

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
May 16, 2019**

**Hearing Room No. 3  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 3**

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I 9:00 A.M. SDAB-D-19-067

To construct a Single Detached House with front attached Garage, Unenclosed Front Porch, front balcony, Renewable Energy Device (solar photovoltaic system), Basement development (NOT to be used as an additional Dwelling), and to demolish an existing Single Detached House and Accessory Building (rear detached Garage).

5230 - Ada Boulevard NW  
Project No.: 272328170-001

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II 11:00 A.M. SDAB-S-19-003

To create one (1) additional single detached residential lot from Lot 2, Block 1, Plan 162 1549

8343 - Saskatchewan Drive NW  
Project No.: 304850157-001

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-067

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 272328170-001

APPLICATION TO: Construct a Single Detached House with front attached Garage, Unenclosed Front Porch, front balcony, Renewable Energy Device (solar photovoltaic system), Basement development (NOT to be used as an additional Dwelling), and to demolish an existing Single Detached House and Accessory Building (rear detached Garage).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 28, 2019

DATE OF APPEAL: April 16, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 5230 - Ada Boulevard NW

LEGAL DESCRIPTION: Plan 4556HW Blk 3 Lot 6

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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***Grounds for Appeal***

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

Homes along Ada Boulevard (and similar streets with river valley frontage) have a larger diversity and frequency of unique design elements when compared to their respective interior neighbourhood(s). A recent engagement with the Highlands neighbourhood by the Building Great Neighbourhoods program, as

well as my community consultation, show that the residents of the neighbourhood warmly embrace the features we are proposing.

- 1 a) The transportation report regarding the front access only states that we should check with The Building Great Neighbourhoods Team to make sure it does not conflict with their proposed design (report provided – “Transportation Main”).

“Should the development be successfully approved at the Subdivision and Development Appeal Board, the owner/applicant should contact Richard Hai, Delivery Construction Manager, Building Great Neighbourhoods or Adam Akram to ensure the front driveway/access does not conflict with the proposed design for the improvements to Ada Boulevard”.

- b) The Mature Neighbourhood Overlay Consultation and Engagement Report [provided – “Engagement Report”] shows that the desired outcome of this Bylaw is to preserve treed boulevards and sidewalks (for pedestrian safety), both of which do not apply to our front access (**no boulevard or sidewalk exists or is planned with the neighbourhood renewal**). The report also acknowledges that there should be a **reduction in [parking] restrictions for properties with garden suites**. All mentions of front driveways in the report refer to the risk to pedestrians and/or the effect on treed boulevards.

Applicable sections in the Mature Neighbourhood Overlay Consultation:

2.5.2(a) – **“Parking restrictions may be reduced for sites with garage and garden suites; revise height restrictions”**.

2.9.4[12] – **“In areas with treed boulevards, sidewalks and rear lane access, should front-attached garages and driveways be allowed?”** – 67% said ‘no’.

3.1 Regulation 10 – **“Front driveways negatively affect treed boulevards and existing street character”**. [please see community consultation].

4.1.4 Regulation 10 – **“Front driveways may pose a risk to pedestrians and increase the amount of hard-surfacing in front yards”**.

The very picture chosen to represent the vision for the Ada Blvd renewal in the report following months of community engagement is of a picturesque portion of Saskatchewan Drive... With ALL front facing driveways and two out of three front-attached garages (8945-8927 Saskatchewan Drive NW). [see “Engagement Report” pg. 15]. A better example could not have been chosen to demonstrate the positive value of front-driveways when the conditions are right (no treed boulevard/no sidewalk/houses on one side only) and the proper landscaping design is implemented.

- c) Whereas the use of two driveways most other plots would have obvious negative effects, in our unique circumstance it will add great aesthetic and functional value to the property and neighbourhood. With the addition of the garden suite and increased occupancy that goes with it you would normally expect more cars parked on the road. By adding the second garage under the house in an architecturally pleasing manner [rendering provided – “5230 House Rendering], we can eliminate this problem and add valuable diversity to the neighbourhood. Many other options were weighed as the neighbourhood has a wealth of design inspiration, but most of the other designs with a focus on increasing parking capacity also greatly increased the harsh impact of the hardscaping [examples provided – “Examples”, A is the neighbour directly to the west, B is 250 metres or two blocks east].

