

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
May 20, 2015**

**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-15-004	Create 31 Single Detached Residential Lots, 46 Semi-detached Residential Lots and 30 Row Housing Lots  12710 - 41 Avenue SW, 3304 - 127 Street SW Project No.: 159253875-001
---	-----------	---------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

---

**LUNCH BREAK: 12:00 P.M. TO 1:00 P.M.**

---

II	1:00 P.M.	SDAB-D-15-096	Comply with an Order to cease any construction on the land  70 - Sylvancroft Lane NW Project No.: 154924225-001
----	-----------	---------------	--------------------------------------------------------------------------------------------------------------------------

---

---

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

ITEM I: 9:00 A.M.

FILE: SDAB-S-15-004

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 159253875-001

APPLICATION TO: Create 31 Single Detached Residential  
Lots, 46 Semi-detached Residential Lots  
and 30 Row Housing Lots

DECISION OF THE  
SUBDIVISION AUTHORITY: Approved with conditions

DECISION DATE: April 2, 2015

DATE OF APPEAL: April 9, 2015

MUNICIPAL DESCRIPTION  
OF SUBJECT PROPERTY: 12710 - 41 Avenue SW, 3304 - 127 Street  
SW

LEGAL DESCRIPTION: Plan 9824939 Lot 1, SE-13-51-25-4

ZONE(S): RF5 Row Housing Zone  
RMD Residential Mixed Dwelling Zone  
AG Agricultural Zone

OVERLAY: N/A

STATUTORY PLAN: Desrochers Neighbourhood Area Structure  
Plan

---

SUMMARY

**I The Subdivision by Plan is APPROVED on April 2, 2015, subject to the following conditions:**

1. that the owner provide money in place of Municipal Reserve, in the amount of \$275,096.25 representing 0.405 ha pursuant to Section 666 and Section 667 of the Municipal Government Act;
2. that the owner enter into a Servicing Agreement with the City of Edmonton pursuant to Section 655 of the Municipal Government Act;
3. 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;
4. that the owner dedicate a Public Utility lot to conform to an approved Concept Plan or to the satisfaction of Transportation Services for the future LRT line, as shown on the "Conditions of Approval" map, Enclosure I;
5. that the owner dedicate road rights-of-way to conform to an approved Concept Plan or to the satisfaction of Transportation Services for James Mowatt Trail SW and 41 Avenue SW, as shown on the "Conditions of Approval" map, Enclosure I;
6. that subject to Conditions I (4) and I (5), the owner clear and level the future LRT line Public Utility lot, James Mowatt Trail SW and 41 Avenue SW as required for Public Utility lot dedication and road rights-of-way;
7. that the approved subdivision LDA14-0034 be registered prior to or concurrent with this application for the logical extensions of roadway connections and for essential water main feeds;
8. that the owner register a noise attenuation berm restrictive covenant in favour of the City of Edmonton against the lots backing onto 41 Avenue SW and the future LRT Public Utility lot, to protect the integrity of the ben)", 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 (2) 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 engineering drawings include a 300 mm offsite water main connection, to the satisfaction of EPCOR Water Services Inc., as shown on the "Conditions of Approval" map, Enclosure I;
8. that the owner construct a 1.5 m concrete sidewalk with lighting, and bollards, within the walkways, to the satisfaction of Transportation Services, as shown on the "Conditions of Approval" map, Enclosure I;
9. that the owner construct a 1 m berm centered on property line and 1.8 m noise attenuation fence contained wholly within private property, as per the City of Edmonton Roadway Design Standards Drawing #5205 and in conformance with the submitted noise study, for all lots backing onto 41 Avenue SW and the future LRT Public Utility lot, to the satisfaction of Transportation Services, as shown on the "Conditions of Approval" map, Enclosure I;
10. that the owner construct all fences wholly on privately-owned lands, to the satisfaction of Transportation Services and Sustainable Development, as shown on the "Conditions of Approval" map, Enclosure I; and
11. that the owner is responsible for the landscape design and construction within the Public Utility lots, road islands, boulevards, medians and walkways, to the satisfaction of City Departments and affected utility agencies.

Enclosure I is a map of the subdivision identifying major conditions of this approval.

The existing Deferred Reserve Caveat registered on the SE 13-51-25-W4M is to be carried forward on title. Lot 1, Plan 982 4939 will require money in place of Municipal Reserve representing 0.405 ha, however, it should be noted that the money in place will be reduced at the time of plan endorsement to account for arterial roadway dedication.

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, 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.

---

APPELLANT'S SUBMISSION

The appeal is limited to Conditions I.4 and I.6 regarding dedication of right of way for LRT purposes. The ground of appeal is that the Subdivision Authority has no jurisdiction to require dedication of land for LRT purposes. In any event, such a requirement in the circumstances of this case is both unfair and unreasonable.

