

North Saskatchewan ARP

9213 97 St NW is fully within the *North Saskatchewan River Valley and Ravine System Protection ARP*.

As such, the Development Officer, according to 4.5 of the bylaw: "will consider the objectives and policies of this Bylaw".

Several portions of this development application conflicts with the ARP:

- Both the existing land use (Schedule B) and the proposed land use (Schedule C) of this property are identified as "Parks, Recreation and Open Space", and not Residential.
- Development of a single detached house does not preserve the natural character and environment. (2.2.1)
- The conditions of the permit include signing the drive aisle "Private Road", placing a barrier at the terminus of the existing westerly shared use path, and removing the painted yellow centre line and signage delineating a Shared Use Path to discourage public use of the private drive aisle.

These conditions remove opportunity to access the Plan area, and do not benefit Edmontonians and visitors of Edmonton. (2.2.3)

- The large variances provided in this permit and the scale of this house do not limit the impact of this residential development, but rather enable a house of scale and mass even larger than the present nearby houses on 93 Ave. (2.8.1)



Figure 1: Street view of houses on 93 Ave, east of 98 St

- The policy dictates that ravines will be used for low intensity outdoor recreational use, in contrast to this residential development. (3.2.4)
- The policy dictates that pedestrian and non-motorized movement are the primary modes of movement. The closure of the shared-use path and removal of public access prioritizes motorized vehicles, contrary to the policy. (3.2.10)
- Motorized vehicles will be crossing the shared-use path, with potentially up to four vehicles parking at the property. Larger vehicles, deliveries, and visitors with less familiarity may have difficulties turning around, and may therefore also end up driving in reverse across the shared-use path. Cyclists approaching the intersection are especially at risk of collision, as the acute angles and obscured sightlines from vegetation hide both parties from each other. Pedestrians and cyclists who are aware of the intersection won't feel safe crossing it, and will be watching for cars rather than enjoying nature. Meanwhile, those who are *unaware* of the intersection won't take precautions and will be endangered. Pedestrians and cyclists are the primary users of the trail: they must be able to use it safely, and they must feel safe using it. (3.2.10)
- Mill Creek Ravine, and this shared-use path is also one of the darkest paths in the city at night, with no street lighting and trees effectively blocking ambient light. Many users appreciate this refuge from the city lights. While some, but not all, cyclists will have lights, other users often won't. An approaching car may not see trail users, while trail users may assume that they have been seen and have the right of way, leading to conflict. While street lighting could be added at some expense, and some may even appreciate the extra lighting in the ravine, such lighting conflicts with the natural character and environment of the ravine (and may impact wildlife). Additionally, isolated lighting such as might be installed here creates glare and deepens shadows, and negatively impacts the eye's dark adaptation: a person's vision will be very poor upon leaving an illuminated patch, creating potential further conflict with other trail users.



Figure 2: Traveling northbound along shared-use path, approaching driveway intersection. Expectations of a continued natural setting and accompanying complacency, and obscured sightlines, make for a high-risk intersection.



Figure 3: Mill Creek Ravine shared-use path, early February, approximately 6:30pm. Illuminated with a high-power 600 lumen light, the path is still very dark. Many users, including runners, dog walkers, and cyclists do not use lights at all.

- 3.2.12 seeks to restrict vehicular penetration through recreational and park areas. The planned garage access is outside of the approved Access Easement. Adding an Encroachment Agreement and increasing the easement converts additional parkland into private space for motorized vehicles in the ravine, contrary to this goal.
- Removal of access to Mill Creek Ravine via 93 Ave removes a key access point to the ravine. The only paved, non-stair accesses to the west side of Mill Creek Ravine north of Whyte Ave are at Connors Road, 98a St, 87 Ave, and 83 Ave.

The 98a St access is not an accessible design, despite being paved. It has a maximum

grade in excess of 20%, and an average grade of about 18% over a distance of about 50m. Barrier-free design guidelines published by the Safety Codes Council in Alberta (2008) would require a maximum grade of 8.3%, with handrails, for no more than 9m between level landings. Additionally, the 98a St access often becomes very icy in the winter and spring, and is challenging (and sometimes impossible) to climb or descend, even for able-bodied people.



