope stability that were intended but not articulated or written.

At the appeal, I will present: diagram of the proposed development, outline of the precautions being taken, copies of the actual registered covenant, a copy of the original geo tech report relied on, as well as an independent geo tech report outlying the concerns raised and the viability of them being adequately addressed on the site question.”

---

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This is an application to construct an uncovered deck (irregular shape, 6.61 metres by 10.28 metres at 0.51 metres in height) and to install a hot tub (2.21 metres by 7.92 metres).

The site is located on the east side of May Common NW, north of May Link NW and is zoned RSL Residential Small Lot Zone, Section 115 of the Edmonton Zoning Bylaw 12800. The site is within the Magrath Heights Neighbourhood Area Structure Plan, Bylaw 13559 (as amended), approved by Council on December 9, 2003.

The submitted Plot Plan created by Pals Geomatics Corp., dated January 30, 2014 (revised November 5, 2014) shows that the proposed irregular shape uncovered deck and hot tub is attached to the (south) side elevation of the Principal Building.

Section 811 provides the following with regard to the North Saskatchewan River Valley and Ravine System Protection Overlay:

811.1 General Purpose

The purpose of this Overlay is to provide a development setback from the North Saskatchewan River Valley and Ravine System.

811.2 Application

1. This Overlay applies to:
  - a. all lands within the North Saskatchewan River Valley and Ravine System, as shown on Appendix I to this Overlay; and

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS  
(CONTINUED)

- b. all lands within 7.5 metres of the North Saskatchewan River Valley and Ravine System as shown on Appendix I to this Overlay.
2. Notwithstanding the boundary, as referenced in subsection 811.2 (1), the boundary is a general boundary and is subject to more precise location where such location is established through the approval of Plans of Subdivision or survey plans of the top-of-the-bank. In such cases, the Development Officer will amend the map to reflect the more precise boundary.

811.3 Development Regulations

1. All developments shall maintain a minimum 7.5 metres Setback from the North Saskatchewan River Valley and Ravine System, as shown on Appendix I to this Overlay.
2. The Development Officer may allow a variance to the Setback requirements of subsection 811.3(1), under the provisions of Sections 11.3 and 11.4 of this Bylaw. In considering a variance, the Development Officer shall require a letter from the registered owner of a property indicating that a variance is being requested and that a survey line has been staked. The Development Officer shall then notify staff from Sustainable Development and Community Services who shall, together with the owner of the land or his representative and the surveyor, field check the line and advise the Development Officer on the merits of the variance being requested. Any variance granted shall be recorded on the survey and filed with the Development Permit Applications affecting the Site.
3. Any development on a Site that abuts or is partially or wholly contained within the North Saskatchewan River Valley and Ravine System, as shown in Appendix I to this Overlay, shall be accompanied by a report prepared by a registered Professional Engineer, and as set out in subsection 14.1 of this Bylaw, that details:
  - a. the minimum Setback for structures on the Site; and
  - b. any development conditions for the property required to prolong the stability of the bank.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS  
(CONTINUED)

The Development Officer shall seek the advice of Transportation Services with respect to these applications and may approve the conditions or refuse such applications accordingly.

Section 14.1 provides the following with regard to Slope and Soil Information:

