

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
June 25, 2015**

**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-D-15-127	Construct an Accessory Building (gazebo, hexagonal shape, sides 2.05m in length), and to install a hot tub (2.35m x 2.35m), existing without permits.
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8334 - Shaske Crescent NW  
Project No.: 146826062-002

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II	11:00 A.M.	SDAB-D-15-135	Operate a Major Home Based Business (Painting Contractor)
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11614 - 76 Avenue NW  
Project No.: 170516099-001

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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-D-15-127

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 146826062-002

APPLICATION TO: Construct an Accessory Building (gazebo, hexagonal shape, sides 2.05m in length), and to install a hot tub (2.35m x 2.35m), existing without permits.

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 6, 2015

DATE OF APPEAL: May 20, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8334 - Shaske Crescent NW

LEGAL DESCRIPTION: Plan 0524449 Blk 89 Lot 11

ZONE: RSL Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

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DEVELOPMENT OFFICER'S DECISION

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

Section 50.3(4)(c) The minimum side yard must be 0.9m for Accessory buildings, the existing setback is 0.12m. This is a deficiency of 0.78m.

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APPELLANT'S SUBMISSION

The existing structure has been in existence for a number of years prior to the current neighbour acquiring her property. The second previous owner helped construct the structure as he was of the opinion that it did not impede or affect the use and enjoyment of his property given that the properties in question are acreages.

The attached current neighbour purchased her property with the full knowledge and visual inspection of the existence of the structure in question in its current location and this action on her part is acceptance of the structure as it currently exists.

The structure in question does not affect the use and enjoyment of attached neighbours.

The deficiency in question is minimal when taken into account of the location of other buildings on the acreages involved.

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SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

The Subdivision and Development Appeal Board at a hearing on June 3, 2015, made and passed the following motion:

“that the appeal hearing be scheduled for June 25, 2015, at the written request of the Appellant.”

**Single Detached Housing** is a Permitted Use in the RSL Residential Small Lot Zone, Section 115.2(4).

Section 50.1(2) states Accessory Uses and Buildings are permitted in a Zone when Accessory to a principal Use which is a Permitted Use in that same Zone and for which a Development Permit has been issued.

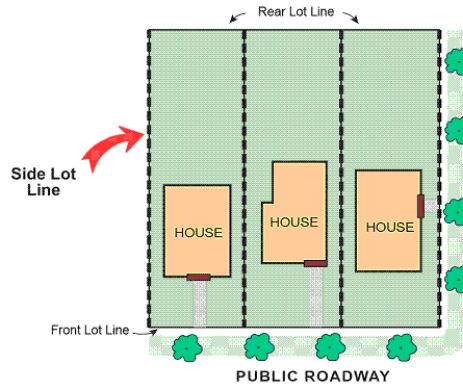
Section 50.3(4)(b) states an Accessory Building or structure shall be located not less than 0.9 metres from the Side Lot Line.

**The Development Officer determined the proposed (gazebo) Accessory building is 0.12 metres from the (east) Side Lot Line and is deficient in the minimum required Setback by 0.78 metres.**

The Real Property Report prepared by Stantec Geomatics Ltd. dated January 31, 2007 with subsequent amendments on October 22, 2007 and April 15, 2013 indicates the Site has a (north) Site Width of 10.97 metres, and a (west) Site Depth of 35.01 metres. The existing Gazebo is located 0.12 metres from the (east) Side Lot Line and 4.17 metres from the (south) Rear Lot Line.

Under Section 6.1(2), **Accessory** means, when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and exclusively devoted to the principal Use or building, and located on the same lot or Site.

Under Section 6.1(86), **Side Lot Line** means the property line of a lot other than a Front Lot Line or Rear Lot Line.