Figure 4: 98a St access with stairs. 50m path with average grade of 18%: not an accessible design, and often completely unusable in the winter/spring .

- In contrast, the 93 Avenue access is shorter, and has half the grade of the 98a St access: about 10% over 35m.



Figure 5: 93 Ave slopes are more moderate

The nearest alternate paved access to Mill Creek Ravine then is 87 Ave, which is 1.11km away from the intersection of 98 St and 93 Ave (walking distance: over a 13 minute walk for a fit person). Accessing Mill Creek Ravine via Connors Road, meanwhile, is a 1.93km walk that crosses under the Low Level Bridge (there are no pedestrian crossings of Scona Road north of 98a St). Both options involve significant elevation changes as well, presenting an additional barrier.

In addition to removing a key access point for handicapped persons, the 93 Ave access is far enough away from the other access points that its removal would be a significant impediment to access for all users, especially people with strollers, bicycles, child trailers, walkers, and other mobility constraints. (3.2.18)



Figure 6: 1.11 km detour to 87 Ave access

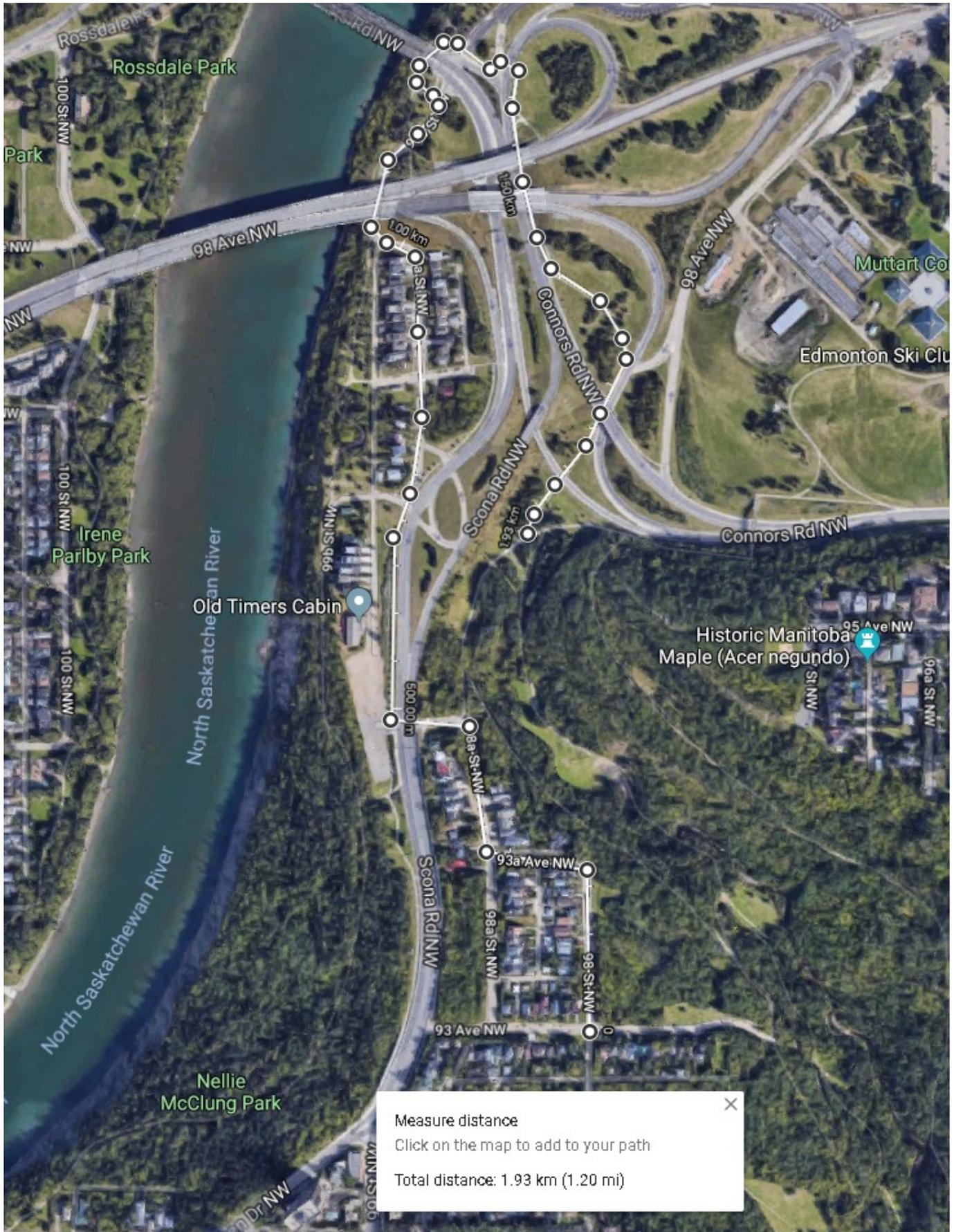


Figure 7: 1.93 km detour to Connors Rd access

North Saskatchewan River Valley ARP

2.2 Major Goals

The major goals of the North Saskatchewan River Valley Area Redevelopment Plan are:

- 1. to ensure **preservation of the natural character** and environment of the North Saskatchewan River Valley and its Ravine System.*
- 2. to establish a public metropolitan recreation area*
- 3. to provide the opportunity for recreational, aesthetic and cultural activities in the Plan area for the **benefit of Edmontonians** and visitors of Edmonton.*
- 4. to ensure the retention and enhancement of the Rossdale and Cloverdale communities in the River Valley.*

2.8 Residential Land Use Objective

*2.8.1 To control residential development in the Plan area and to **limit its impact** and extent on the natural environment and the parks system.*

3.2 Parkland Development Policies

3.2.4 Ravines and River Edges

*It is a policy of this Plan that ravines and river edge lands will be used for low intensity **outdoor recreational use**.*

