

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
September 7, 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-D-17-168

Install a Freestanding Minor Digital On-
premises Sign (Hosanna Lutheran Church)
9009 - 163 Street NW
Project No.: 246837973-001

II 10:30 A.M. SDAB-D-17-169

Install a Freestanding Minor Digital On-
premises Off-premises Sign (10.36 m x 3.05 m
facing south)
7904 - Gateway Boulevard NW
Project No.: 124059029-003

III 1:30 P.M. SDAB-S-17-006

Create 99 single detached residential lots, 168
semi-detached residential lots, two (2)
Municipal Reserve (non-credit) lots, one (1)
multiple family residential lot and three (3)
Public Utility Lots
3304 - 91 Street SW
Project No.: 168014476-001

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-17-168

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 246837973-001

APPLICATION TO: Install a Freestanding Minor Digital On-premises Sign (Hosanna Lutheran Church)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 21, 2017

DATE OF APPEAL: August 10, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9009 - 163 Street NW

LEGAL DESCRIPTION: Plan 789NY Blk 4 Lot 24A

ZONE: RF1 Single Detached Residential Zone

OVERLAY: MNO Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

The church is planning to upgrade an existing freestanding sign with a LED programmable sign. We understand that digital signs are not listed in the zone that the church is currently on (RF1 Zone).

The digital sign will be part of the church (Which is a religious assembly). There is a Discretionary Use for this type of organization in RF1 Zones. Taking that as a reference and the fact that the Religious Assembly is already on the RF1 zone and it is an existing sign being upgraded to a programmable sign we request the city for an exception in the bylaw for a discretionary use of a digital sign in a religious assembly. (This will not affect the zoning and it will only apply for Religious Assembly).

General Matters

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Appeals

686(1) 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,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or
 - ...

The decision of the Development Officer is dated July 21, 2017. The Notice of Appeal was filed on August 10, 2017.

Determining an Appeal

Hearing and decision

687(3) In determining an appeal, the subdivision and development appeal board

- ...
- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;
- ...
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

(ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 110.1 states that the **General Purpose** of the **RF1 Single Detached Residential Zone** is:

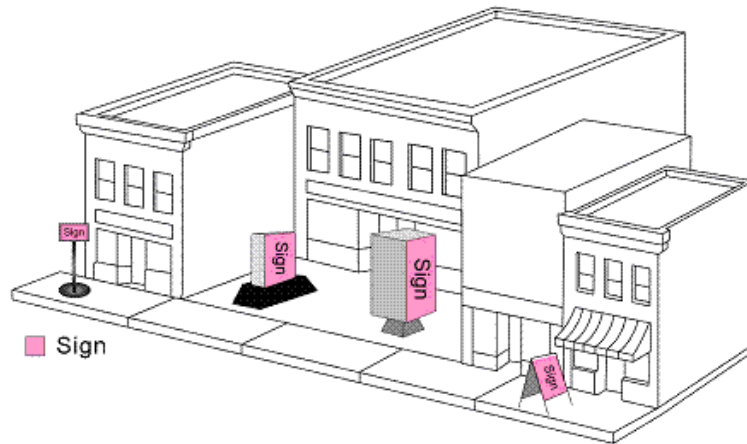
...to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

Section 7.9(8) states:

Minor Digital On-premises Signs means any Sign that is remotely changed on or off Site and has a Message Duration greater than or equal to 6 seconds. Minor Digital On-premises Signs incorporate a technology or method allowing the Sign to change Copy without having to physically or mechanically replace the Sign face or its components. The Copy on such Sign identifies or advertises a business, activity, service or product located on the premises or Site where the Sign is displayed.

Section 6.2(8) states:

Freestanding Signs means any On-premises or Off-premises Sign supported independently of a building. The Sign may take the form of single or multiple icons, product or corporate symbol, may involve a three dimensional or volumetric representation, may have single or multiple faces and may or may not be permanently fixed to the ground;



Section 814.1 states that the **General 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.

Unlisted Use



Development Officer's Determination

The proposed Freestanding Minor Digital On-premises Sign is neither listed as a Permitted or a Discretionary Use in RF1 Zone (Section 110.2 & 110.3)

Note: The proposed location is facing US zone with impact on residential to the North.

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*.

