

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 1:00 P.M.
March 8, 2018**

**RIVER VALLEY ROOM
City Hall, 1 Sir Winston
Churchill Square NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
RIVER VALLEY ROOM**

I	1:00 P.M.	SDAB-S-18-002	Create one (1) additional single detached residential lot 7812 - 142 Street NW Project No.: 263786666-001
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NOTE: *Unless otherwise stated, all references to “Section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

TO BE RAISED
ITEM I: 1:00 P.M.

FILE: SDAB-S-18-002

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 263786666-001

APPLICATION TO: Create one (1) additional single detached residential lot

DECISION OF THE SUBDIVISION AUTHORITY: Approved With Conditions

DECISION DATE: January 25, 2018

DATE OF APPEAL: January 30, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7812 - 142 Street NW

LEGAL DESCRIPTION: Plan 2600KS Blk 17 Lot 35

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 Development Authority:

Condition 2 - "that the owner deflect the proposed property line by a distance of at least 0.5m . . ."

Reason - this subdivision condition imposes a condition on the subdivision that is intended to solve a technical issue. This is a singular condition that could cause hardship for the redevelopment of the site by limiting development. It could create non-rectangular lots or result in lots of different sizes. There are many potential technical solutions to the problem including the use of easements or relocation/modification of existing storm service that would not affect the property lines as proposed in the original application. The issue does not have to be resolved to allow the subdivision to proceed as approvals for lot servicing can occur at a later stage of development.

Resolution: Amend and move condition 2 to the advisory section of the subdivision approval.

<i>General Matters</i>

The Appellant requested the matter be heard on March 8, 2018.

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) A decision of a subdivision authority must state

- (a) whether an appeal lies to a subdivision and development appeal board or to the Municipal Government Board, and
- (b) if an application for subdivision approval is refused, the reasons for the refusal.

(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.

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.

General Provisions from the *Edmonton Zoning Bylaw*:

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, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

Conditions under appeal

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

...

2. that the owner deflect the proposed property line by a distance of at least 0.5 metres such that the storm service clearly enters one of the proposed lots, to the satisfaction of Subdivision and Development Coordination;

...

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 0J4

January 25, 2018

File No. LDA17-0627



RE: Tentative plan of subdivision to create one (1) additional single detached residential lot from Lot 35, Block 17, Plan 2600 KS located south of 80 Avenue NW and west of 142 Street NW; **LAURIER HEIGHTS**

The Subdivision by Plan is **APPROVED** on January 25, 2018, subject to the following conditions:

1. that the owner obtain a permit to demolish the existing dwelling and garage prior to endorsement of the final plan. Demolition permits can be obtained from Development Services located on the 2nd floor of Edmonton Tower at 10111 - 104 Avenue NW;
2. that the owner deflect the proposed property line by a distance of at least 0.5 m such that the storm service clearly enters one of the proposed lots, to the satisfaction of Subdivision and Development Coordination; and
3. that the owner pay all outstanding property taxes prior to the endorsement of the plan of survey.

Enclosure I is an attachment of the major advisements throughout the subdivision process. Enclosure II is a map of the subdivision and identifies major conditions and advisements of this approval.

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 seven (7) days from the date the decision is mailed.

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

Regards,

A handwritten signature in blue ink, appearing to read "Blair McDowell".

Blair McDowell
Subdivision Authority

BM/sc/Posse #263786666-001

Enclosure(s)

Enclosure I

Please be advised of the following:

Next Steps for Subdivision Approval

- The next step in the subdivision process is to have a legal instrument prepared (ie. Plan of Survey) in order to register the approved subdivision. The legal instrument is then forwarded to the City for endorsement along with the endorsement fee (\$662.00 - 2018 Fees Schedule) and subsequently released to the applicant for registration at the Land Titles Office.