The transportation report [provided - “Transportation Garden”] reflects that they do not have objections to the 53 street access due to the circumstance:

“We recognize that the rear alley access is impeded by a power pole with Telus facilities that cannot be removed or relocated as confirmed by EPCOR.”

- 2 The blockface on which 5230 Ada Blvd is situated is uniquely devoid of front facing garages when compared to the rest of Ada Blvd\*\* and other streets with river valley frontage. However 34.4% of houses on Ada Blvd in the Highlands (50 Street to 67 Street) have a front facing driveway and of those houses 76% have front-facing garages too. Having the front-attached garage and driveway at 5230 Ada Blvd will free up parking on the street, reducing congestion and without negative impact to the streetscape (through thoughtful and improved landscape design).

\*\* note: there is a front driveway with a front attached garage that has been converted into another bedroom, the driveway remains and is still actively used.

#### Community Consultation:

100% of residents that provided feedback supported all of the variances requested, including both neighbours directly adjacent on Ada Blvd. Of the 23 houses within the radius for the required community consultation, we were able to receive feedback from 14 (4 houses were vacant throughout the entire consultation period, 1 resident was a renter and did not wish to respond, 4 residents retained the letter of support and did not respond).

#### Conclusion:

With the express intent to improve the streetscape (and by association the value of our investment), our solution will add to the character of the neighbourhood in a way that such a unique plot of land demands from an involved designer and

builder. We intend to go above and beyond the landscaping requirements laid out in the bylaws, in keeping with the existing special character of Ada Blvd, and with 100% approval of responding residents, we believe that the inclusion of the driveway and garage would only add to the usability and aesthetic of the neighbourhood.

**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,

- (a) in the case of an appeal made by a person referred to in section 685(1)
  - (i) with respect to an application for a development permit,
    - (A) within 21 days after the date on which the written decision is given under section 642, [...]

**Hearing and Decision**

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;

- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;
- ...
- (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*:**

Under section 110.2(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.2(8), **Single Detached Housing** means:

development consisting of a building containing one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this 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, Garden Suites, Semi-detached Housing and Duplex Housing.

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

to regulate residential development in Edmonton’s mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

***Access to Sites***

Section 53.1 states “All access locations and curb crossings shall require the approval of Transportation Services.”

**Development Officer’s Determination**

**Front Access - Transportation services in subdivision planning does not recommend the approval of access to the site (Section 53.1).**  
[unedited]

***Driveway Access***

Section 814.3(17) states “Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue.”

**Development Officer’s Determination**

**Driveway - The driveway is located off of Ada Boulevard (front) instead of the alley (Section 814.3.17).** [unedited]

***Off-street Parking and Loading Regulations***

Section 54.1(4) states:

The Front Yard of any ground level Dwelling in any Residential Zone, or in the case of a corner Site, either the Front Yard or the flanking Side Yard in any Residential Zone, may include a maximum of one Driveway. The Driveway shall:

- a. lead directly from the roadway to the Garage or Parking Area;
- b. for a Garage or Parking Area with one parking space, have a maximum width of 4.3 m, or the width of the Garage or Parking Area, whichever is the lesser;



- c. For a Garage or Parking Area with two or more parking spaces, have a maximum width that shall be calculated as the product of 3.7 m multiplied by the total number of adjacent side-by-side parking spaces contained within the Garage or Parking Area, or the width of the Garage or Parking Area, whichever is the lesser; and
- d. for a Site Zoned RF1 and less than 10.4 m wide, have a maximum width of 4.3 m.

Under section 6.1, **Driveway** means “an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”

**Development Officer’s Determination**

**Driveway - The site has two driveways instead of one (Section 54.1.4).** [unedited]

***Attached Garage***

Section 814.3(18) states:

Attached Garages shall be developed in accordance with the following:

- a. a Garage may protrude beyond the front or flanking wall of the principal building a distance that is characteristic of existing Garages on the blockface;
- b. a Garage may have a maximum width that is characteristic of the width of existing attached Garages on the blockface;
- c. building mass shall be articulated through features such as recessions or off-sets, architectural treatments, and Landscaping; and
- d. ...