	Project Number: 246837973-001 Application Date: MAY 02, 2017 Printed: August 30, 2017 at 2:34 PM Page: 1 of 2										
<h2 style="margin: 0;">Application for Sign Combo Permit</h2>											
This document is a Development Permit Decision for the development application described below.											
Applicant 	Property Address(es) and Legal Description(s) 9009 - 163 STREET NW Plan 789NY Blk 4 Lot 24A Location(s) of Work Suite: 9009 - 163 STREET NW Entryway: 9009 - 163 STREET NW Building: 9009 - 163 STREET NW										
Scope of Application To install a Freestanding Minor Digital On-premises Sign (Hosanna Lutheran Church)											
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> ASA Sticker No./Name of Engineer: Construction Value: 10374 </td> <td style="width: 50%; border: none;"> Class of Permit: Expiry Date: </td> </tr> </table>		ASA Sticker No./Name of Engineer: Construction Value: 10374	Class of Permit: Expiry Date:								
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Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 1 Minor Digital Off-premises Sign: 0 Minor Digital On/Off-premises Sign: 0	Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0										
I/We certify that the above noted details are correct. Applicant signature: _____											
Development Application Decision Refused Reason for Refusal The proposed Freestanding Minor Digital On-premises Sign is neither listed as a Permitted or a Discretionary Use in RF1 Zone (Section 110.2 & 110.3) Note: The proposed location is facing US zone with impact on residential to the North. Rights of Appeal The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.											
Issue Date: Jul 21, 2017 Development Authority: AHUJA, SACHIN Signature: _____											
Fees <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: center;">Fee Amount</th> <th style="text-align: center;">Amount Paid</th> <th style="text-align: center;">Receipt #</th> <th style="text-align: center;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Safety Codes Fee</td> <td style="text-align: center;">\$6.08</td> <td style="text-align: center;">\$6.08</td> <td style="text-align: center;">04209617</td> <td style="text-align: center;">Jun 15, 2017</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Safety Codes Fee	\$6.08	\$6.08	04209617	Jun 15, 2017
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Safety Codes Fee	\$6.08	\$6.08	04209617	Jun 15, 2017							
THIS IS NOT A PERMIT											



Application for Sign Combo Permit

Project Number: **246837973-001**
Application Date: MAY 02, 2017
Printed: August 30, 2017 at 2:34 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sign Building Permit Fee	\$152.00	\$152.00	04209617	Jun 15, 2017
Sign Dev Appl Fee - Digital Signs	\$442.00	\$442.00	04209617	Jun 15, 2017
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$600.08	<u>\$600.08</u>		

THIS IS NOT A PERMIT

ITEM II: 10:30 A.M.

FILE: SDAB-D-17-169

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 124059029-003

APPLICATION TO: Install a Freestanding Minor Digital On-premises Off-premises Sign (10.36 m x 3.05 m facing south)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 2, 2017

DATE OF APPEAL: August 10, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7904 - Gateway Boulevard NW

LEGAL DESCRIPTION: Plan 8520056 Lot 7

ZONE: CB2 General Business Zone

OVERLAY: Pedestrian Commercial Shopping Street Overlay
Whyte Avenue Commercial Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan
Strathcona Junction Area Redevelopment Plan

Grounds for Appeal

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

A permit was issued for the sign 5 years ago and the sign has existed without any reported safety issues since then. The development authority previously approved the sign without citing the pedestrian overlay or the conditions outlined in the pedestrian overlay that were in affect at the time of approval, yet now when an application was submitted to extend the duration of the permit the development authority is refusing the permit because the sign does not comply with the conditions of the pedestrian overlay.

General Matters

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Appeals

686(1) 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,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or
 - ...

The decision of the Development Officer is dated August 2, 2017. The Notice of Appeal was filed on August 10, 2017.

Determining an Appeal

Hearing and decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;
- ...
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

(ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 340.1 states that the **General Purpose** of the **CB2 General Business Zone** is “to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.”

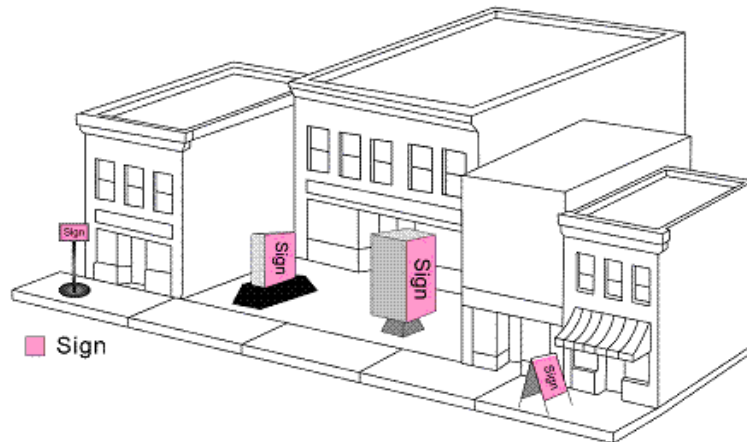
Under Section 140.3(44), **Minor Digital On-premises Off-premises Signs** is a **Discretionary Use** in the CB2 General Business Zone.

