

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
July 13, 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-S-17-005	Tentative plan of subdivision to create 45 Single Detached Residential Lots; one (1) Environmental Reserve Lot, and one (1) Public Utility Lot from the NW-18-53-25-W4M north of the Yellowhead Trail NW and east of 215 Street NW; Trumpeter. 12715 - Winterburn Road NW Project No.: 166667705-001
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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-S-17-005

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 166667705-001

APPLICATION TO: Tentative plan of subdivision to create 45 Single Detached Residential Lots; one (1) Environmental Reserve Lot, and one (1) Public Utility Lot from the NW-18-53-25-W4M north of the Yellowhead Trail NW and east of 215 Street NW; Trumpeter.

DECISION OF THE SUBDIVISION AUTHORITY: Approved with conditions

DECISION DATE: May 25, 2017

DATE OF APPEAL: June 12, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12715 - Winterburn Road NW

LEGAL DESCRIPTION: NW-18-53-25-4

ZONE(S): (A) Metropolitan Recreation Zone, (PU) Public Utility Zone, (RSL) Residential Small Lot Zone

OVERLAY: North Saskatchewan River Valley and Ravine System Protection Overlay

STATUTORY PLAN: Trumpeter Neighbourhood Structure Plan

Grounds for Appeal

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

We wish to appeal specific conditions of the approved subdivision, as identified below:

I 1. + 2. Disagree with the calculation of ER and MR cash-in-lieu required

II 10. + 11. Disagree with provision of paved pathway connections to the granular trail

II 12. Disagree with the requirement to provide a southbound left turn lane on Winterburn Road (215 Street)

II 13. Disagree with the requirement to provide signalization at Yellowhead Trail connection to Winterburn Road (215 Street)

We will be prepared to present additional information regarding these items for consideration by the Board during the appeal hearing.

Please note that we will be out of country from June 19 to July 7, inclusive and respectfully request that the hearing be scheduled outside of these dates.

If you have any questions or concerns, please do not hesitate to contact me.

Regards,

Greg MacKenzie

<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 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*, or is within the distance of a highway, a body of water or a sewage treatment or waste management facility set out in the subdivision and development regulations, 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 5 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(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.

Subdivision of Land

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 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 the regulations under this Part, 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.

(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.

Conditions of subdivision approval

655(1) A subdivision authority may impose the following conditions or any other conditions permitted to be imposed by the subdivision and development regulations on a subdivision approval issued by it:

- (a) any conditions to ensure that this Part and the statutory plans and land use bylaws and the regulations under this Part, and any applicable ALSA regional plan, affecting the land proposed to be subdivided are complied with;
- (b) a condition that the applicant enter into an agreement with the municipality to do any or all of the following:
 - (i) to construct or pay for the construction of a road required to give access to the subdivision;
 - (ii) to construct or pay for the construction of
 - (A) a pedestrian walkway system to serve the subdivision, or
 - (B) pedestrian walkways to connect the pedestrian walkway system serving the subdivision with a pedestrian walkway system that serves or is proposed to serve an adjacent subdivision,or both;
 - (iii) to install or pay for the installation of a public utility described in section 616(v)(i) to (ix) that is necessary to serve the subdivision, whether or not the public utility is, or will be, located on the land that is the subject of the subdivision approval;
 - (iv) to construct or pay for the construction of
 - (A) off-street or other parking facilities, and
 - (B) loading and unloading facilities;
 - (v) to pay an off-site levy or redevelopment levy imposed by bylaw;

(vi) to give security to ensure that the terms of the agreement under this section are carried out.

(2) A municipality may register a caveat under the *Land Titles Act* in respect of an agreement under subsection (1)(b) against the certificate of title for the parcel of land that is the subject of the subdivision.

(3) If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the agreement has been complied with.

(4) Where a condition on a subdivision approval has, prior to the coming into force of this subsection, required the applicant to install a public utility or pay an amount for a public utility referred to in subsection (1)(b)(iii), that condition is deemed to have been validly imposed, whether or not the public utility was located on the land that was the subject of the subdivision approval.