3.2.10 Trail System

*It is the policy of this Plan to establish pedestrian and other non-motorized vehicular movement systems; which includes bicycles, cross-country ski trail developments and equestrian trails in selected areas; as the **primary modes of movement** along and **through** the River Valley.*

3.2.12 Roadway Access and Parking

*It is the policy of this Plan to develop a vehicular distribution and parking system in the River Valley that permits access to parking areas but **restricts vehicular penetration through recreational and park areas**. This policy does not restrict emergency vehicle access required for public safety.*

3.2.18 Access for the Handicapped

It is the policy of this Plan that recreational facilities will be designed, if feasible, to accommodate access and other requirements of the handicapped

4.5 Discretionary Uses

The Development Officer in considering Discretionary Uses in all Land Use Districts within the boundaries of this Bylaw will consider the objectives and policies of this Bylaw, and may require applicants to submit information regarding the environmental impacts of proposed development and any measures taken to eliminate, minimize or mitigate such impacts. The Development Officer may require that this information be presented in a form outlined in Schedule D.

Zoning Bylaw 12800

The purpose of Zone A is to preserve natural areas along ravines for active and passive recreational uses. As described in the above arguments under the North Saskatchewan River Valley ARP, this development, with its conditions and variances, do not meet those goals.

The former house located on this lot was 8.07m long along the west face, and 8.87m along the south face, and no more than 6.3m high with a gable roof, though estimates from photos vary between 5.5m-6.3m.

This development is 17.5m along the west face, over twice as long, and 11.3m along the south face, while being over 50% taller at 10m. Additionally, its east walkout basement adds significant size compared to the previous home, with the imposing massing of a 4-story flat-roofed structure.