**Development Officer’s Determination**

**Garage - The front garage projects 2.5m from the house and is 7.0m wide. There are no other front garages along the street (Section 814.3.18).** [unedited]

***Community Consultation***

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) and 814.3(9) of this Overlay:

- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit Application in accordance with Sections 11.3 and 11.4.

Section 814.5(2) states:


<b>Tier #</b>	<b>Recipient Parties</b>	<b>Affected Parties</b>	<b>Regulation of this Overlay to be Varied</b>
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	814.3(17) – Driveway Access 814.3(18) – Attached Garage

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Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

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	Project Number: <b>272328170-001</b> Application Date: JAN 12, 2018 Printed: March 28, 2019 at 2:17 PM Page: 1 of 2		
<h2 style="margin: 0;">Application for House Development and Building Permit</h2>			
<p>This document is a record of a Development Permit and/or Building Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended, Safety Codes Act RSA 2000, Safety Codes Act Permit Regulation, Alberta Building Code and City of Edmonton Bylaw 15894 Safety Codes Permit Bylaw.</p>			
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 5230 - ADA BOULEVARD NW Plan 4556HW Blk 3 Lot 6  <b>Location(s) of Work</b> Suite: 5230 - ADA BOULEVARD NW Entryway: 5230 - ADA BOULEVARD NW Building: 5230 - ADA BOULEVARD NW		
<b>Scope of Application</b> To construct a Single Detached House with front attached Garage, Unenclosed Front Porch, front balcony, Renewable Energy Device (solar photovoltaic system), Basement development (NOT to be used as an additional Dwelling), and to demolish an existing Single Detached House and Accessory Building (rear detached Garage).			
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                     Affected Floor Area (sq. ft.): 2893                      Class of Permit: Class B                      Front Yard (m): 10.81                      Rear Yard (m): 19.7                      Side Yard, left (m):                      Site Area (sq. m.): 672.27                      Site Width (m): 13.72                 </td> <td style="width: 50%; border: none; vertical-align: top;">                     Building Height to Midpoint (m): 8.43                      Dwelling Type: Single Detached House                      Home Design Type:                      Secondary Suite Included?: N                      Side Yard, right (m): 1.2                      Site Depth (m): 49.88                      Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay                 </td> </tr> </table>		Affected Floor Area (sq. ft.): 2893 Class of Permit: Class B Front Yard (m): 10.81 Rear Yard (m): 19.7 Side Yard, left (m): Site Area (sq. m.): 672.27 Site Width (m): 13.72	Building Height to Midpoint (m): 8.43 Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included?: N Side Yard, right (m): 1.2 Site Depth (m): 49.88 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
Affected Floor Area (sq. ft.): 2893 Class of Permit: Class B Front Yard (m): 10.81 Rear Yard (m): 19.7 Side Yard, left (m): Site Area (sq. m.): 672.27 Site Width (m): 13.72	Building Height to Midpoint (m): 8.43 Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included?: N Side Yard, right (m): 1.2 Site Depth (m): 49.88 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay		
I/We certify that the above noted details are correct.  Applicant signature: _____			
<b>Development Application Decision</b> Refused  <b>Issue Date:</b> Mar 28, 2019 <b>Development Authority:</b> YEUNG, KENNETH  <b>Reason for Refusal</b> Front Access - Transportation services in subdivision planning does not recommend the approval of access to the site (Section 53.1).  Driveway - The driveway is located off of Ada Boulevard (front) instead of the alley (Section 814.3.17).  Driveway - The site has two driveways instead of one (Section 54.1.4).  Garage - The front garage projects 2.5m from the house and is 7.0m wide. There are no other front garages along the street (Section 814.3.18).			
<b>THIS IS NOT A PERMIT</b>			



Project Number: **272328170-001**  
Application Date: JAN 12, 2018  
Printed: March 28, 2019 at 2:17 PM  
Page: 2 of 2