Transportation

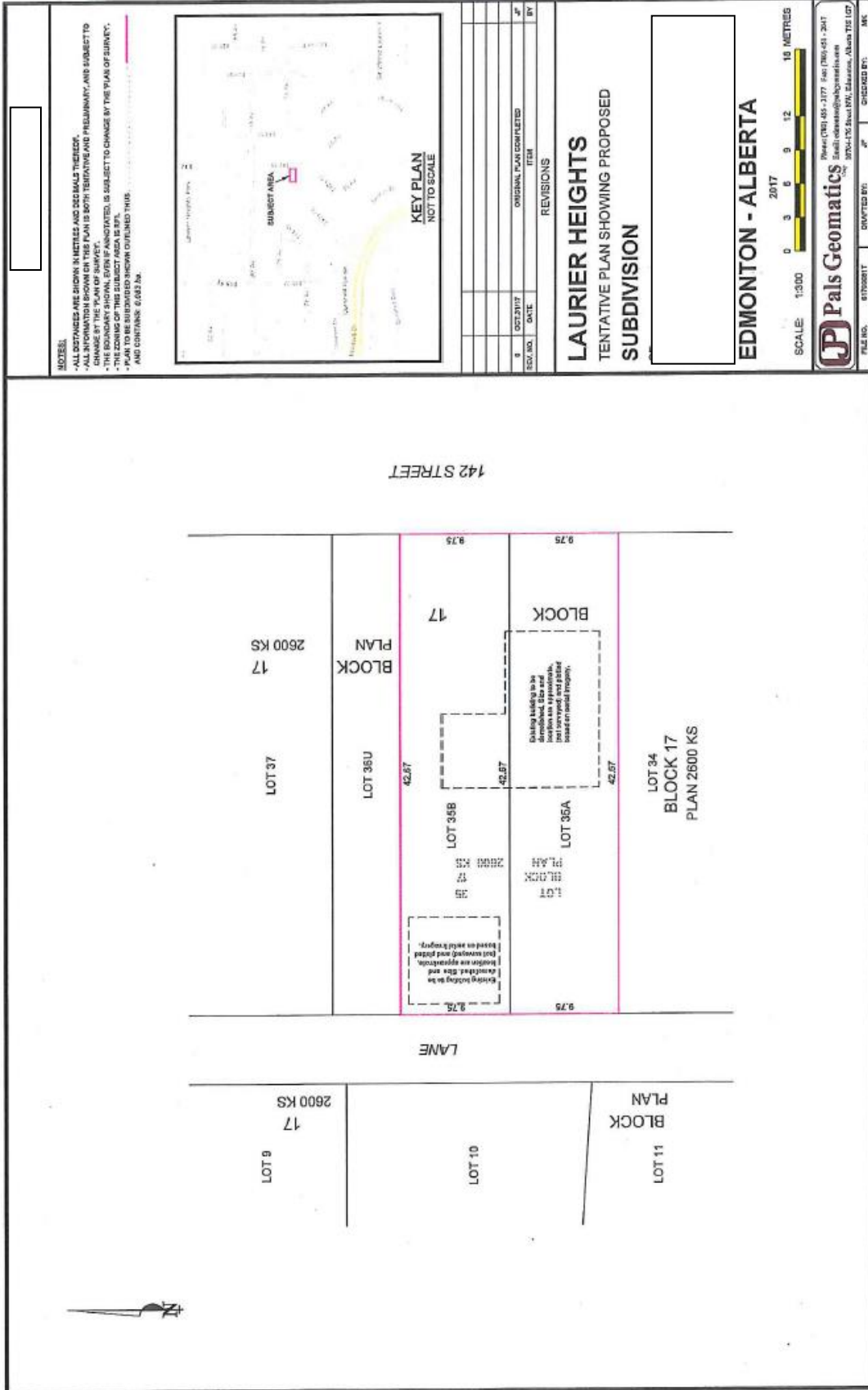
- There is an existing access to 142 Street, Upon redevelopment of the proposed Lot 35B, the existing residential access to 142 Street must be removed. The owner will be required to obtain a permit, available from Development and Zoning Services, 2nd Floor, 10111 - 104 Avenue.
- Access for future development must be to the adjacent alley in conformance with the Mature Neighbourhood Overlay Sec. 814.3(17) of the Zoning Bylaw #12800. Further details of access will be reviewed upon submission of a detailed site plan or development permit application.