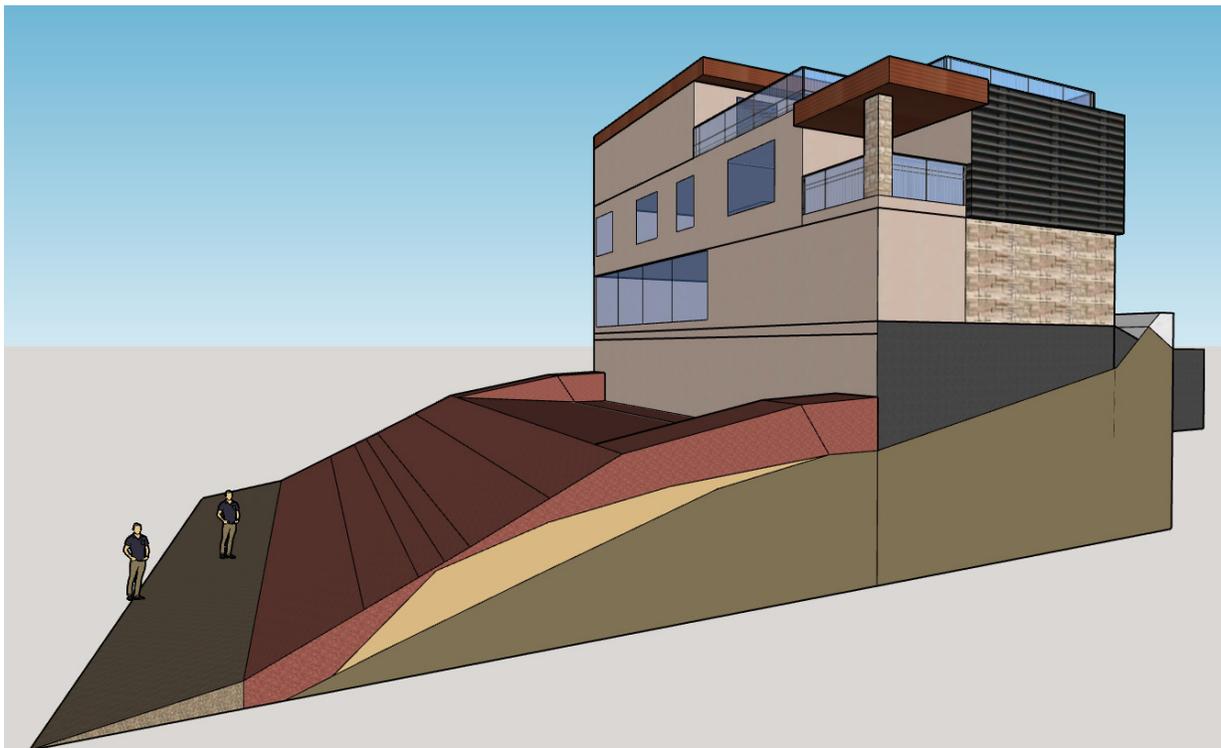


Figure 8: View of scale, looking south at house and east path

With a footprint of approximately 2150 sqft (not including south deck), the footprint alone is over 2.5 times larger than the the previous building's roughly 815 sqft. Combined with the added height and flat roof, and conjoined structure with the attached garage, this proposed house is massive compared to the previous one, and its west face will significantly disrupt the forested ravine shared use trail, which otherwise enjoys an undisrupted view free of other developments north of the Mill Creek pool parking lot. Additionally, as there is no vegetation on or above the retaining wall on the east side of the property, users of the east walking path will have an unimpeded view of nearly the entire house. Correspondingly, residents in the house will have an

unimpeded view of trail users. And while people on public trails have no special expectations of privacy, the knowledge that there may suddenly and surprisingly be someone behind a window who could be watching you, without your awareness, certainly interferes with the enjoyment of a quiet walk along the ravine. The reasonable expectation of a non-urban experience in the ravine is incompatible with homeowners watching you from a bedroom window or balcony.



Figure 9: Footprint of house on lot

The previous house had roughly the same setback from the west property line, and was set back from the south property line by about the same distance as the proposed deck: i.e., the previous house was in roughly the same position on its south and west sides, but did not extend so far northwards beyond the trees (into full view from even beyond the driveway aisle). It did not unduly interfere with the immersive experience and enjoyment of the mostly-undeveloped ravine, and, specifically, the uninterrupted experience along the shared-use path between Connors Road and 83 Ave. Additionally, the former house had a more restricted view of the east walking path, due to its position, small stature, few windows and no patios facing east, and the existence of additional vegetation, which is now gone and not to be replaced for fire safety reasons.