---

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

The Subdivision and Development Appeal Board at a hearing on April 16, 2015 made and passed the following motion:

“that the appeal hearing be scheduled for MAY 20, 2015 at the written request of Legal Counsel for the Appellant and in agreement with City Departments.”

The proposed titled area to be subdivided is within the Desrochers Neighbourhood Area Structure Plan, Bylaw 15552, as amended, approved by Council November 8, 2010.

This application was approved by the Subdivision Authority subject to conditions.

The Applicant is appealing the following Conditions of the Approval by the Subdivision Authority:

- I The Subdivision Plan is APPROVED on April 2, 2014, subject to the following conditions:
4. that the owner dedicate a Public Utility lot to conform to an approved Concept Plan or to the satisfaction of Transportation Services for the future LRT line, as shown on the “Conditions of Approval” map, Enclosure I.

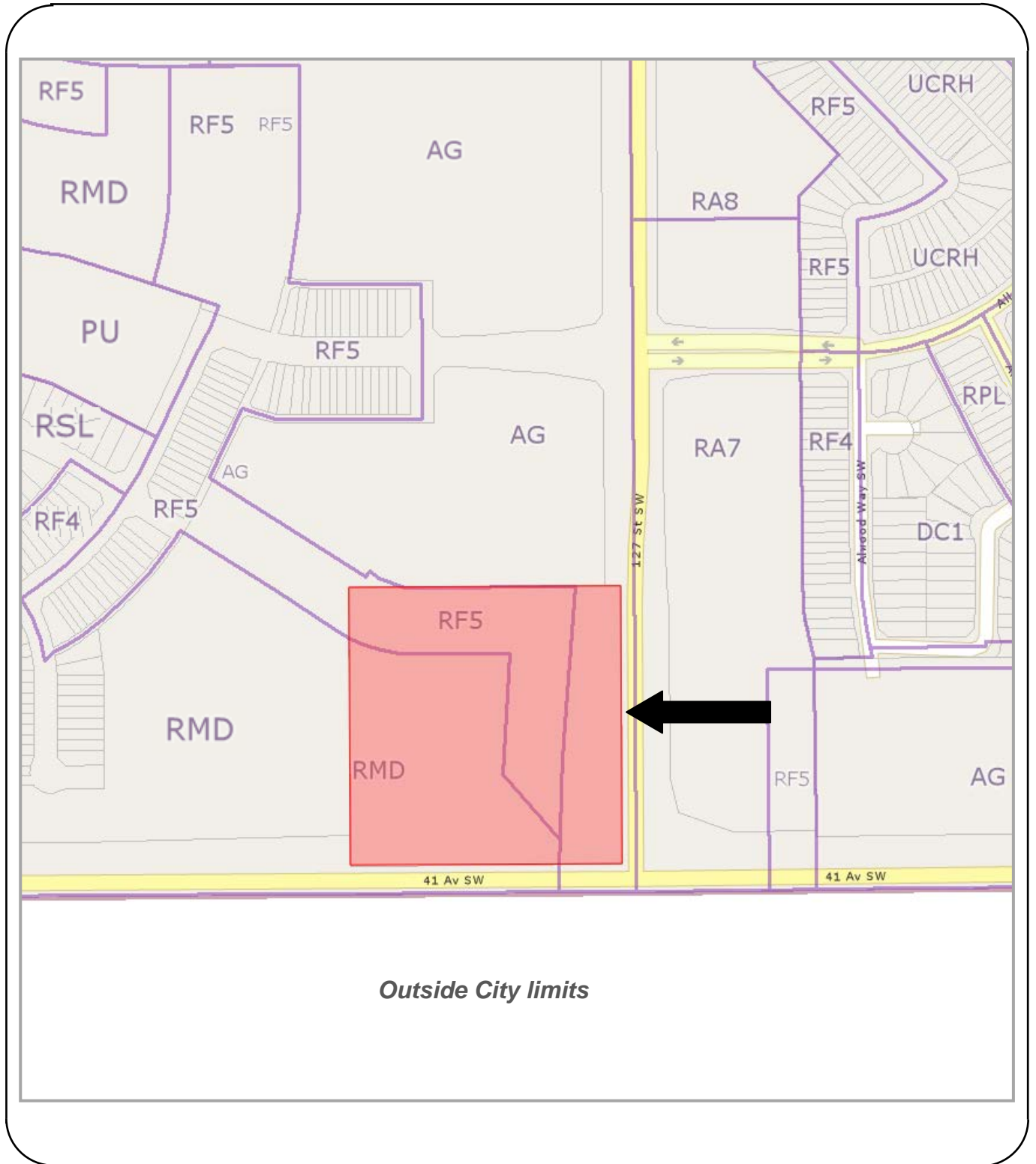
6. that subject to Conditions I (4) and I (5), the owner clear and level the future LRT line Public Utility lot, James Mowatt Trail SW and 41 Avenue SW as required for Public Utility lot dedication and road rights-of-way.