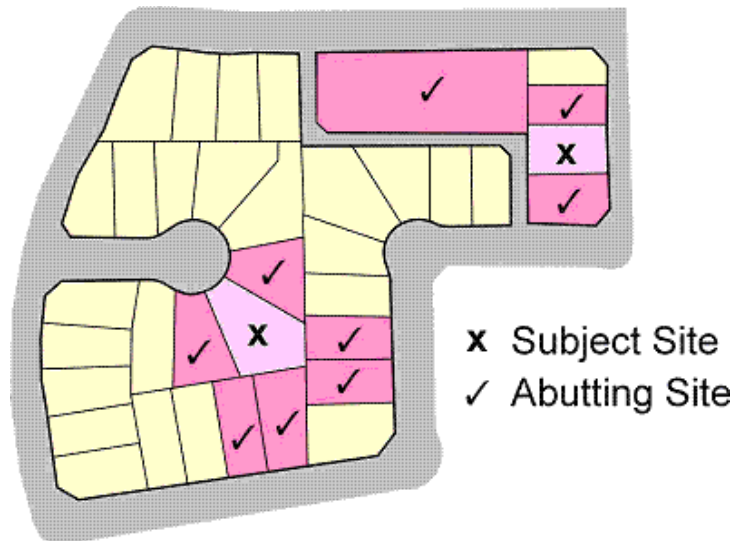
1. When an application for a Development Permit is submitted to the Development Officer for the development of a site abutting, or partially or wholly contained within, the North Saskatchewan River Valley or its ravine system as defined on the North Saskatchewan River Valley and Ravine System Protection Overlay Schedule, the application may include, at the discretion of the Development Officer in consultation with Community Services, information regarding the existing and proposed Grades at 0.5 metre contour intervals. The final Grades shall be to the satisfaction of the Development Officer, the said application having been first reviewed by Community Services.
2. Notwithstanding anything contained herein, the Development Officer may require a detailed Engineering Study of the soil conditions prepared to professional standards, by a registered Professional Engineer prior to the issuance of a Development Permit or the construction of any development abutting, or partially or wholly contained within, the North Saskatchewan River Valley or its ravine system as defined on the North Saskatchewan River Valley and Ravine System Protection Overlay Schedule.
3. The detailed Engineering Study shall conclude by the registered Professional Engineer certifying that the foundations proposed for the development were designed with full knowledge of the soil conditions and the proposed siting of the development upon this site.
4. The Development Officer may require the submission of a detailed Engineering Study as outlined in subsection 14.1(2) of this Bylaw with an application for a Development Permit at any location within the City which in the opinion of the Development Officer has unstable soil conditions.
5. The Development Officer, having required a detailed Engineering Study of the soil conditions may, acting on the advice of Transportation Services, apply conditions to the approval of the Development Permit to minimize erosion and to stabilize soil conditions.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER’S COMMENTS  
(CONTINUED)

**The Development Officer determined the Site is not suitable for the intended development based on the opinion and comments provided by the Senior Geotechnical Engineer in Transportation Services, the contents of the Top of Bank Restrictive Covenant registered against the Site, and the underlying geotechnical report thereto.**

Section 14.9(1) states the Development Officer may require an applicant for a Development Permit to submit any information, including but not limited to environmental site assessments, risk assessment studies and risk management plans and/or exposure control plans that, in the opinion of the Development Officer, is required to determine that the Site is suitable for the full range of uses contemplated in the Development Permit application.

Under Section 6.1(1), **Abut** or **abutting** means immediately contiguous to or physically touching, and when used with respect to a lot or Site, means that the lot or Site physically touches upon another lot, Site, or piece of land, and shares a property line or boundary line with it.



Section 115.1 states the purpose of the 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.



SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER’S COMMENTS  
(CONTINUED)

Included in the Sustainable Development Department’s POSSE system, under “Docs”, is a Memorandum dated November 21, 2014 from Paul R. Lach, Senior Geotechnical Engineer, Engineering Services, Transportation Department, which indicates that Transportation Services has reviewed the development application and does not support the approval of this application based on the available information. **A copy of the Memorandum from Transportation Services is on file.**

The following permit applications are listed in the Sustainable Development POSSE system:

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
162010978-001	Violation Notice	<p>October 7, 2014; A hot tub has been added to the site for which, according to our records, no development permit has been issued.</p> <p>Section 5.1 (1) and (2) of the Edmonton Zoning Bylaw 12800, states as follows:</p> <p>Approval Required For Development</p> <p>1.1 No Person:</p> <p>1. shall commence, or cause or allow to be commenced, a Development without a development Permit therefore issued under the provisions of Section 12 of this Bylaw; or</p> <p>2. shall carry on, or cause or allow to be carried on a development without a Development Permit therefore issued under Section 12 of this Bylaw. .... /CONTINUED</p>

ITEM II: 11:45 A.M.