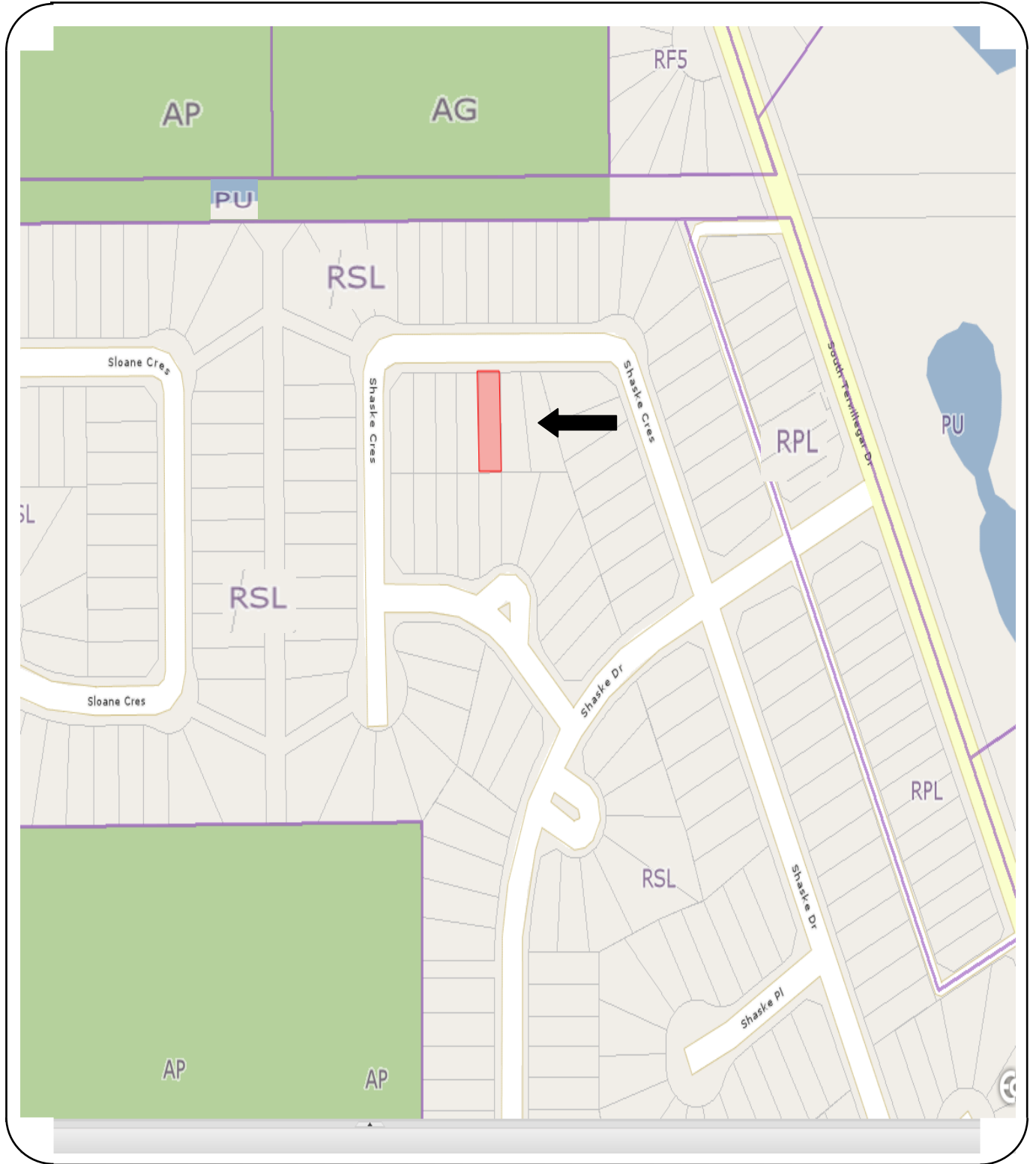
Section 115.1 states the purpose of this Zone is to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites.

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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. 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.

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**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-15-127



ITEM II: 11:00 A.M.

FILE: SDAB-D-15-135

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 170516099-001

APPLICATION TO: Operate a Major Home Based Business  
(Painting Contractor)

DECISION OF THE  
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 8, 2015

DATE OF APPEAL: May 28, 2015

MUNICIPAL DESCRIPTION  
OF SUBJECT PROPERTY: 11614 - 76 Avenue NW

LEGAL DESCRIPTION: Plan 1367HW Blk 16 Lot 23

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: McKernan/Belgravia Area Redevelopment  
Plan

DEVELOPMENT OFFICER'S DECISION

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

1. Section 75.5: 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.

- Applicant has applied to store business material outside in an enclosed trailer parked on site.

2. Section 75.10: A Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garage Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

- Conflicting use exists. Subject property was approved for a Secondary Suite in July 2012, address BSMT-11614-76 Avenue NW.

Note: Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.

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APPELLANT'S SUBMISSION

I wish to appeal the decision of being denied for operating a home based business due to the fact that the property has been approved for secondary suite, but is not being used as a secondary suite.

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SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

Section 686(1)(a)(i) of the *Municipal Government Act* states "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....after the date on which the person is notified of the order or decision or the issuance of the development permit."

The decision of refusal by the Development Officer is dated May 8, 2015. Fourteen days from the decision date is May 22, 2015 and the Notice of Appeal was filed on May 28, 2015.

**It should be noted**, included in the Sustainable Development Department's POSSE system, under "Shared with SDAB", is a Canada Post Registered Mail Delivery, dated May 19, 2015 that confirms the notice of refusal was delivered on May 15, 2015. **A copy of the document is on file.**

A **Major Home Based Business** is a Discretionary Use in the RF1 Single Detached Residential Zone, Section 110.3(7).

Under Section 7.3(7), **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.

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.

**The Development Officer determined outside storage of business materials in an enclosed trailer parked on Site has been applied for and contravenes Section 75.5.**



Section 75.10 states a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garage Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

**The Development Officer determined a conflicting Use exists. The subject property was approved for a Secondary Suite in July 2012; address BSMT-11614-76 Avenue NW and contravenes Section 75.10.**

Section 75 states that a Major Home Based Business shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 centimetres by 30.5 centimetres in size located on the Dwelling;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. ...
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling of Accessory buildings;
7. ...
8. in addition to the information requirements of subsection 13.2 of this Bylaw, each application for a Development Permit for the Use Class Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
9. 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.
10. ...