The extent of the variances (a total of 4.2m minimum setback on the front and sides compared to the bylaw requirement of 22.5m) suggests that the proposed development is more intense than what is contemplated in the Zoning Bylaw.



Figure 10: Previous house, viewed from the east



Figure 11: Proposed house, viewed from the east walking path. Actual house will be positioned slightly further left (south) than in this rendering, with the midpoint approximately in line with post in background, but still with an unobstructed view from the trail. Video rendering in correct position: <https://youtu.be/-mIMjI9Cgg>

Due to the height and flat roof, combined with the north setback variance allowing the house to extend almost to the property line, as well as the west setback allowing the house to grow on the east side (without requiring yet another variance), this development would unduly interfere with the parkland and materially interfere with its use and enjoyment (11.2.1.a), especially from both the west shared-use path as well as the east walking trail.

The previous house on this same lot was also used as a rental property, primarily targeted at students (who are less likely to drive and more likely to walk or bike). That it was able to exist, and even had community support to be rebuilt after its destruction, demonstrates that the variances provided in this permit are not necessary, and they are not necessary to the extent that they are provided. Nor are the practical difficulties uncommon to other land in the same Zone, including nearby 9647 88 Ave and 9644 88 Ave. The main difference between those lots and this one is that those are directly attached to an actual roadway, and are therefore in a more developed setting. That difference though, rather than justifying a variance for 9213 97 St, instead more strongly supports more restrictive requirements and smaller variances (11.3.1.a).

Even the green-coloured roof and white siding of the previous house enabled it to better fit with the landscape year-round.



Figure 12: Former house, viewed from driveway, showing rental sign and parking.



Figure 13: View of house from shared-use path. Reference points of known height and position, as well as Pictometry elevation and distance measurements were used to estimate position and scale of rendering.

Additionally, due to the driveway interruption of the shared-use path, and the subsequent likely conflict between trail users and automobiles, as well as the closure of access to the public from 93 Ave, this development does not respect the General Purpose of either the Zone or the ARP to preserve natural areas and parkland, and their natural character, for recreational uses and environmental protection. (11.3.d)

The driveway also conflicts with the Ribbon of Green principles of a continuous River Valley trail, crossing a main spine of the trail which is heavily used by cyclists, runners, pedestrians, dog walkers, and many others.

As testified by Dean Wray, planner for the City of Edmonton during the 2004 Inquiry Report on the previous expropriation inquiry for this site:

- the Lands are located immediately next to the main spine trail and the vehicular access is a problem and a nuisance;
- the Lands are a stand-alone property, a non-fit which just doesn't belong there;
- access to the Lands is almost through an "S" movement across the trail, and there are sight line issues, preventing someone using the trail from seeing a vehicle until they are virtually on the site;
- the intersection between the access to the Lands and the trail is on a slope, making it more difficult for cyclists and rollerbladers to stop;
- the roadway leading to the house on the Lands is also on a slope, and while the house can be seen, the nose of a car would have to be out across the trail before it can be seen;
- cars parked in the double parking stall will normally have to back out across the trail, which is less safe than moving forward; additionally, the driver backing up would not have good [sightlines];
- people using the trail for cross-country skiing, rollerblading, running in the River Valley Trails are lulled into a sense of security and are not concentrating on the dangers of the trail and unexpected conditions; both recognizing a problem and reaction time are slower.

Based on user volumes of the trail versus the driveway, the fact that the primary mode of transportation within the ARP is non-motorized, and the risk of injury to vulnerable users, any traffic controls at this intersection should reasonably be expected to require the automobile to yield to all other users. However, Dean Wray's statements indicate that even if a car comes to a complete stop, it can still have sight line issues until it's already on the trail and already in a position to cause a collision. This is exacerbated at night, as previously explained: not all cyclists will have bright lights, and non-cyclists (e.g. dogs, runners) are not required to have lights at all, and even if they see the car, they may incorrectly assume that the driver has also seen them and proceed by taking their right-of-way when it's not safe.