Section 7.9(7) states:

Minor Digital On-premises Off-premises Signs means any Sign that is remotely changed on or off Site and has a Message Duration greater than or equal to 6 seconds. Minor Digital On-premises Off-premises Signs incorporate a technology or method allowing the Sign to change Copy without having to physically or mechanically replace the Sign face or its components. The Copy on such Sign may include Copy from Minor Digital On-premises Signs and Minor Digital Off-premises Signs.

Section 6.2(8) states:

Freestanding Signs means any On-premises or Off-premises Sign supported independently of a building. The Sign may take the form of single or multiple icons, product or corporate symbol, may involve a three dimensional or volumetric representation, may have single or multiple faces and may or may not be permanently fixed to the ground;



Section 819.1 states that the **General Purpose** of the **Pedestrian Commercial Shopping Street Overlay** is “to maintain the pedestrian-oriented character of commercial areas, comprised of shopping streets in close proximity to residential areas of the City.”

Pedestrian Commercial Shopping Street Overlay (the “Overlay”) Community Consultation

Section 819.3(15) of the Overlay provides as follows:

15. Where an application for a Development Permit does not comply with the regulations contained in this Overlay:
 - a. the applicant shall contact the affected parties, being each assessed owner of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development and the President of each affected Community League and the President of each Business Revitalization Zone Association operating within the distance described above, at least 21 days prior to submission of a Development Application;
 - b. the applicant shall outline to the affected parties, any requested variances to the Overlay and solicit their comments on the application;
 - c. the applicant shall document any opinions or concerns, expressed by the affected parties, and what modifications were made to address their concerns; and
 - d. the applicant shall submit this documentation as part of the Development Application.

Maximum Height

Section 819.3(13)(a) states: “Signage shall be provided in accordance with Schedule 59E of this Bylaw, with the intent to compliment the pedestrian-oriented commercial environment, except that: ...the maximum Height of a Freestanding Sign shall be 6.0 m”.

Development Officer’s Determination

- 1) The maximum Height of a Freestanding Sign shall be 6.0 m (Reference Section 819.3(13)(a))
- Required Height: 6 m
- Proposed Height: 8 m
- Exceeds by 2 m

The Overlay regulations supersede the regulations of the base zone, modifying a variety of elements of development, such as height. The proposed Minor Digital Off-premises Sign is a Discretionary use and requires a variance to height contrary to Section 11.3(1)(b).

Maximum Sign Area

Section 59E.3(5)(c)(ii) states:

Minor Digital On-premises Off-premises Signs and Minor Digital Off-premises Signs shall be subject to the following regulations:

...

c. the maximum Area shall be:

...

- ii. 20 m² for proposed Signs that are Freestanding Signs. The maximum combined Area of Digital Sign Copy and any other type of Copy on the same Sign face shall not exceed 20 m;

Development Officer’s Determination

- Required Sign Area: 20 m²
- Proposed Sign Area: 31.6 m²
- Exceeds by: 11.6 m²

Sign Location

Section 59E.3(5)(d) provides as follows:

- d. proposed Sign locations shall be separated from any other Digital Sign greater than 8.0 m² or Off-premises Sign as follows:

Proposed Sign Area	Minimum separation distance from Digital Signs greater than 8.0 m ² or other Off-premises Sign
Greater than 8.0 m ² to less than 20 m ²	100 m
20 m ² to 40 m ²	200 m
Greater than 40 m ²	300 m

The separation shall be applied from the larger Off-premises Sign or Digital Sign location.

Development Officer’s Determination

Required Separation: 200 m
 Proposed Separation: 84 m
 Deficient by: 116 m

Conflicting Sign to SE was approved by SDAB FEB 21, 2013 after the approval of application 124059029-001.