---

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-S-15-004





ITEM II: 1:00 P.M.

FILE: SDAB-D-15-096

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 154924225-001

STOP ORDER TO: Comply with an Order to cease any construction on the land.

DECISION DATE: April 15, 2015

DATE OF APPEAL: April 23, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 70 - Sylvanecroft Lane NW

LEGAL DESCRIPTION: Plan 1222257 Unit 7

ZONE: RF3 Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

---

DEVELOPMENT AUTHORITY'S DECISION

A check with Land Titles Office discloses that you are the registered owner(s) of the property located at 70 - SYLVANCROFT LANE NW, legally described as Plan 1222257 Unit 7.

On April 14, 2015 Development Compliance Officer Justin Hogberg from the City of Edmonton having the authority to exercise development powers under Section 642(1) of the Municipal Government Act, R.S.A. 2000 conducted a site inspection of the above noted property revealing that your site is being prepared for Development.

The Subdivision and Development Appeal Board has received information from the Alberta Court of Appeal that a "Leave to Appeal" has been Granted by a Provincial Court Justice. An appeal hearing will be heard at a later date which has yet to be determined.

As a result of this information your development permit application # 154924225-001 to construct a Single Detached House with attached Garage, Veranda, Fireplace, Rear Balcony and Basement Development has been suspended. The City of Edmonton Current Planning Branch will not go forward with your Development and Building Permit until the Court process has been resolved.

Edmonton Zoning Bylaw 12800

17.1 Validity of a Development Permit

(3) The Development Officer shall suspend a Development Permit upon receipt of a filed notice of appeal to the City of Edmonton from the Subdivision and Development Appeal Board in accordance with the Municipal Government Act, and Section 21.1 of this Bylaw. The Development Permit remains suspended until:

(c) the Alberta Court of Appeal has granted leave to appeal, heard the appeal on the merits, made its decision, and any appeal to the Supreme Court of Canada from that determination of the Alberta Court of Appeal has been finally determined.

Section 5 Approval Required for Development

5.1 (1) No Person:

Shall commence, or cause or allow to be commenced, a Development without a Development Permit therefor issued under the provisions of Section 12 of this Bylaw;  
Shall carry on or cause or allow to be carried on a development without a Development Permit therefor issued under Section 12 of this Bylaw

**LAND USE INFRACTION:**

The City of Edmonton has suspended Development Permit 154924225-006 as a result of the Court of Appeal granting a Leave to Appeal and our department revealed that construction is taking place on your land contrary to Section 5.1 of the City of Edmonton Zoning Bylaw 12800.

**ORDER:**

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, YOU ARE HEREBY ORDERED TO: Cease any construction on the land

This order is to be complied with Immediately upon receipt of this Order  
This Order also serves as a Violation Notice.

**CONSEQUENCES FOR NON-COMPLIANCE:**

In the event that a person fails to comply with an Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter on the land and take any action necessary to carry out the Order. Section 553(1)(h.1) of the Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to subsection (2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment.

The property will be inspected intermitently to determine compliance with this Order. Failure to comply will result in action as described in Section 646.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, R.S.A. 2000, c.M-26.1, which provides you with the right to appeal this Order and enables the City to add all costs associated with this action to the tax roll of the property.

---

**APPELLANT'S SUBMISSION**

The development permit is suspended because neighbours have taken the SDAB's decision to approve the permit to the Alberta Court of Appeal. Their appeal that our application was incomplete was not allowed, but their contention that the SDAB does not have the authority to waive a "procedural" bylaw will be heard. This will not affect our permit because the Development Officer waived consultation because it was not needed to make the refusal decision we appealed. We have since reduced the front setback. Eliminating one of the two variances in the application and we have done the community consultation on this change. Whatever the Court of Appeal decides on the SDAB's powers to waive consultation, it will not affect our permit because the consultation has now been done.

We therefore ask that the Stop Work Order be overturned because the appeal is against the wording in the Municipal Government Act, but not against our permit. In the end we will be allowed to build this project, so we think it is very unfair to hold it up while the Court considers a Board point of law with respect to the SDAB's authority.