Conditions under appeal

The subdivision approval was subject to a number of conditions, six of which the Appellant objects to:

Condition I.1: “that the owner dedicate Environmental Reserve (ER) as a 8.26 ha lot pursuant to Section 664 of the Municipal Government Act as shown on the “Conditions of Approval” map, Enclosure I;”

Condition I.2: “that the owner provide money in place of Municipal Reserve (MR), in the amount of \$181,298.00 representing 0.367 ha pursuant to Section 666 and Section 667 of the Municipal Government Act;”

Condition II.10: “that the owner constructs a 3 m hard surface shared use path with lighting, and bollards, within the walkway, to the satisfaction of Transportation Planning and Engineering and Parkland Developer Services, as shown on the “Conditions of Approval” map, Enclosure I;”

Condition II.11: “that the owner constructs a 1.5 m concrete sidewalk with lighting, within the walkway, to the satisfaction of Transportation Planning and Engineering, as shown on the “Conditions of Approval” map, Enclosure I;”

Condition II.12: “that the owner constructs a south bound left turn bay, to the satisfaction of Transportation Planning and Engineering, as shown on the “Conditions of Approval” map, Enclosure I;” and

Condition II.13: “that the owner pay for the installation of traffic signals, as shown on the “Conditions of Approval” map, Enclosure II. The City of Edmonton shall complete the signal design, and the City’s Electrical Services Contractor must install the signals as per the agreement between

the City of Edmonton and the Electrical Services Contractor. The timing of the traffic signals installation will be at the direction of Transportation Operations. If traffic signals are not deemed warranted by Transportation Operations within 5 years of signing the Servicing Agreement, the owner will be required to provide payment to the City of Edmonton for the installation of traffic signals at that time to fulfill this obligation;”

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*.



Subdivision Authority

7th Floor, Edmonton Tower
10111 – 104 Avenue NW
Edmonton, Alberta T5J 0J5

May 25, 2017

File No. LDA15-0045

RE: Tentative plan of subdivision to create 45 single detached residential lots, one (1) Environmental Reserve lot, and one (1) Public Utility Lot from the NW-18-53-25-W4M north of the Yellowhead Trail NW and east of 215 Street NW; **TRUMPETER**

I The Subdivision by Plan is APPROVED on May 25, 2017, subject to the following conditions:

1. that the owner dedicate Environmental Reserve (ER) as a 8.26 ha lot pursuant to Section 664 of the Municipal Government Act as shown on the "Conditions of Approval" map, Enclosure I;
2. that the owner provide money in place of Municipal Reserve (MR), in the amount of \$181,298.00 representing 0.367 ha pursuant to Section 666 and Section 667 of the Municipal Government Act;
3. that the owner enter into a Servicing Agreement with the City of Edmonton pursuant to Section 655 of the Municipal Government Act;
4. that the owner prepare the necessary plans and documentation to grant new or carry forward existing easements and restrictive covenants in favour of the City of Edmonton, EPCOR Distribution & Transmission Inc., and EPCOR Water Services Inc., as required by the aforementioned agencies or shown on the engineering drawings that are deemed to be part of the Servicing Agreement;
5. that the owner dedicate, clear and level Winterburn Road as required for road right of way, and said dedication shall conform to an approved Concept Plan or to the satisfaction of Transportation Planning and Engineering, as shown on the "Conditions of Approval" map, Enclosure I;
6. that the Servicing Agreement be registered by caveat on title for all lots adjacent to areas which require "no parking" signage, to the satisfaction of Sustainable Development, as shown on the "Conditions of Approval" map, Enclosure I;

7. that the owner register Disturbed Soil restrictive covenants in favour of EPCOR Water Services Inc., as shown on the "Conditions of Approval" map, Enclosure I;
8. that the owner register a Top of Bank restrictive covenant in favour of the City of Edmonton against the lots backing onto the Top of Bank, as per the applicable development restrictions shown by the December 1, 2014 geotechnical report (File No. 6234-20), as shown on the "Conditions of Approval" map, Enclosure I; and
9. that the owner pay all outstanding property taxes prior to the endorsement of the plan of survey.