## Application for House Development and Building Permit

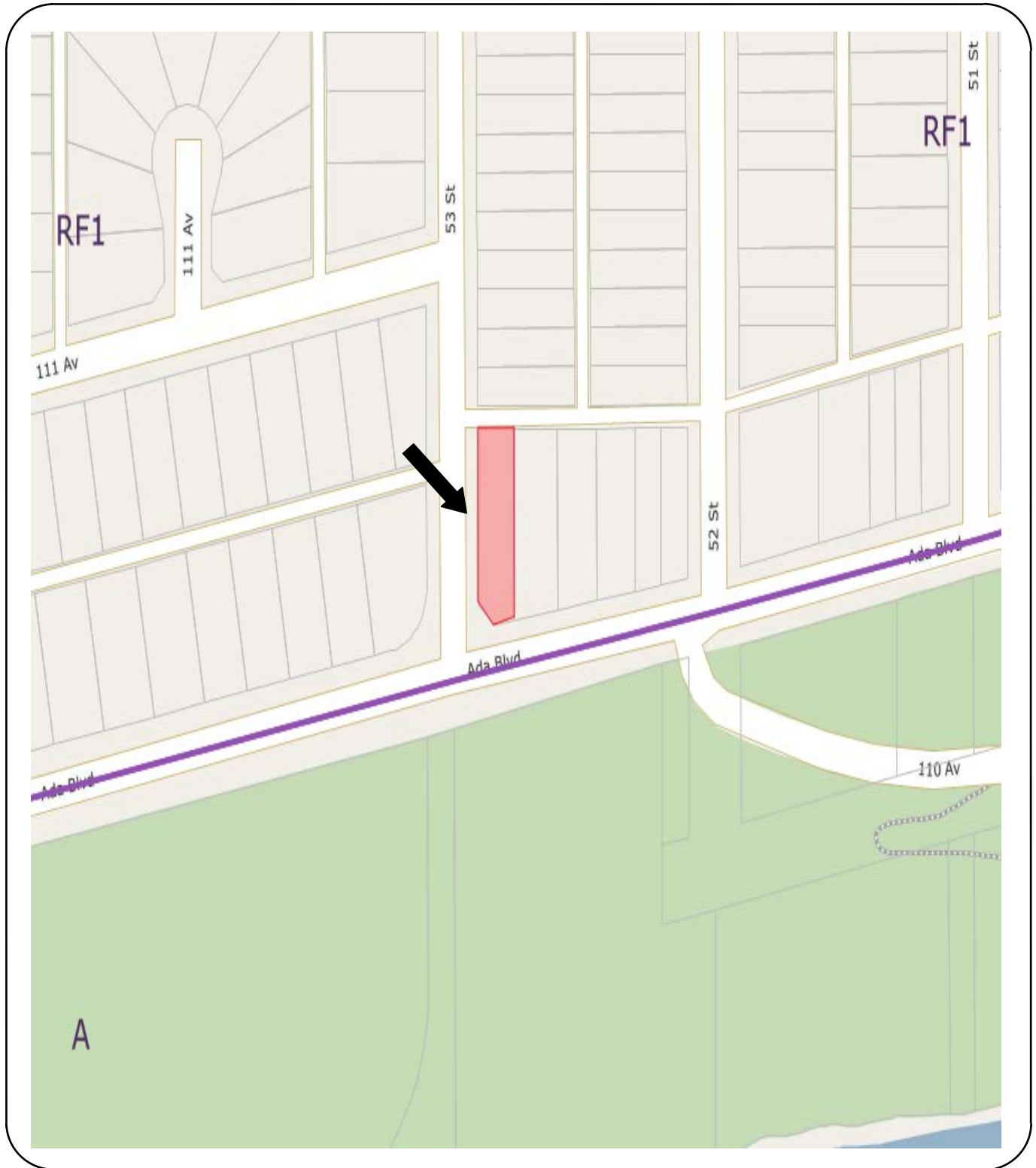
**Rights of Appeal**

The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Electrical Fee (Service)	\$81.00	\$81.00	04745303	Jan 16, 2018
Building Permit Fee	\$2,401.00	\$2,401.00	04745303	Jan 16, 2018
Development Permit Inspection Fee	\$0.00	\$204.00	04745303	Jan 16, 2018
Electrical Safety Codes Fee	\$17.46	\$17.46	04745303	Jan 16, 2018
Water Usage Fee	\$72.60	\$72.60	04745303	Jan 16, 2018
Electrical Fees (House)	\$324.00	\$324.00	04745303	Jan 16, 2018
Safety Codes Fee	\$96.04	\$96.04	04745303	Jan 16, 2018
Lot Grading Fee	\$143.00	\$143.00	04745303	Jan 16, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$3,135.10	\$3,339.10		
(overpaid by (\$204.00))				

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-067



ITEM II: 11:00 A.M.

FILE: SDAB-S-19-003

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 304850157-001

APPLICATION TO: Create one (1) additional single detached residential lot from Lot 2, Block 1, Plan 162 1549

DECISION OF THE SUBDIVISION AUTHORITY: Refused

DECISION DATE: April 11, 2019

DATE OF APPEAL: April 22, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8343 - Saskatchewan Drive NW

LEGAL DESCRIPTION: Plan 1621549 Blk 1 Lot 2

ZONE: (RF2) Low Density Infill Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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***Grounds for Appeal***

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

The lot is zoned RF2. The site width of the proposed lots is 7.43m measured 4.50m from the front property line. Deficiency of 0.07m or 7cm exists.

Requesting an approval for LDA19-0084 despite non-compliance of Section 120.4(1)(b) of the City of Edmonton Zoning Bylaw 12800 because the 7cm deficiency has no material adverse distress to the visual appeal of the neighbourhood or the optics of the block relative to a lot that would be conforming.

A service road separates the subject lot from an arterial road. A passerby on the arterial road would not be able to identify such an insignificant deficiency (7cm) relative to a lot that is conforming.

