

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
April 12, 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-17-069	Construct a Single Detached House with a veranda, rear uncovered deck (3.05m x 5.79m), fireplace, and Secondary Suite in the Basement 9118 - 83 Avenue NW Project No.: 235092153-001
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II	11:00 A.M.	SDAB-D-17-070	Construct a Single Detached House with rear attached Garage, veranda, fireplace, Balcony, Basement development (NOT to be used as an Secondary Suite) and to demolish existing Single Detached House & Rear Detached Garage 9119 - 118 Street NW Project No.: 233863289-001
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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-17-069

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 235092153-001

APPLICATION TO: Construct a Single Detached House with a veranda, rear uncovered deck (3.05m x 5.79m), fireplace, and Secondary Suite in the Basement

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 3, 2017

DATE OF APPEAL: March 16, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9118 - 83 Avenue NW

LEGAL DESCRIPTION: Plan 1621213 Blk 6B Lot 2C

ZONE: RF3 Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

Refusal of Development Permit

1) Height - The overall Height of the Single Detached House is 9.72m to the midpoint of the roof, instead of 8.6m.

2) Secondary Suite - Site Area - The area of the site is 353m² instead of 360m².

We will provide supporting documents for our argument prior to our hearing as well present ample reasons as to why we believe our variances should be granted. Thank you for your time and we are looking forward to the hearing.

Sincerely,
Chad Klassen and Sanja Stojanovic on behalf of applicant Stevan
Stojanovic

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 March 3, 2017. The Notice of Appeal was filed on March 16, 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 140.1 states that the **General Purpose** of the **RF3 Small Scale Infill Development Zone** is:

... to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four Dwellings, and including Secondary Suites under certain conditions.

Under Section 140.2(9), **Single Detached Housing** is a **Permitted Use** in the RF3 Small Scale Infill Development Zone.

Section 7.2(9) states:

Single Detached Housing means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

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.

Mature Neighbourhood Overlay Community Consultation

Section 814.3(24) of the Mature Neighbourhood Overlay provides as follows:

24. When a Development Permit application is made and the Development Officer determines that the proposed development 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;

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 to the Development Officer no sooner than twenty-one calendar days after giving the information to all affected parties.

<i>Maximum Height</i>

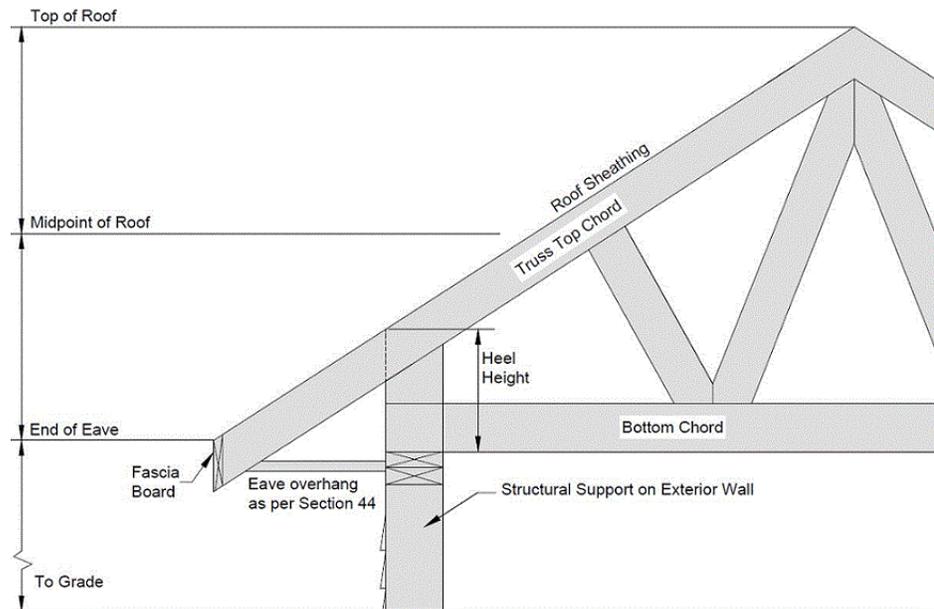
Section 814.3(13) of the Mature Neighbourhood Overlay states that “The maximum Height shall not exceed 8.6 m, in accordance with Section 52.”