II That the Servicing Agreement required in Clause I (3) contain, among other things, the following:

1. that the owner pay all servicing costs, assessments, roadway modification costs (including but not limited to sidewalk, shared use path and/or transit infrastructure), construction costs and inspection costs required by this subdivision;
2. that the owner pay all costs specified in the Servicing Agreement prior to endorsement of the plan of survey;
3. that the owner pay the Drainage Assessments applicable to this subdivision;
4. that the owner pay the Arterial Roadway Assessments applicable to this subdivision;
5. that the owner submits an Erosion and Sediment Control (ESC) Plan specific for this development and for implementation during and after construction in accordance with the City of Edmonton ESC Guidelines and Field Manual;
6. that the owner submits detailed engineering drawings and technical studies in accordance with the City of Edmonton Design and Construction Standards and to the satisfaction of the City Departments and affected utility agencies;
7. that the owner constructs a 3 m concrete emergency access walkway with T-bollards and lighting, to the satisfaction of Transportation Planning and Engineering as shown on the "Conditions of Approval" map, Enclosure I. This roadway will be required prior to CCC for roads (or when required by Transportation Planning and Engineering);
8. that the owner constructs a 3 m granular surface shared use path with "Shared Use" signage, and bollards, within the Top of Bank setback area, to the satisfaction of Transportation Planning and Engineering and Parkland Developer Services, as shown on the "Conditions of Approval" map, Enclosure I;
9. that the owner constructs a 3 m hard surface shared use path within Winterburn Road NW in the ultimate alignment, including a curb ramp on the west side of Winterburn Road NW, to the satisfaction of Transportation Planning and Engineering, as shown on the "Conditions of Approval" map, Enclosure I;

10. that the owner constructs a 3 m hard surface shared use path with lighting, and bollards, within the walkway, to the satisfaction of Transportation Planning and Engineering and Parkland Developer Services, as shown on the "Conditions of Approval" map, Enclosure I;
11. that the owner constructs a 1.5 m concrete sidewalk with lighting, within the walkway, to the satisfaction of Transportation Planning and Engineering, as shown on the "Conditions of Approval" map, Enclosure I;
12. that the owner constructs a south bound left turn bay, to the satisfaction of Transportation Planning and Engineering, as shown on the "Conditions of Approval" map, Enclosure I;
13. that the owner pay for the installation of traffic signals, as shown on the "Conditions of Approval" map, Enclosure II. The City of Edmonton shall complete the signal design, and the City's Electrical Services Contractor must install the signals as per the agreement between the City of Edmonton and the Electrical Services Contractor. The timing of the traffic signals installation will be at the direction of Transportation Operations. If traffic signals are not deemed warranted by Transportation Operations within 5 years of signing the Servicing Agreement, the owner will be required to provide payment to the City of Edmonton for the installation of traffic signals at that time to fulfill this obligation;
14. that the owner pays for the installation of "no parking" signage on the local roadways for emergency vehicle access to the satisfaction of Transportation Planning and Engineering and Fire Rescue Services, as shown on the "Conditions of Approval" map, Enclosure I;
15. that the owner constructs an offsite water main extension, to the satisfaction of EPCOR Water Services Inc., as shown on the "Conditions of Approval" map, Enclosure II;
16. that the owner construct a 1.8 m noise attenuation fence contained wholly within private property for all lots backing onto Winterburn Road to the satisfaction of Transportation Planning and Engineering, as shown on the "Conditions of Approval" map, Enclosure I;
17. that the owner construct all fences wholly on privately-owned lands, to the satisfaction of Transportation Planning and Engineering and Parks and Biodiversity, as shown on the "Conditions of Approval" map, Enclosure I; and
18. that the owner is responsible for the landscape design and construction within the Public Utility Lot, Reserve lot, road rights of way, walkways to the satisfaction of City Departments and affected utility agencies.

Enclosures I and II are maps of the subdivision identifying major conditions of this approval.

MR for NW 18-53-25-W4M in the amount of \$181,298.00, representing 0.367 ha, is being provided by money in place with this subdivision. The money in place may change when the ER area is established by the plan of survey.