---

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

Section 645 of the *Municipal Government Act* states:

**645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

**(2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

**(3)** A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Section 5.1 of the Zoning Bylaw states:

**No Person:**

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

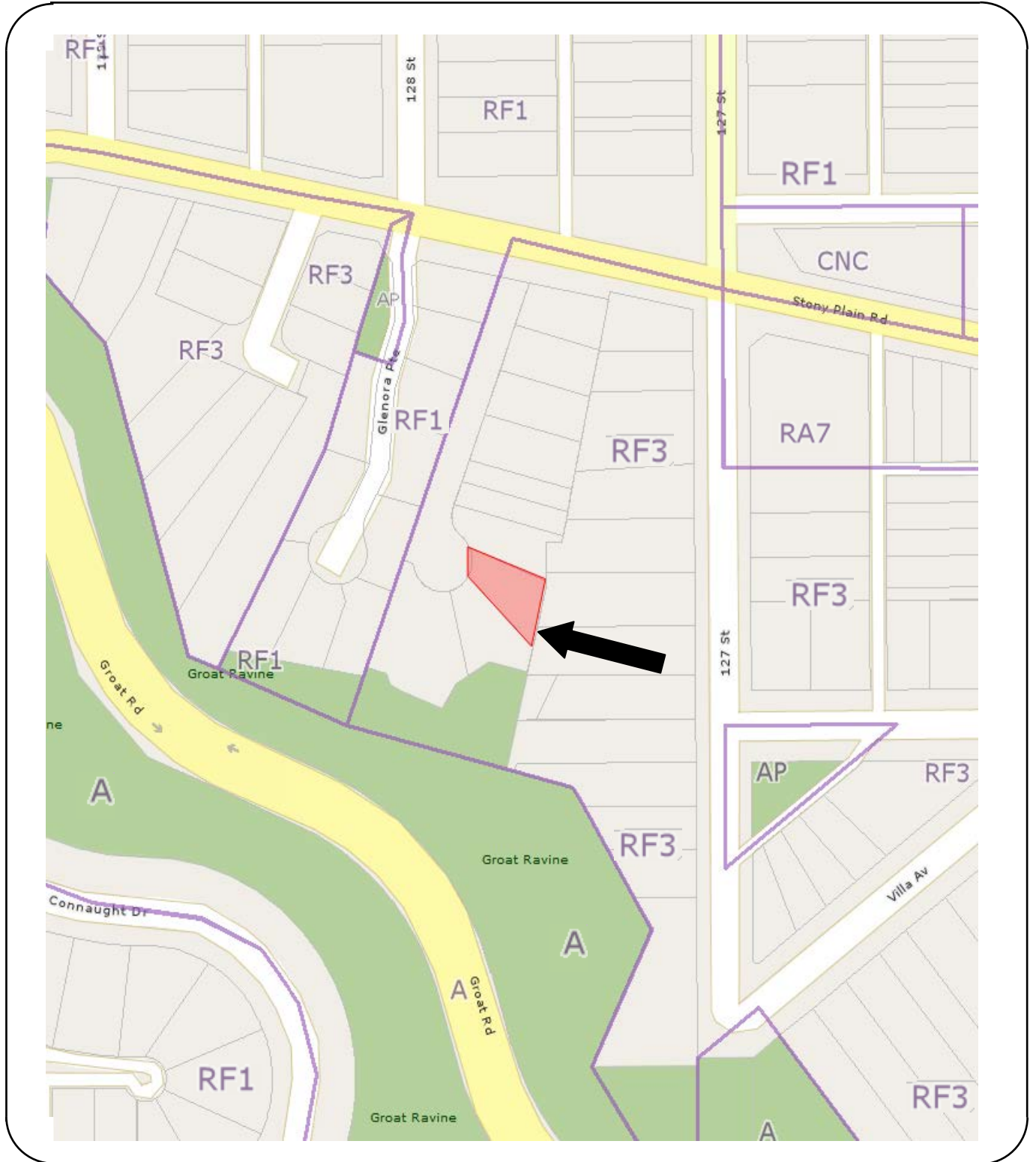
2. shall carry on, or cause or allow to be carried on a development without a Development Permit therefore issued under Section 12 of this Bylaw.

---

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-15-096



**BUSINESS LAID OVER**

<b>SDAB-D-15-093</b>	An appeal by Gurmit Brar to construct exterior alterations to an existing Single Detached House (Driveway extension), existing without permits <i>June 10 or 11, 2015</i>
----------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**APPEAL HEARINGS TO BE SCHEDULED**

<b>159466458-001</b>	An appeal by MacDonald Outdoor Advertising / Ogilvie LLP Barristers and Solicitors to construct a Freestanding Minor Digital On-premises Off-premises Sign <i>June 4, 2015</i>
<b>168709231-001</b>	An appeal by Ogilvie LLP Barristers and Solicitors to comply with a Stop Order to dismantle and remove the Freestanding Off-premises Sign from the Site. <i>July 9, 2015</i>