The proposed lots are pie-shaped, widening from the front-lot-line to the rear-lot-line. The lots would be 7.45m wide at the minimum front-setback. The lots would be 7.50m wide at 46% depth, and the lots would be 7.61m wide at rear-property-line.

In my opinion, the proposed subdivision deficiency of 7cm would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. The proposed subdivision conforms to the use prescribed for that land in the land use bylaw. The land is suitable for the purpose for which the subdivision is intended.

In speaking to various Architects', engineers, and construction contractors, the 7cm deficiency has no material distress to the construction of a home or any limiting affect to the purpose of a home.

There would be no additional density from what the current RF2 zoning permits. The lot is conforming for 2 dwellings in the form of a semi-detached (duplex) as per the subdivision authority's approval of a prior LDA, LDA18-0292. Currently the lot is vacant land that is levelled and cleared.

Section 41.1(3) of the City of Edmonton Zoning Bylaw 12800 is not applicable to the proposed subdivision because the subject property is zoned RF2. Section 41.1(3) only applies to RF1 zoning. The reasoning provided by the subdivision authority regarding Section 41.1(3) is not relevant.

The subject appeal is requesting tolerance of 7cm deficiency because the ability to subdivide into 2 single detached dwellings (rather than a semi-detached) provides the applicant with a method of mitigating financial risk amid the goal of living in the community.

*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
  - (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)** Repealed 2018 c11 s13.

**(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.

**General Provisions from the *Edmonton Zoning Bylaw*:**

Section 120.4(1) states:

Site regulations for Single Detached Housing:

- a. the minimum Site area shall be 250.8 m<sup>2</sup>
- b. the minimum Site Width shall be 7.5 m; and
- c. the minimum Site depth shall be 30.0 m.

Section 120.4(3) states:

Site regulations for Semi-detached Housing:

- a. the minimum Site area shall be 300 m<sup>2</sup>
- b. the minimum Site Width shall be 10.0 m; and
- c. the minimum Site depth shall be 30.0 m.

Section 120.4(8) states:

The minimum Front Setback shall be 4.5 m, [...]