Please be advised that the approval is valid for one (1) year from the date on which the subdivision

approval is given to the application. An extension beyond that time may be granted by the City of Edmonton.

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 five (5) days from the date the decision is mailed.

If you have further questions, please contact Stuart Carlyle at 780-496-6068 or stuart.carlyle@edmonton.ca.

Regards,

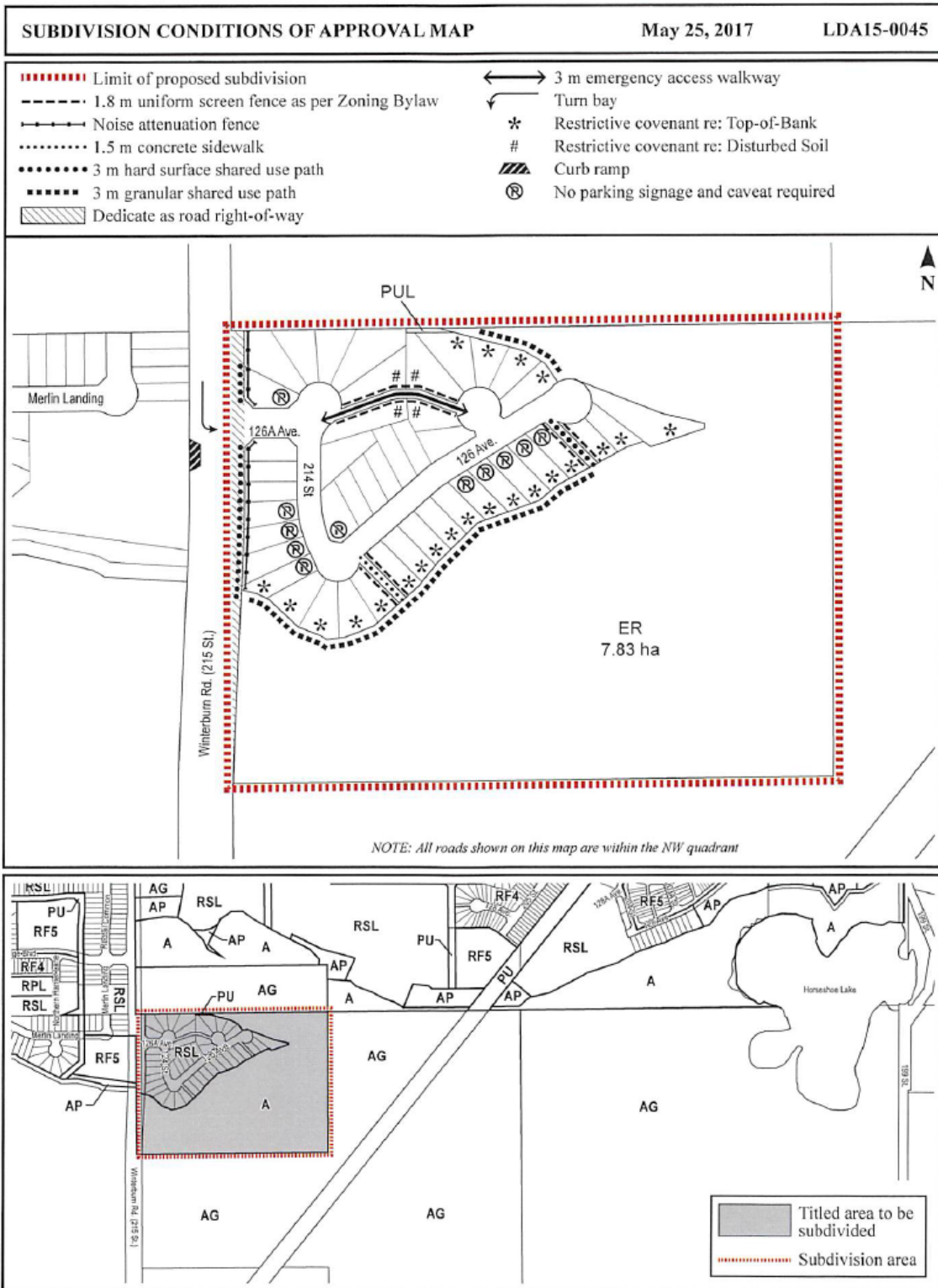


Blair McDowell
Subdivision Authority