FILE: SDAB-D-15-002

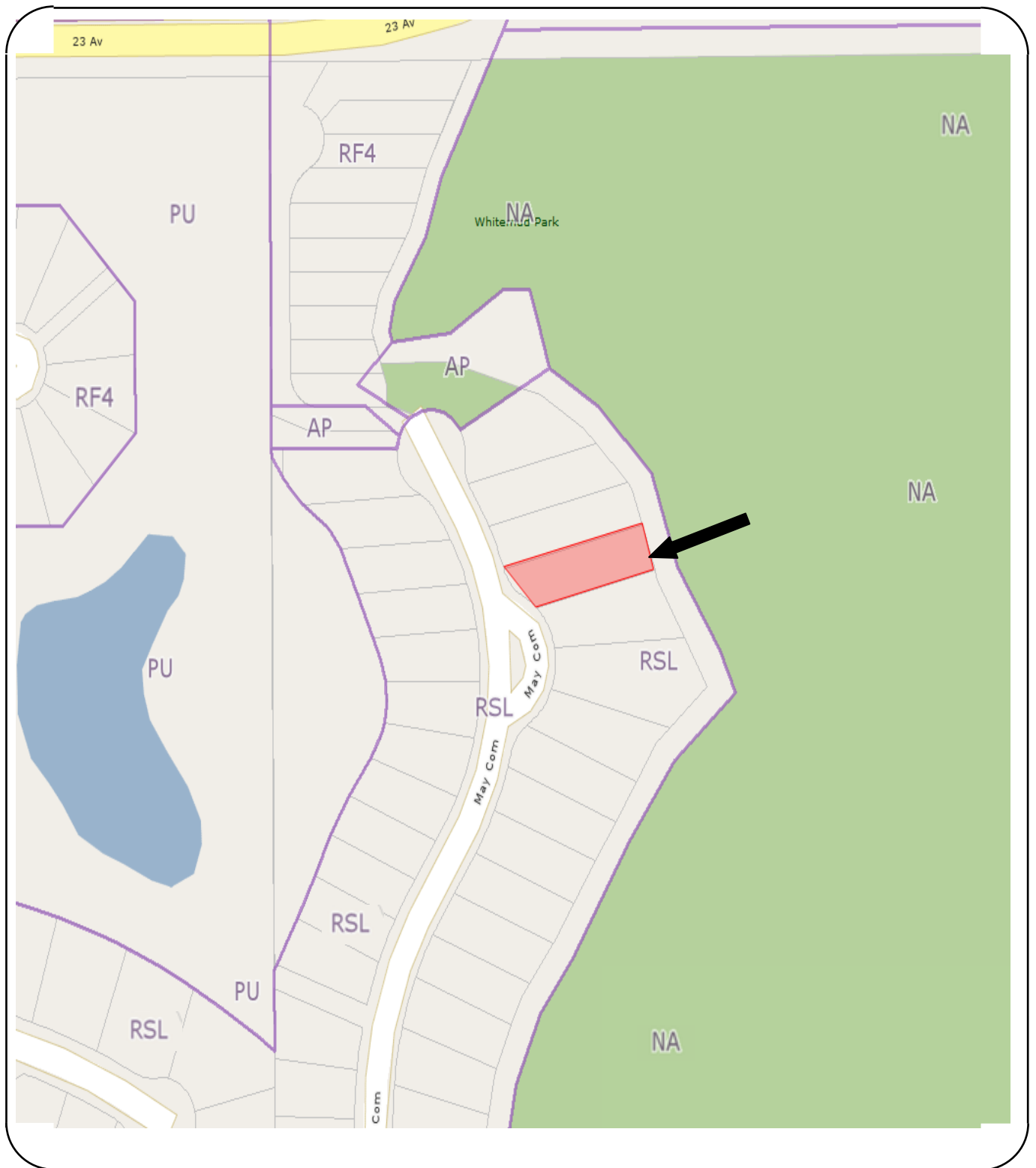
		<p>You shall ensure that all development of the land that takes place at this site has an approved Development Permit and that all activities conform to the regulations of the Edmonton Zoning Bylaw, Section 811, North Saskatchewan River Valley and Ravine System Protection Overlay.</p> <p>You must obtain a development permit for the hot tub or dismantle the structure and remove it from the site.</p> <p>If some action has not been taken to rectify the situation by October 31, 2014, the City of Edmonton will issue fines and/or pursue enforcement under the provisions of the Municipal Government Act, R.S.A. 2000.</p> <p>[...]</p>
152903872-001	<p>To construct a Single Detached House with attached Garage, rear partially covered balcony (8.79 metres by 9.33 metres), front partially covered balcony (6.18 metres by 14.22 metres), veranda, fireplace and basement development (not to be used as an additional Dwelling).</p>	<p>May 23, 2014; Approved with conditions and the following variance:</p> <p>Section 52.7 relaxed - The Development Officer may use his variance power to determine Grade by a method other than the ones described in subsection 52.5 Grade was taken at the 2 front corners and at the 2 points at the rear of the attached garage and front of the house. The Single Detached House, complete with a walk-out basement, is to be a two-storey structure and the basement/walk out is not to be a full storey.</p>

---

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.

---



**SURROUNDING LAND USE DISTRICTS**

 Site Location

File: SDAB-D-15-002



**BUSINESS LAID OVER**

SDAB-D-14-316 An appeal to construct a rear uncovered deck (5.49 metres by 9.78 metres at 1.35 metres in height), existing without permits.

***January 14 or 15, 2014***

---

**APPEAL HEARINGS TO BE SCHEDULED**