Section 52(1)(a) provides as follows:

52. *Height and Grade*

1. The Development Officer shall calculate building Height by determining the roof type, and applying the following:

a. For hip and gable roof types Height shall be determined by measuring from the horizontal plane through Grade to the midpoint of the highest roof. The midpoint is determined to be between the end of the eave (intersection of the fascia board and the top of the roof sheathing, or less, in accordance with Section 44), and the top of the roof; or



Development Officer’s Determination

1. Height - The overall Height of the Single Detached House is 9.72m to the midpoint of the roof, instead of 8.6m (Reference Section 814.3(13) & 52.1(a))

Minimum Site Area

Section 86(1) provides as follows:

86. Secondary Suites

A Secondary Suite shall comply with the following regulations:

1. the minimum Site area for a Single Detached Dwelling containing a Secondary Suite is 360 m², except in the case of the RR Zone, where it shall be the same as the minimum Site area for the Zone.

Development Officer’s Determination

2. Site Area - The area of the site is 353m² instead of 360m² (Section 86.1)

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: 235092153-001 Application Date: NOV 15, 2016 Printed: April 6, 2017 at 4:00 PM Page: 1 of 2																														
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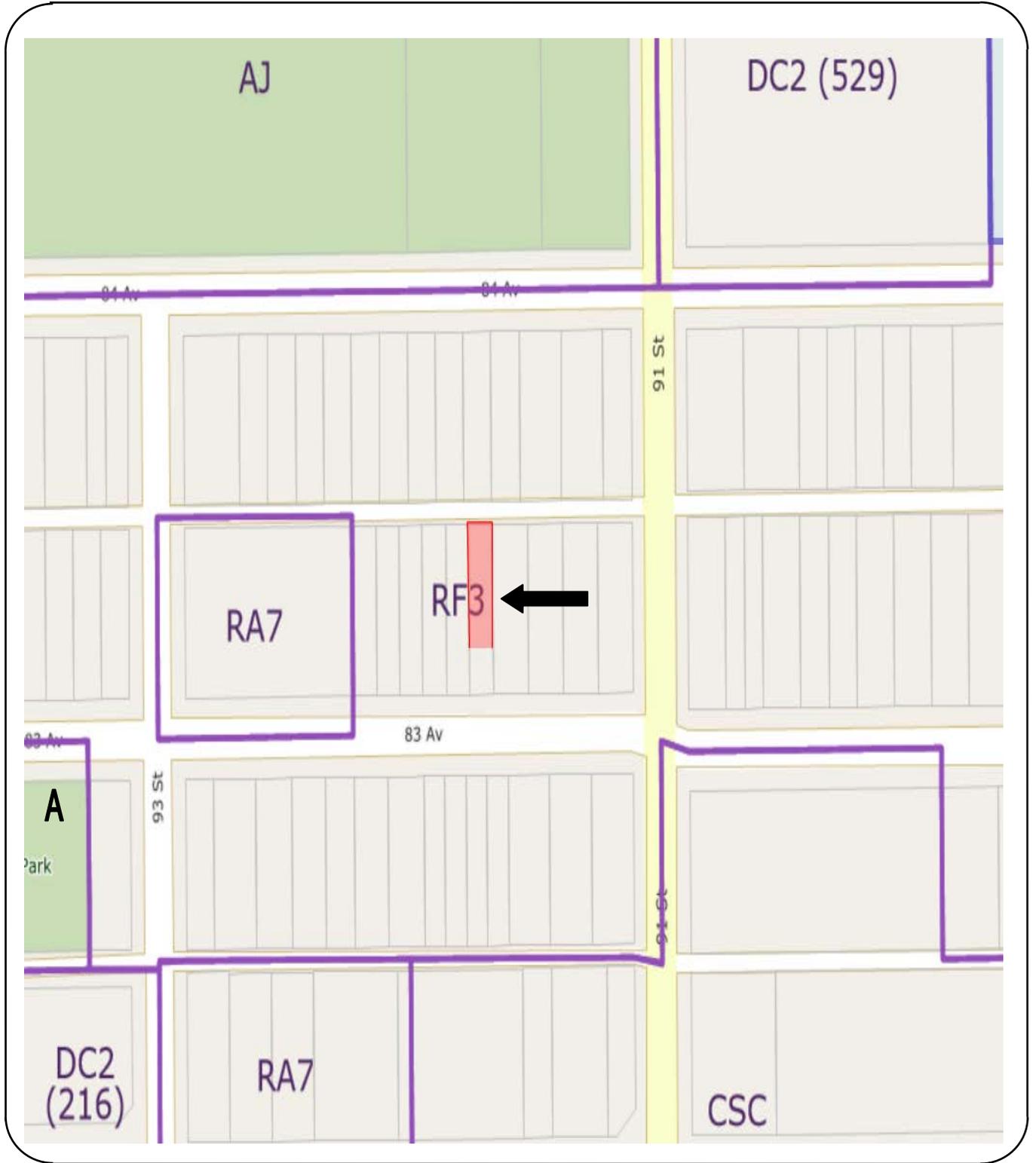
Project Number: **235092153-001**
Application Date: NOV 15, 2016
Printed: April 6, 2017 at 4:00 PM
Page: 2 of 2