Section 41.1(3) states the following with respect to *Lot Dimensions and Areas*:

The Subdivision Authority may not approve the subdivision of a Lot zoned RF1, as it existed on March 16, 2015 into more than two lots, notwithstanding the Site Width in the RF1 Zone. Subdivision into more than two Lots may only be approved where the proposed subdivision:

- a. is supported by one or more City Council approved Statutory Plans or City Council approved Policies; or
- b. has a Site Width deemed by the Subdivision Authority to be in character with Lots on the same block.

Section 11.4(1) states the follow with respect to *Limitation of Variance*:

In approving a Development Permit Application pursuant to Section 11.3, the Development Officer shall adhere to the following:

...

- c. on rectangular shaped Lots, there shall be no variance from the minimum Site Width, for new Single Detached Housing in the RF1, RF2, RF3, and RF4 Zones for all Sites which received subdivision approval after June 12, 2017; and

...

Under section 6.1, **Site** means “an area of land consisting of one or more abutting Lots.”

Under section 6.1, **Site Width** means “the horizontal distance between the side boundaries of the Site measured at a distance from the Front Lot Line equal to the required Front Setback for the Zone.”

Section 120.1 states that the **General Purpose** of the **(RF2) Low Density Infill Zone** is “to allow for Single Detached Housing, infill on narrow lots, Semi-detached Housing, Duplex Housing, Secondary Suites and Garden Suites.”

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Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

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Subdivision Authority

7th Floor, Edmonton Tower  
10111 – 104 Avenue NW  
Edmonton, Alberta T5J 0J4

April 11, 2019

File No. LDA19-0084

RE: Tentative plan of subdivision to create one (1) additional single detached residential lot from Lot 2, Block 1, Plan 162 1549, located south of 87 Avenue NW and east of Saskatchewan Drive NW; **WINDSOR PARK**

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The Subdivision by Plan is **REFUSED** on April 11, 2019 for the following reasons:

1. The parent lot, zoned (RF1) Single Detached Residential Zone, was originally subdivided in 2016, in order to create one (1) additional single detached residential lot. Subsequently the owner applied for a rezoning of the southern lot, changing it from (RF1) Single Detached Residential Zone to (RF2) Low Density Infill Zone. The intent of the rezoning was to build a semi-detached dwelling as this was a permitted use under the (RF2) Low Density Infill Zone at that time. Council approved this rezoning with the specific understanding that a semi-detached dwelling would be developed, which does not require the site width of a single detached lot.
  - a. This application for subdivision would have not been allowed under the (RF1) Single Detached Residential Zone, as it would not comply with the Development Regulations identified in Section 41.1(3) of the City of Edmonton Zoning Bylaw 12800: "The Subdivision Authority may not approve the subdivision of a Lot zoned RF1, as it existed on March 16, 2015 into more than two lots, notwithstanding the Site Width in the RF1 Zone. Subdivision into more than two Lots may only be approved where the proposed subdivision: has a Site Width deemed by the Subdivision Authority to be in character with Lots on the same block."
  - b. The application proposes to subdivide the subject lot again, into one (1) additional single detached residential lot, which would combine for a total of three (3) lots since the original subdivision. This is one (1) lot more than is allowed in Section 41.1(3) of the City of Edmonton Zoning Bylaw 12800.
  - c. The intent of the rezoning was not to allow for an additional single detached residential lot. Therefore, it is the Subdivision Authority's opinion that the rezoning was intended to circumvent Section 41.1(3) of the City of Edmonton Zoning Bylaw 12800.
2. The proposed subdivision does not comply with the minimum development regulation identified in Section 120.4(1)(b) of the City of Edmonton Zoning Bylaw 12800. The site is zoned (RF2) Low Density Infill Zone. The minimum site width identified in the (RF2) Low Density Infill Zone for single detached housing is 7.50 metres. The site width of the proposed lots is 7.43 metres,

measured 4.5 metres from the front property line in accordance with Section 120.4(8) of the City of Edmonton Zoning Bylaw 12800, and is therefore deficient by 0.07 metres or 0.9%.