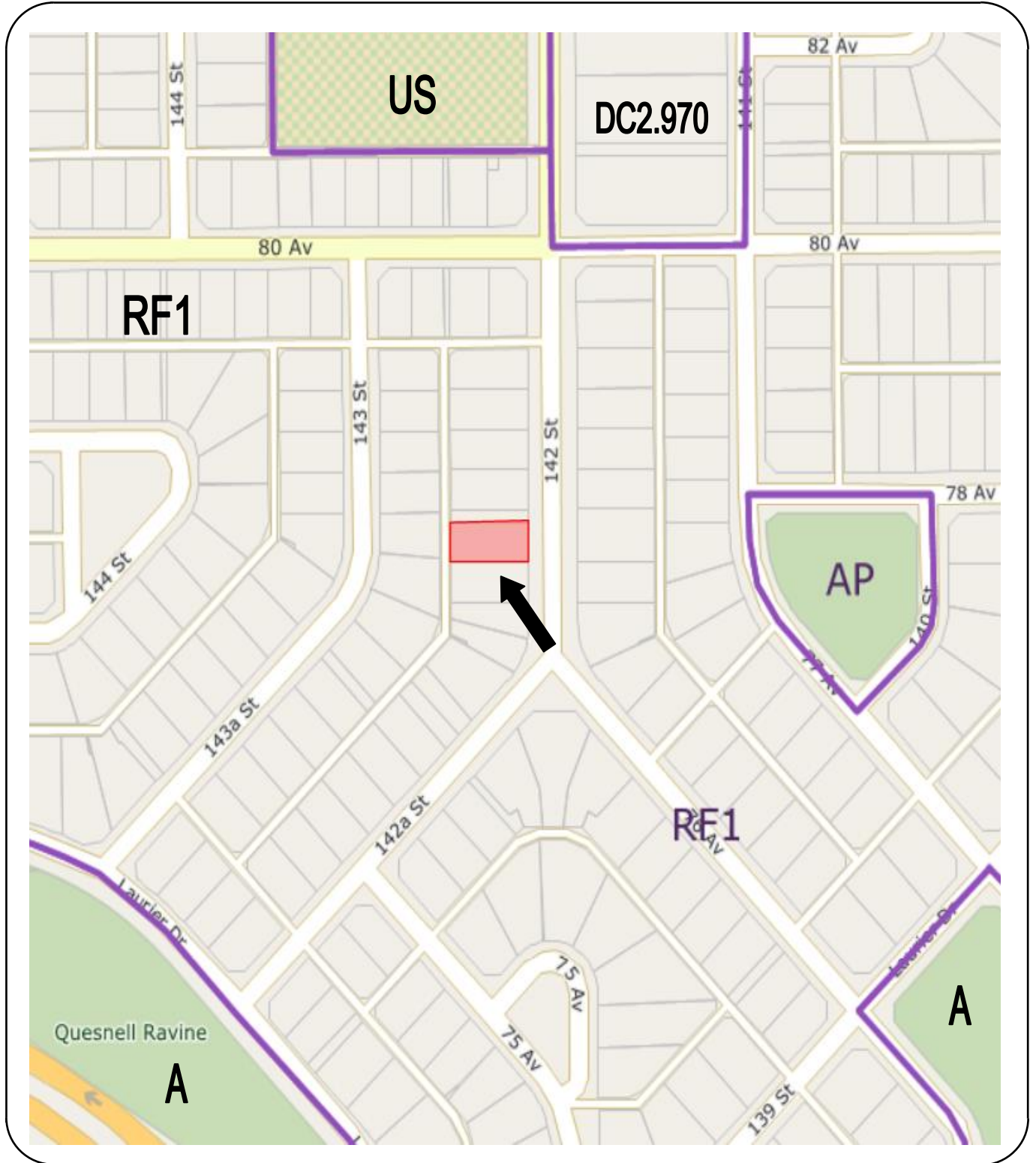
Building / Site

- The owner shall ensure that any change in property boundaries does not cause any structures on site to become non-compliant with the Safety Codes Act and Alberta Building Code. Permits may be required for such changes. Please contact 311 for more information.

Servicing

- The owner is required to make satisfactory arrangements for, and pay all costs associated with separate servicing to each lot, as well as the modification, relocation and/or removal of existing services. For further information, please contact: EPCOR Distribution & Transmission Inc. (780-412-4000), TELUS Communications (Edmonton) Inc. (Real Estate Division [Rights of Way] 780-508-2456), ATCO Gas (780-424-5222) and EPCOR Drainage Inc. (water and sewer servicing 780-496-5444).
- The existing services (water and sanitary) enter the proposed subdivision off of the lane approximately 99.6 m south of the south property line of the lane south of 80 Avenue and at 39.6 m north of manhole #223564. The existing storm service enters the proposed subdivision approximately 9.75 m south of the north property line off of 142 Street NW. As per the Drainage and Waterworks Bylaws, these services cannot cross the proposed property line.
- If power service crosses the proposed property line the owner may be required to provide a blanket easement in favour of EPCOR Distribution & Transmission Inc. If required, said easement shall be registered prior to or concurrent with the final plan of survey (contact EPCOR Land Administration Group at 780-412-3252).





SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-S-18-002