Section 814.1 states the purpose of the Mature Neighbourhood Overlay is to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

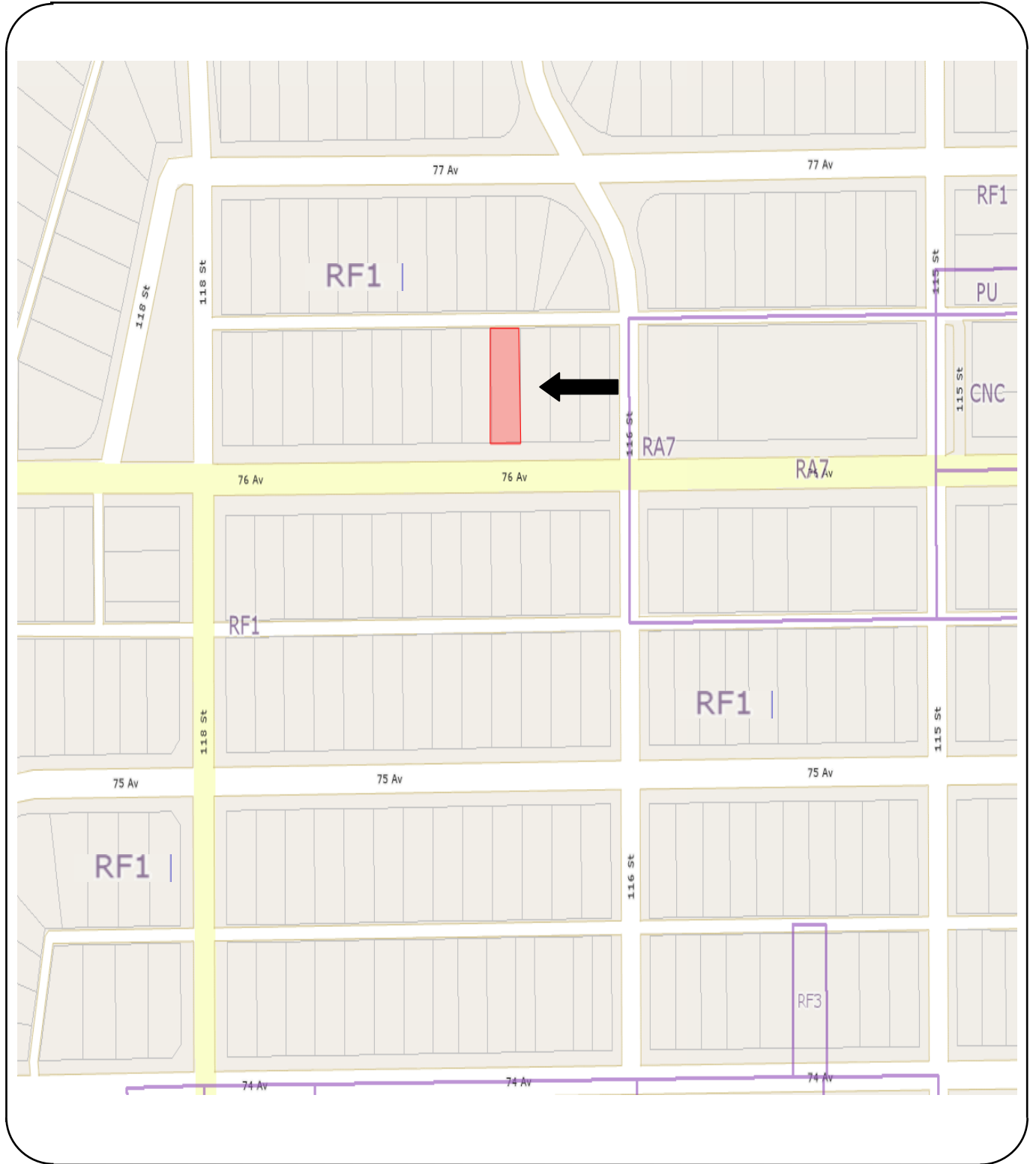
Section 110.1 states that the purpose of the Single Detached Zone is to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

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### SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-135



**BUSINESS LAID OVER**

<b>SDAB-D-15-114</b>	An appeal by <u>Ogilvie LLP</u> to Construct a Freestanding Minor Digital On-premises Off-premises Sign <i>July 2, 2015</i>
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**APPEAL HEARINGS TO BE SCHEDULED**

<b>168696143-001</b>	An appeal by <u>127 Avenue Developments Inc.</u> to comply with a Stop Order to dismantle and remove the Freestanding Off-premises Sign from the Site. <i>July 2, 2015</i>
<b>152684111-003</b>	An appeal by <u>MBD Management Inc.</u> to increase the height of an approved Fascia Minor Digital On-premises Off-premises Sign <i>July 8 or 9, 2015</i>