3. This proposal will result in a site width, and ultimately a lot size, that is uncharacteristically small when compared to properties on the adjacent block faces. For example, the site widths on the adjacent block faces range from approximately 27.42 metres to 30.48 metres, with the exception of the original subdivided lot. The proposed lot width for Lots 2A and 2B is 7.43 metres, which is significantly smaller than those of other properties characteristic to the adjacent block faces.
4. The proposed subdivision will create two non-conforming lots that do not meet development regulation in the City of Edmonton Zoning Bylaw 12800. This situation will create unnecessary hardship for existing and future landowners. Landowners wishing to further develop or redevelop their site will require a Development Permit variance.

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 Christian Schmitt at 780-944-0459 or christian.schmitt@edmonton.ca.

Regards,

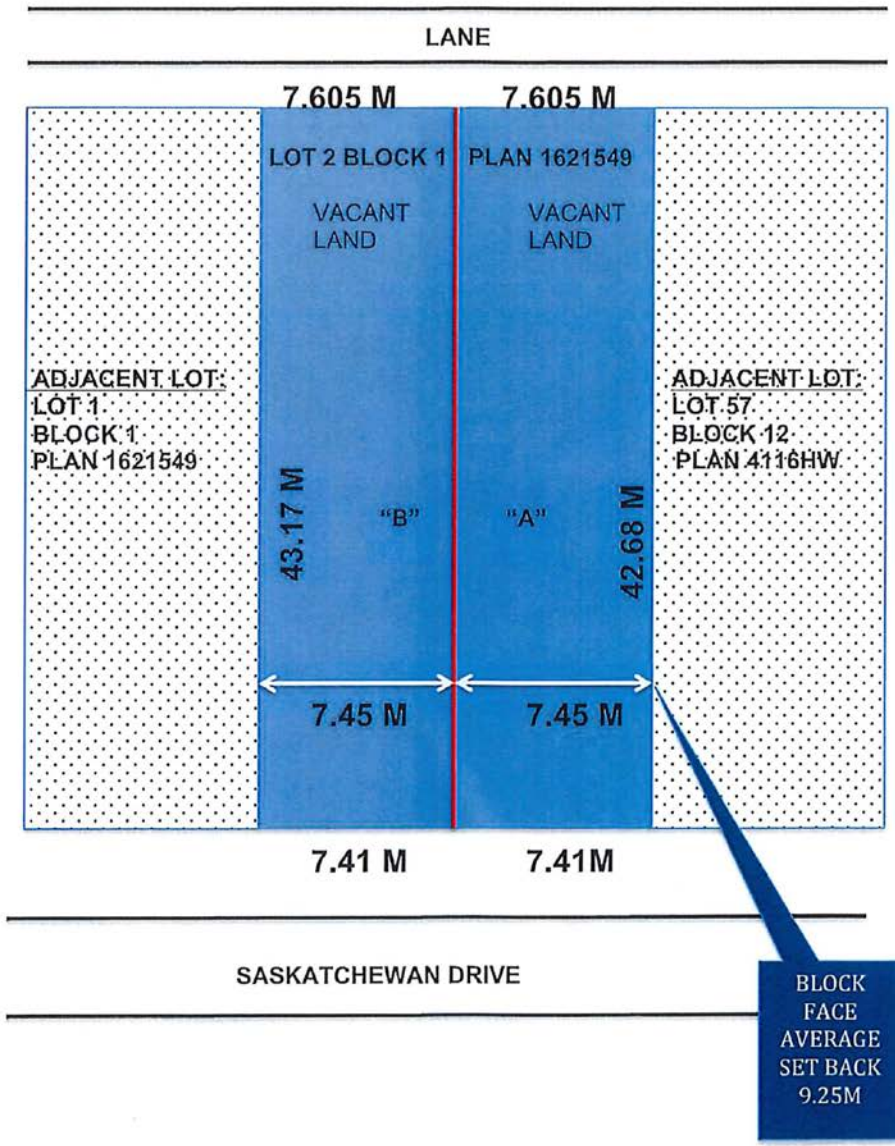
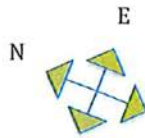