While there are no known incidents of automobile-involved collisions at this intersection, over 10 years has passed since regular automobile traffic travelled across it. In that time, the number cyclists in Edmonton has increased significantly: even just between 2012 and 2016, the municipal census shows that the share of people whose primary mode of transportation is the "bicycle" in Strathcona jumped by 56% to 7.5% of the population. The vast majority of users on

the trail, however, are recreational, and those numbers have also increased, based on anecdotal observation, though one would expect a growth even just from the growth in Edmonton's population. The trail is also identified as part of Edmonton bicycle priority network (https://www.edmonton.ca/transportation/PDF/2013_Bike_Network_Map_August_2013.pdf).

The increase in the number of users, and their conditioning to not expect any vehicle traffic across the trail, also increases the risk of conflict and collision. The house is also being built to accommodate a family of seven, so greater traffic volume on the driveway can be expected than was seen with the previous small house. Additionally, some of the "safety" measures previously implemented on this intersection (bollards in the middle of the trail, and rumble strips) are no longer considered appropriate. Bollards impede accessibility and snow clearing, and rumble strips are ineffective and even moderately dangerous for bikes: bikes with higher-pressure tires will often speed up to go over rumble strips, as at slower speeds the rumble strips are uncomfortable and cause a loss of traction. In the winter, their primary "function" is preventing ice on the path from being cleared to pavement. In the past, Edmonton accepted lower accessibility standards and lower winter maintenance standards for trails, but now treats this trail as a crucial part of the transportation network, with associated priority in year-round maintenance.

Finally, we find it disheartening that while it's clear this proposed development is likely to affect many people beyond 60m, both the adjacent homeowners as well as a many trail users who do not own nearby land, there didn't appear to be any special efforts to notify them, neither on the part of the Development Officer nor the developer.



Figure 14: Former house, viewed from driveway west of shared-use path intersection.



Figure 15: Potential driveway signage and proposed house.

Zoning Bylaw 12800

11.2 Variance to Regulations

1. *The Development Officer may approve, with or without conditions as a Class B Discretionary Development, an application for development that does not comply with this Bylaw where:*
 - a. *the proposed development would not, in their opinion:*
 - i. *unduly interfere with the amenities of the neighbourhood; or*
 - ii. *materially interfere with or affect the use, enjoyment or value of neighbouring properties.*

11.3 Limitation of Variance

1. *In approving a Development Permit Application pursuant to Section 11.2, the Development Officer shall adhere to the following:*
 - a. *a variance shall be considered only in cases of unnecessary hardship or practical difficulties peculiar to the Use, character, or situation of land or a building, which are not generally common to other land in the same Zone;*
 - b. *...*
 - c. *...*
 - d. *there shall be no variance to the General Purpose of the appropriate Zone or Overlay.*

20. Notification of Issuance of Development Permits

20.1 Class B Development

5. *Where, in the opinion of the Development Officer, a proposed development is likely to affect other owners of land beyond 60.0 m, the Development Officer must notify owners of land at such additional distance and direction from the Site as, in the opinion of the Development Officer, may experience any impact attributable to the development.*

540 (A) Metropolitan Recreation Zone

540.1 General Purpose

The purpose of this Zone is to preserve natural areas and parkland along the river, creeks, ravines and other designated areas for active and passive recreational uses and environment

protection in conformance with Plan Edmonton and the North Saskatchewan River Valley Area Redevelopment Plan.

540.4 Development Regulations for Permitted and Discretionary Uses

- 1. The minimum Front Setback shall be 7.5 m.*
- 2. The minimum Rear Setback shall be 7.5 m.*
- 3. The minimum Side Setback shall be 7.5 m.*
- 4. The maximum building Height shall be 10.0 m unless otherwise approved by the Development Officer where deemed appropriate for the Use.*
- 5. An environmental review for all developments may be required prior to the issuance of a Development Permit at the discretion of the Development Officer.*
- 6. Where a Single Detached Dwelling is developed in this Zone, a maximum of one Dwelling per lot shall be allowed.*
- 7. Signs shall comply with the regulations found in Schedule 59H.*
- 8. Urban Outdoor Farms shall comply with Section 98 of this Bylaw.*
- 9. Urban Gardens shall comply with Section 98 of this Bylaw.*