Minimum Setback



Section 340.4(3) states: “A minimum Setback of 4.5 m shall be required where a Site abuts a public roadway, other than a Lane. Where adjacent commercial buildings abut the property line to form a pedestrian-oriented shopping street, no Setback shall be required.”

Development Officer’s Determination

Required Setback: 4.5 m
 Proposed Setback: 4.2 m

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*.

	Project Number: 124059029-003 Application Date: JUN 19, 2017 Printed: August 31, 2017 at 10:10 AM Page: 1 of 2
<h2 style="margin: 0;">Application for Sign Combo Permit</h2>	
This document is a Development Permit Decision for the development application described below.	
Applicant 	Property Address(es) and Legal Description(s) 7904 - GATEWAY BOULEVARD NW Plan 8520056 Lot 7
Scope of Application To install a Freestanding Minor Digital On-premises Off-premises Sign (10.36 m x 3.05 m facing south)	
Permit Details	
ASA Sticker No./Name of Engineer: Construction Value: 1000	Class of Permit: Expiry Date:
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 0 Minor Digital On/Off-premises Sign: 1	Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Application Decision Refused	
THIS IS NOT A PERMIT	



Project Number: **124059029-003**
 Application Date: JUN 19, 2017
 Printed: August 31, 2017 at 10:10 AM
 Page: 2 of 2

Application for Sign Combo Permit

Reason for Refusal

- 1) The maximum Height of a Freestanding Sign shall be 6.0 m (Reference Section 819.3(13(a))
 Required Height: 6 m
 Proposed Height: 8 m
 Exceeds by 2 m
 The Overlay regulations supersede the regulations of the base zone, modifying a variety of elements of development, such as height. The proposed Minor Digital Off-premises Sign is a Discretionary use and requires a variance to height contrary to Section 11.3(1)(b).

- 2) The maximum Area shall be 20 m² for proposed Signs that are Freestanding Signs. The maximum combined Area of Digital Sign Copy and any other type of Copy on the same Sign face shall not exceed 20 m². (Reference Section 59E.3(5)(c)(ii))
 Required Sign Area: 20 m²
 Proposed Sign Area: 31.6 m²
 Exceeds by: 11.6 m²

- 3) Proposed Sign locations shall be separated from any other Digital Sign greater than 8.0 m² or Off-premises Sign. If the proposed Sign Area is greater than 20 m² and less than 40 m², the minimum separation distance is 200 m. (Reference Section 59E.3(5)(d))
 Required Separation: 200 m
 Proposed Separation: 84 m
 Deficient by: 116 m

- Conflicting Sign to SE was approved by SDAB FEB 21, 2013 after the approval of application 124059029-001.

- 4) A minimum Setback of 4.5 m shall be required where a Site abuts a public roadway, other than a Lane. (Reference Section 340.4(3))
 Required Setback: 4.5 m
 Proposed Setback: 4.2 m