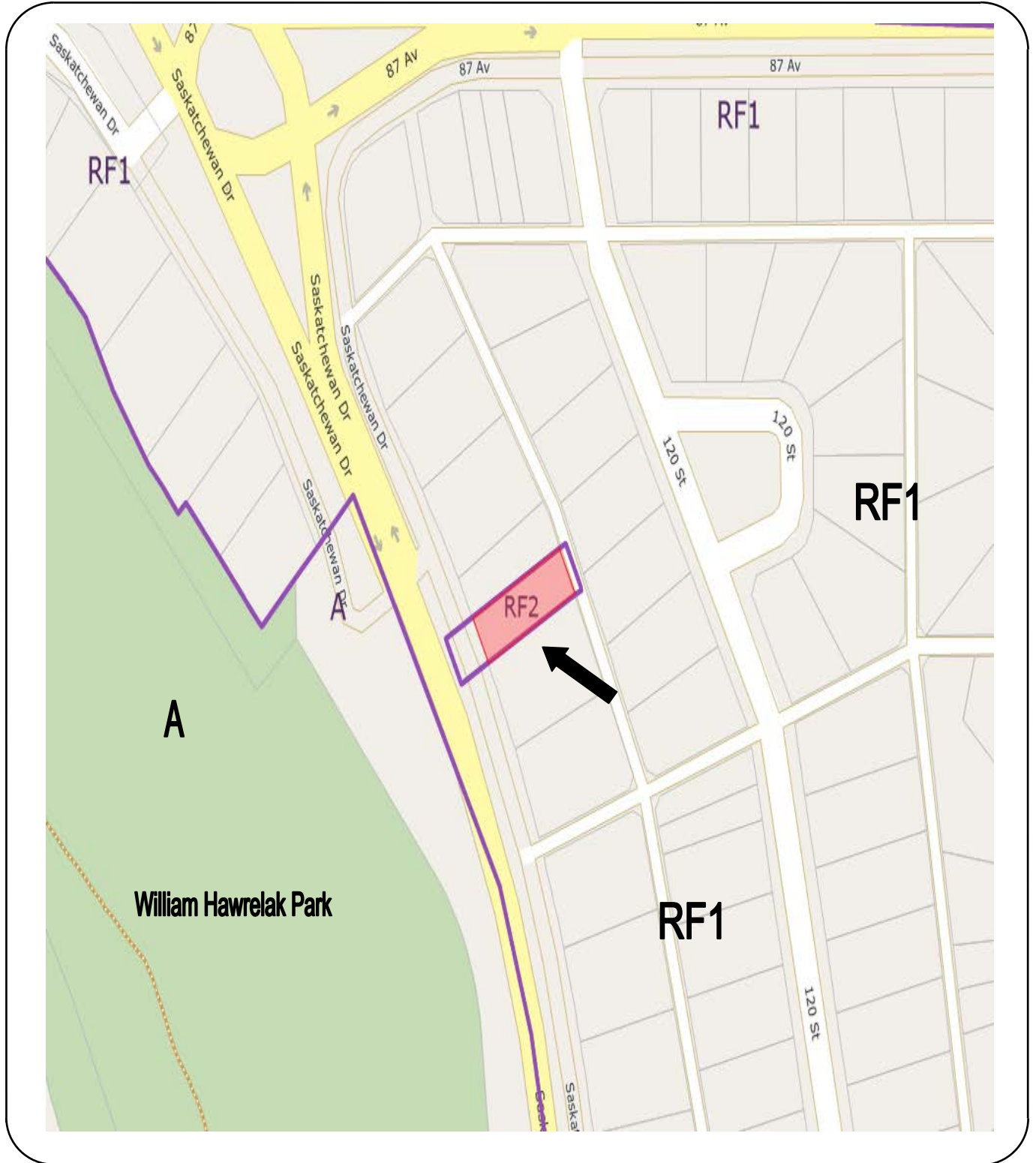
Blair McDowell  
Subdivision Authority

BM/cs/Posse #304850157-001

Enclosure

TENTATIVE PLAN OF SUBDIVISION  
LOT 2 BLOCK 1 PLAN 1621549  
8343 SASKATCHEWAN DRIVE. EDMONTON.





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-S-19-003