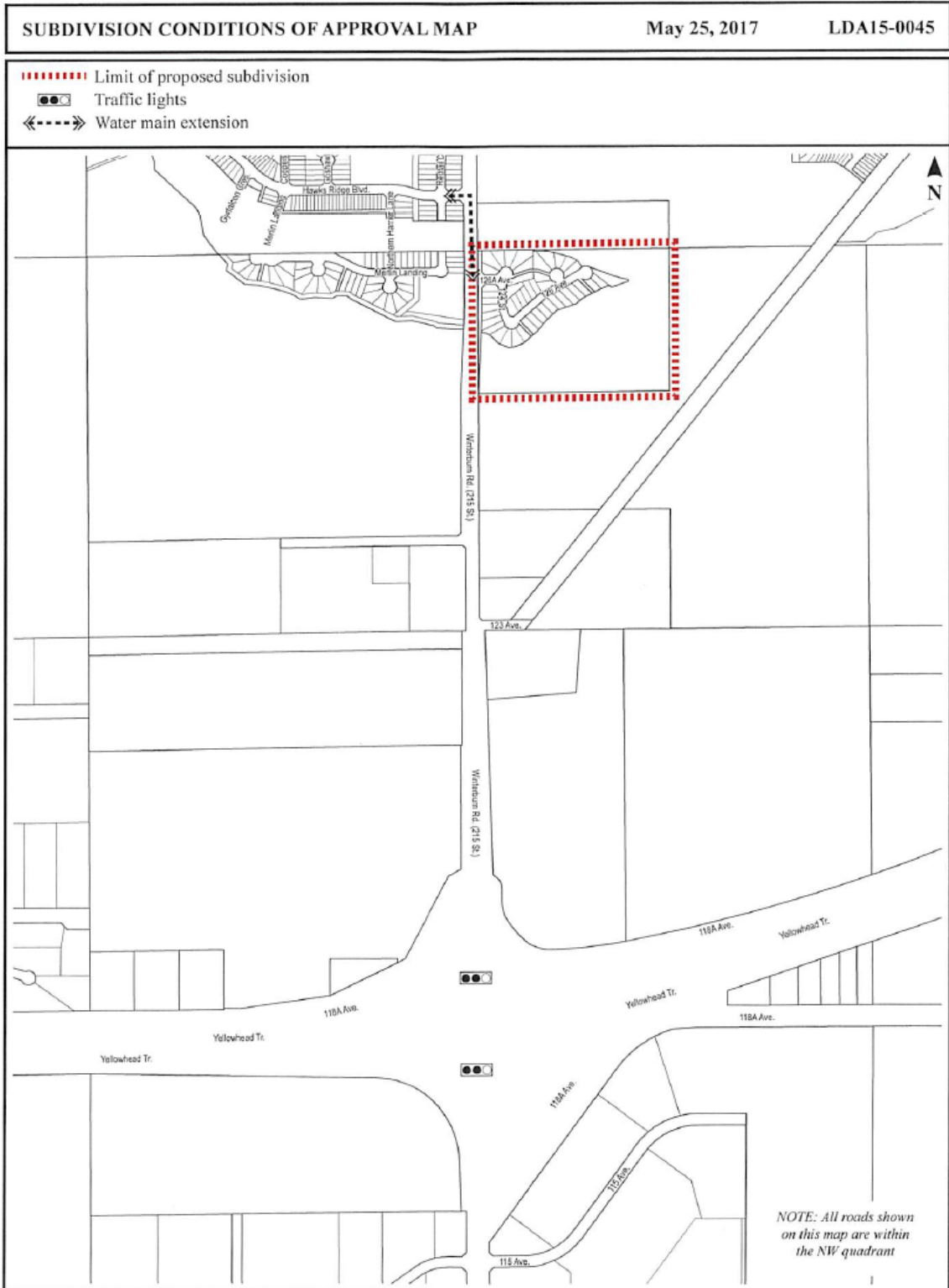
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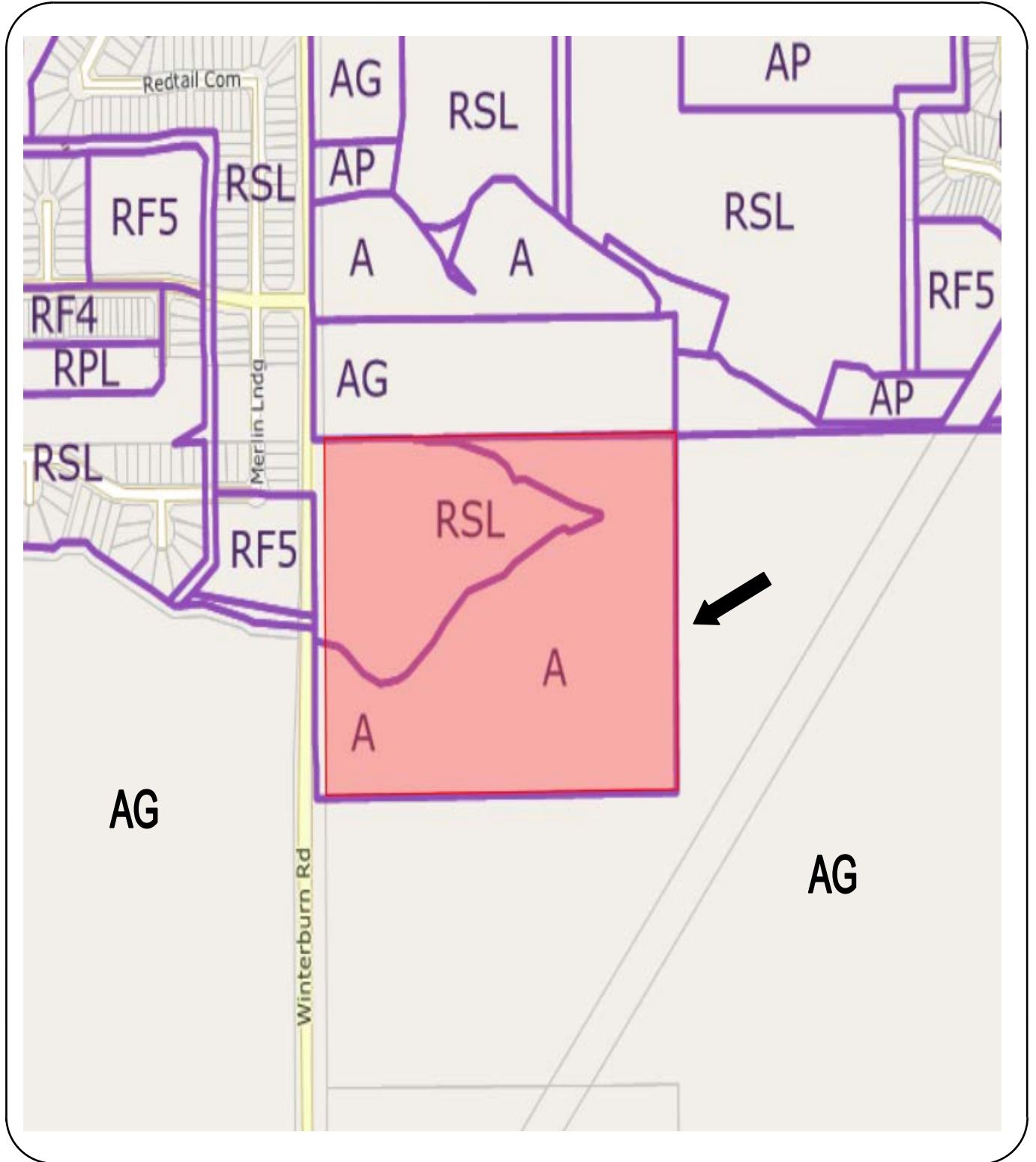
Enclosure(s)

ENCLOSURE I



ENCLOSURE II





SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-S-17-005