Rights of Appeal

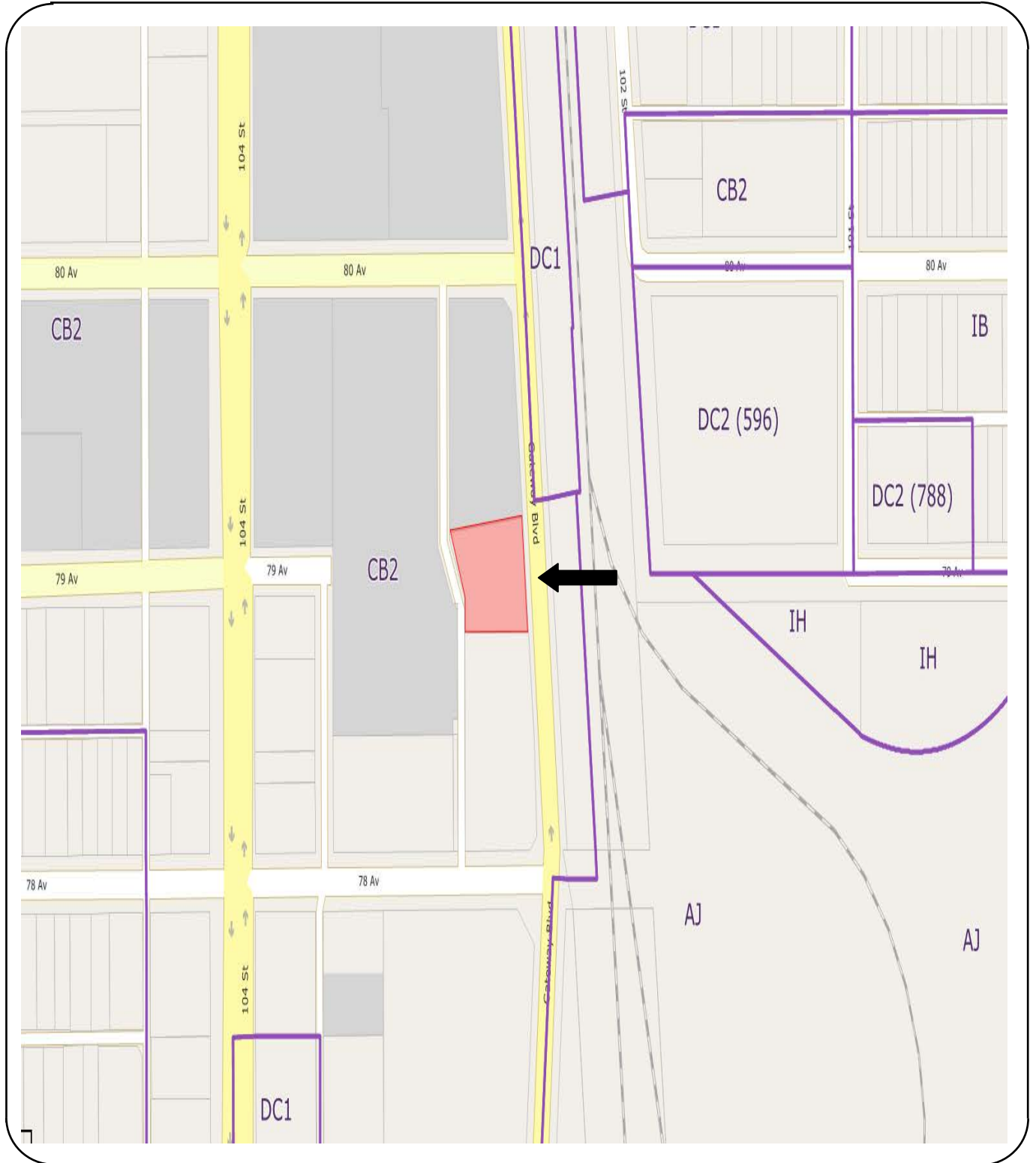
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Aug 02, 2017 **Development Authority:** AHUJA, SACHIN **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sign Dev Appl Fee - Digital Signs	\$442.00	\$442.00	04220252	Jun 19, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$442.00	\$442.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-169



ITEM III: 1:30 P.M.

FILE: SDAB-S-17-006

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 168014476-001

APPLICATION TO: Create 99 single detached residential lots, 168 semi-detached residential lots, two (2) Municipal Reserve (non-credit) lots, one (1) multiple family residential lot and three (3) Public Utility Lots

DECISION OF THE SUBDIVISION AUTHORITY: SA Approved With Conditions

DECISION DATE: July 27, 2017

DATE OF APPEAL: August 10, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3304 - 91 Street SW

LEGAL DESCRIPTION: Plan 2310TR Lot B

ZONE: AP Public Parks Zone; PU Public Utility Zone; RA7 Low Rise Apartment Zone; RF4 Semi-detached Residential Zone; RSL Residential Small Lot Zone.

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

- 1) We disagree with the amount for cash-in-lieu payment for Municipal Reserves as indicated in Article II;
- 2) We disagree with not receiving MR credit for the 20m wide greenway connecting the Storm Water Management Facility to the Park to the south.

General Matters

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) ...

(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.

Municipal and school reserves

666(1) Subject to section 663, a subdivision authority may require the owner of a parcel of land that is the subject of a proposed subdivision

(a) to provide part of that parcel of land as municipal reserve, school reserve or municipal and school reserve,

(b) to provide money in place of municipal reserve, school reserve or municipal and school reserve, or

(c) to provide any combination of land or money referred to in clauses (a) and (b).

(2) The aggregate amount of land that may be required under subsection (1) may not exceed the percentage set out in the municipal development plan,

which may not exceed 10% of the parcel of land less the land required to be provided as environmental reserve and the land made subject to an environmental reserve easement.

(3) The total amount of money that may be required to be provided under subsection (1) may not exceed 10% of the appraised market value, determined in accordance with section 667, of the parcel of land less the land required to be provided as environmental reserve and the land subject to an environmental reserve easement.

