

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
July 3, 2019**

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

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

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I 9:00 A.M. SDAB-S-19-004

**TO BE RAISED**

To create one (1) Single Detached Residential lot

3333 - 28 Avenue SW

Project No.: 284946199-002

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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-19-004

**TO BE RAISED**

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.:	284946199-002
APPLICATION TO:	Create one (1) Single Detached Residential Lot
DECISION OF THE SUBDIVISION AUTHORITY:	Refused
DECISION DATE:	March 21, 2019
DATE OF APPEAL:	April 2, 2019
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	3333 - 28 Avenue SW
LEGAL DESCRIPTION:	Plan 9320215 Lot 1A
ZONE:	(RR) Rural Residential Zone
OVERLAY:	N/A
STATUTORY PLAN:	Decoteau Area Structure Plan

***Grounds for Appeal***

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

I, Alfred Dohmann of 3333 - 28 Avenue SW, Edmonton, AB T6X 1A5 wish to file an appeal regarding the Subdivision Authority's decision to refuse the proposed subdivision of my acreage lot. I find the reasons stated to be unreasonable and inaccurate in accordance with other development in the area. Please note I will be submitting formal documentation to the Edmonton Tribunals, SDAB Appeal which will rebut the specific reasons provided by the City of Edmonton Subdivision Authority. An appropriate timeline is needed to submit a response and the timeline given does not provide adequate time. I will be in touch with the Edmonton Tribunals. Please note I am out of the country until the end of April 2019.

***General Matters***

**Appeal History:**

On June 20, 2019, the Subdivision and Development Appeal Board passed the following motion:

“That the appeal hearing be postponed to July 3, 2019.”

**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 240.2(5), **Single Detached Housing** is a **Permitted Use** in the **(RR) Rural Residential Zone**.

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.

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**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.

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Subdivision Authority

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

March 21, 2019

File No. LDA19-0039

RE: Tentative plan of subdivision to create one (1) single detached residential lot, from Lot 1A, Plan 932 0215, located south of 28 Avenue SW and east of 34 Street SW; **DECOTEAU**

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**I The Subdivision by Plan is REFUSED on March 21, 2019, for the following reasons:**

1. The subdivision does not comply with section 3.4.2 of the Decoteau Area Structure Plan which states, "land use concept for Decoteau maintains the existing country residential development in the central portion of the plan area. The existing Country Residential land uses may remain in perpetuity unless it is the desire of the landowners to redevelop. Should any existing residential area be redeveloped in the future, an amendment to the Decoteau ASP will be required and will need to meet the Capital Region Board's density targets.;"
2. The subdivision contravenes policy 4.4.4 d. iii. of the Edmonton Metropolitan Growth Plan which states, "New country residential development in the Region shall only be considered if a member municipality's proposal meets all of the following criteria: the proposed country residential lots are: not less than 4.8 km (3.0 mi) from the boundary of an existing urban community in the metropolitan area." The proposed subdivision is within 4.8 km of the City of Edmonton boundary;
3. The subject lot is zoned as (RR) Rural Residential Zone and is therefore subject to the regulations of Section 240 of the Edmonton Zoning Bylaw 12800. The subdivision does not comply with section 240.1 of the Edmonton Zoning Bylaw 12800 which states, "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.;"
4. The proposed lot will contribute to the fragmentation of land in the Decoteau area, posing a barrier to economic redevelopment and wide-scale servicing of this area;
5. Access is not permitted from 34 Street because it is Transportation Standard Practice that single family residential developments can only access collectors or local roadways. New access to the arterial will not be approved, as it will ultimately have to be closed with the redevelopment of the area and the upgrade of the arterial roadway; and
6. Public fire protection is not provided in this location due to the 2.4 km distance from the nearest water source. Further densification in areas that do not meet City Standards for water infrastructure is not supported because there would be significant delays establishing firefighting operations at this location.



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 Marco Beraldo at marco.beraldo@edmonton.ca or 780-496-6092.