(4) When a combination of land and money is required to be provided, the sum of

(a) the percentage of land required under subsection (2), and

(b) the percentage of the appraised market value of the land required under subsection (3)

may not exceed 10% or a lesser percentage set out in the municipal development plan.

Money in place of municipal, school reserve

667(1) If money is required to be provided in place of municipal reserve, school reserve or municipal and school reserve, the applicant must provide

(a) a market value appraisal of the existing parcel of land as of a specified date occurring within the 35-day period following the date on which the application for subdivision approval is made

(i) as if the use proposed for the land that is the subject of the proposed subdivision conforms with any use prescribed in a statutory plan or land use bylaw for that land, and

(ii) on the basis of what might be expected to be realized if the land were in an unsubdivided state and sold in the open market by a willing seller to a willing buyer on the date on which the appraisal is made,

or

(b) if the applicant and the subdivision authority agree, a land value based on a method other than that described in clause (a).

(2) If money is required to be provided in place of municipal reserve, school reserve or municipal and school reserve, the subdivision authority must specify the amount of money required to be provided at the same time that subdivision approval is given.

Conditions Under Appeal

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

Condition I(1): “that the owner provide money in place of Municipal Reserve (MR), in the amount of \$840,294.00 representing 1.62 ha pursuant to Section 666 and Section 667 of the Municipal Government Act”.

In addition, the Appellant objects to “not receiving MR credit for the 20m wide greenway connecting the Storm Water Management Facility to the Park to the south.”

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

July 27, 2017

File No. LDA15-0099

[REDACTED]

RE: Tentative plan of subdivision to create 99 single detached residential lots, 168 semi-detached residential lots, two (2) Municipal Reserve (non-credit) lots, one (1) multiple family residential lot and three(3) Public Utility lots from Lot B, Plan 2310 TR and closed portions of 91 Street SW located south of Mayday Lane SW and west of 91 Street SW; **THE ORCHARDS AT ELLERSLIE**

I The Subdivision by Plan is **APPROVED** on July 27, 2017, subject to the following conditions:

1. that the owner provide money in place of Municipal Reserve (MR), in the amount of \$840,294.00 representing 1.62 ha pursuant to Section 666 and Section 667 of the Municipal Government Act;
2. that the owner create 0.15 ha and 0.14 ha MR (non-credit) lots as shown on the "Conditions of Approval" map, Enclosure I;
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 subdivision boundary be amended to include the Public Utility Lots (PUL) as shown on the "Conditions of Approval" map, Enclosure II;
6. that LDA17-0137 to amend the Edmonton Zoning Bylaw shall be approved prior to the endorsement of the plan of survey;
7. that the approved subdivisions LDA14-0219 and LDA15-0050 be registered prior to or concurrent with this application;
8. that the owner be permitted to register this plan of subdivision in phases in sequential order, at the discretion of the Chief Subdivision Officer, having regard to the provision of roadways, MR, and the logical extension of services, as shown on the "Conditions of Approval" map, Enclosure I;

9. that the owner register a freeboard restrictive covenant in favour of the City of Edmonton against the lots backing onto the Storm Water Management Facility (SWMF) as shown on the "Conditions of Approval" map, Enclosure I;
 10. that the owner register a disturbed soil restrictive covenant in favour of the City of Edmonton against the lots flanking the walkway, as shown on the "Conditions of Approval" map, Enclosure I; and
 11. 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 temporary offset 17 m radius transit turnaround to the satisfaction of Transportation Planning and Engineering, as shown on the "Conditions of Approval" map, Enclosure I. This turnaround will require a paved surface prior to FAC for roads (or when required by Transportation Planning and Engineering);
 8. that the owner constructs a 3 m hard surface shared use path with lighting and bollards, within the SWMF and non-credit MR lots, to the satisfaction of Transportation Planning and Engineering, as shown on the "Conditions of Approval" map, Enclosure I;
 9. that the owner constructs a 1.5 m concrete sidewalk with lighting and bollards, within the walkway, 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 concrete emergency access with lighting, and T-bollards to the satisfaction of Transportation Planning and Engineering, as shown on the "Conditions of Approval" map, Enclosure I;
 11. that the owner constructs a temporary 4 m gravel surface emergency access with T-bollards, 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);