Regards,



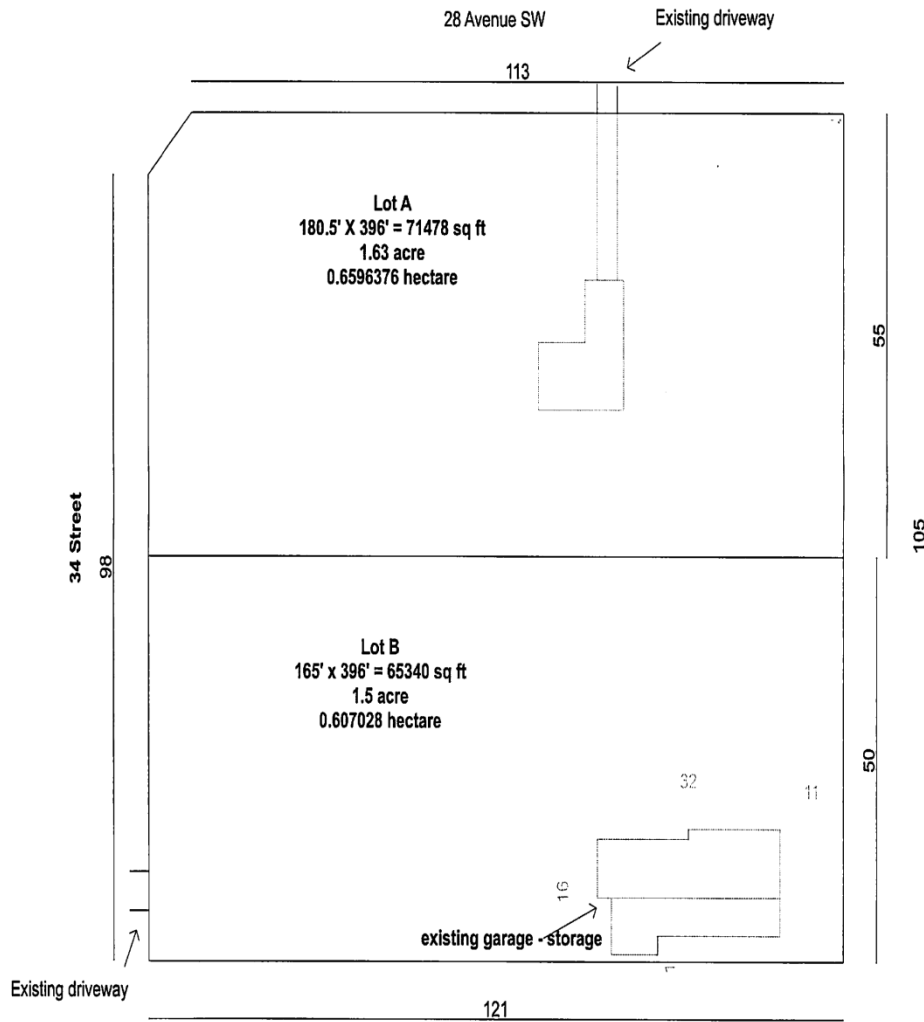
Blair McDowell  
Subdivision Authority

BM/mb/Posse #284946199-002

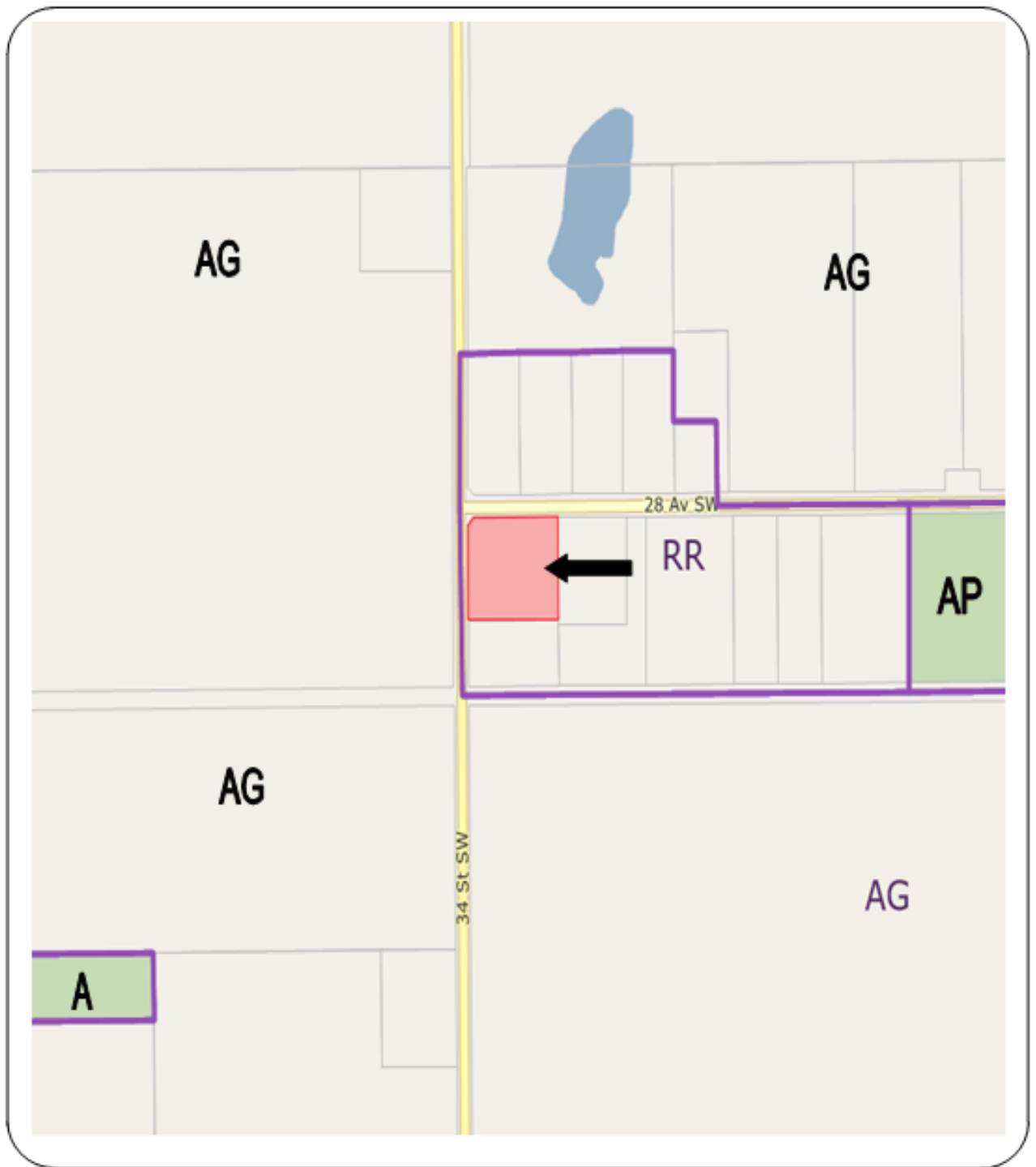
**Lot 1A, Plan 932 0215**  
**N.W. 1/4 Sec.18-Twp.51-Rge.23-W4M**

APP18-0453 LDA file #

Dimensions in meters unless marked otherwise



3333-28 Avenue SW  
Alfred Dohmann 780-436-3131 alfred@alkim.ca



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-S-19-004