12. that the owner remove, level, topsoil and seed the closed portion of the 91 Street SW government road allowance with Phase 2, to the satisfaction of Transportation Planning and Engineering as shown on the "Conditions of Approval" map, Enclosure II;
13. that the owner constructs an offsite watermain extension, to the satisfaction of EPCOR Water Services Inc., as shown on the "Conditions of Approval" map, Enclosure II;
14. that the owner construct all fences wholly on privately-owned lands, to the satisfaction of Transportation Planning and Engineering and Parkland Developer Services, as shown on the "Conditions of Approval" map, Enclosure I; and
15. that the owner is responsible for the landscape design and construction within the Public Utility lots, non-credit MR parcels, road rights of way, and 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 Lot B, Plan 2310 TR in the amount of \$840,294.00, representing 1.62 ha, is being provided by money in place with this subdivision.

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 Gilbert Quashie-Sam at gilbert.quashie-sam@edmonton.ca or 780-496-6295.

Regards,

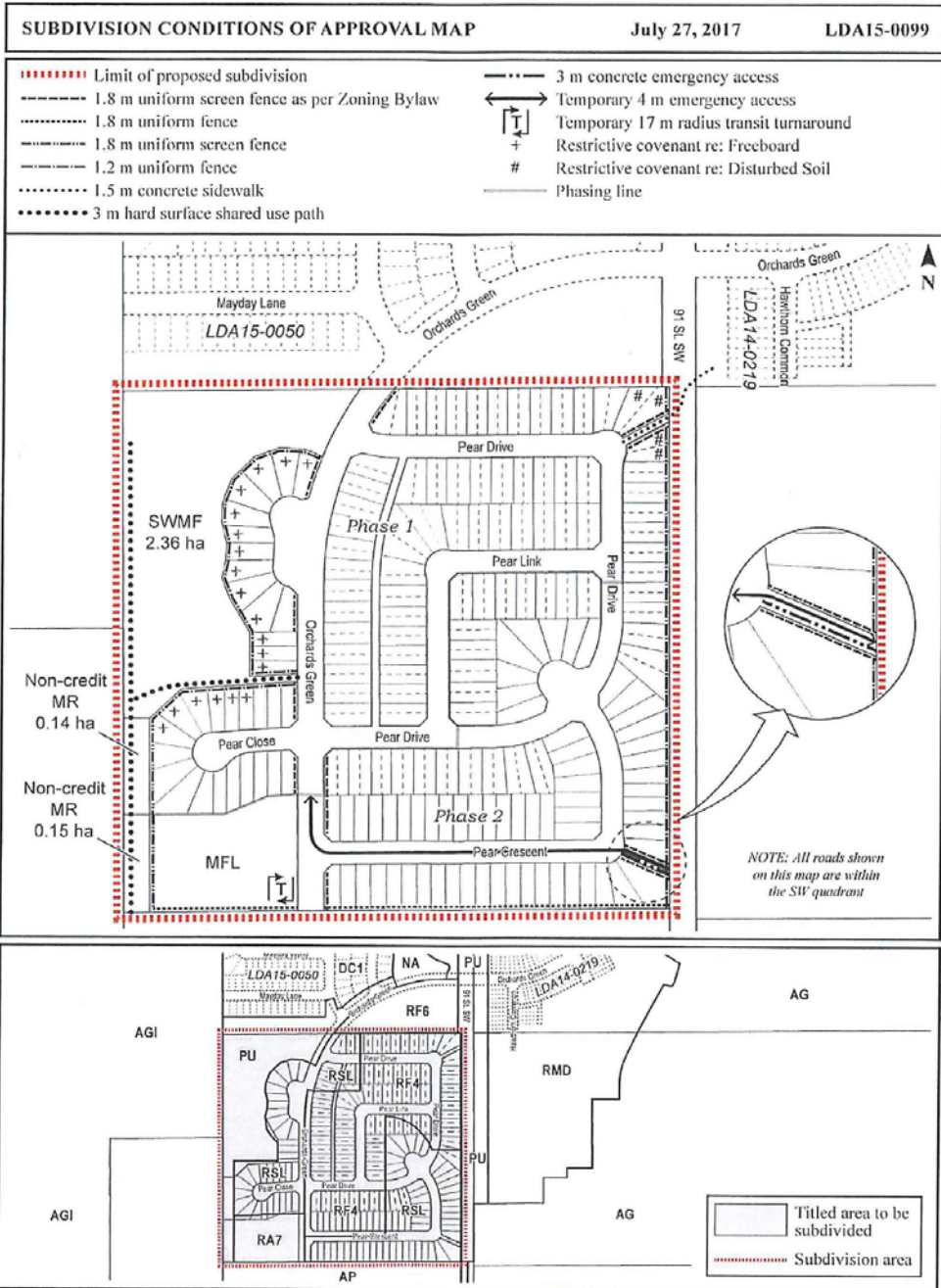


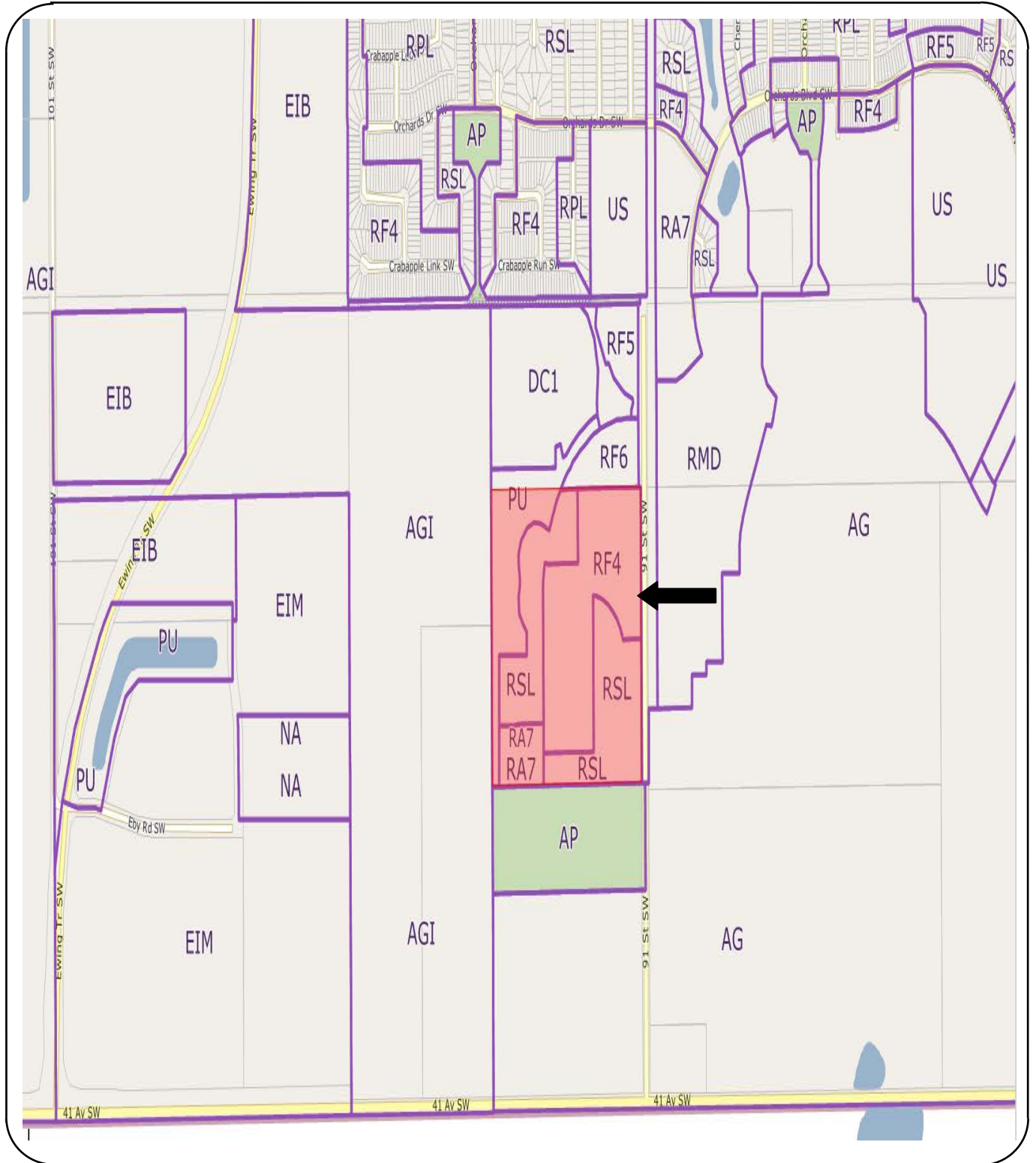
Blair McDowell
Subdivision Authority

BM/gq/Posse #168014476-001

Enclosure(s)

ENCLOSURE I





SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-S-17-006