Application for House Development and Building Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sec Suite SSTC Fee	\$693.00	\$693.00	03750390	Nov 15, 2016
DP Notification Fee	\$102.00	\$102.00	03965754	Mar 07, 2017
Safety Codes Fee	\$92.24	\$92.24	03750390	Nov 15, 2016
Electrical Safety Codes Fee	\$16.90	\$16.90	03750390	Nov 15, 2016
Sanitary Sewer Trunk Fund	\$0.00			
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$3,804.74	<u>\$3,804.74</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-069



ITEM II: 11:00 A.M.

FILE: SDAB-D-17-070

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 233863289-001

APPLICATION TO: Construct a Single Detached House with rear attached Garage, veranda, fireplace, Balcony, Basement development (NOT to be used as an Secondary Suite) and to demolish existing Single Detached House & Rear Detached Garage

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 14, 2017

DATE OF APPEAL: March 17, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9119 - 118 Street NW

LEGAL DESCRIPTION: Plan 715HW Blk 4 Lot 6

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

Development permit application for rear detached garage refused (Windsor Park). Couple want to age in place and have an attached garage will be safer getting from house to garage.

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

- (d) fails or refuses to issue a development permit to a person,
- (e) issues a development permit subject to conditions, or
- (f) 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,

- (b) in the case of an appeal made by a person referred to in section 685(1), after
 - (ii) 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 March 14, 2017. The Notice of Appeal was filed on March 17, 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.

Under Section 110.3(4), **Single Detached Housing** is a **Permitted Use** in the RF1 Single Detached Residential Zone.

Section 7.2(9) states:

Single Detached Housing means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

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.

Mature Neighbourhood Overlay Community Consultation

Section 814.3(24) of the Mature Neighbourhood Overlay provides as follows:

24. When a Development Permit application is made and the Development Officer determines that the proposed development 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;
- 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 to the Development Officer no sooner than twenty-one calendar days after giving the information to all affected parties.

Rear Setback

Section 814.3(5) of the Mature Neighbourhood Overlay states that “The minimum Rear Setback shall be 40% of Site depth. Row Housing not oriented to a public roadway is exempt from this Overlay requirement.”

Development Officer’s Determination

1. Reduced Rear Setback - The distance from the Single Detached House to the rear property line is 5.48m (12% of site depth) instead of 18.29m (40% of site depth). (Section 814.3.5)

Location of Attached Garage

Section 814.3(18) states: “Rear attached Garages shall not be allowed, except on Corner Sites where the Dwelling faces the flanking public roadway.”

Development Officer’s Determination

2. Attached Garage - A rear attached garage is on an interior lot, instead of a corner lot (Section 814.3.18)

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*.

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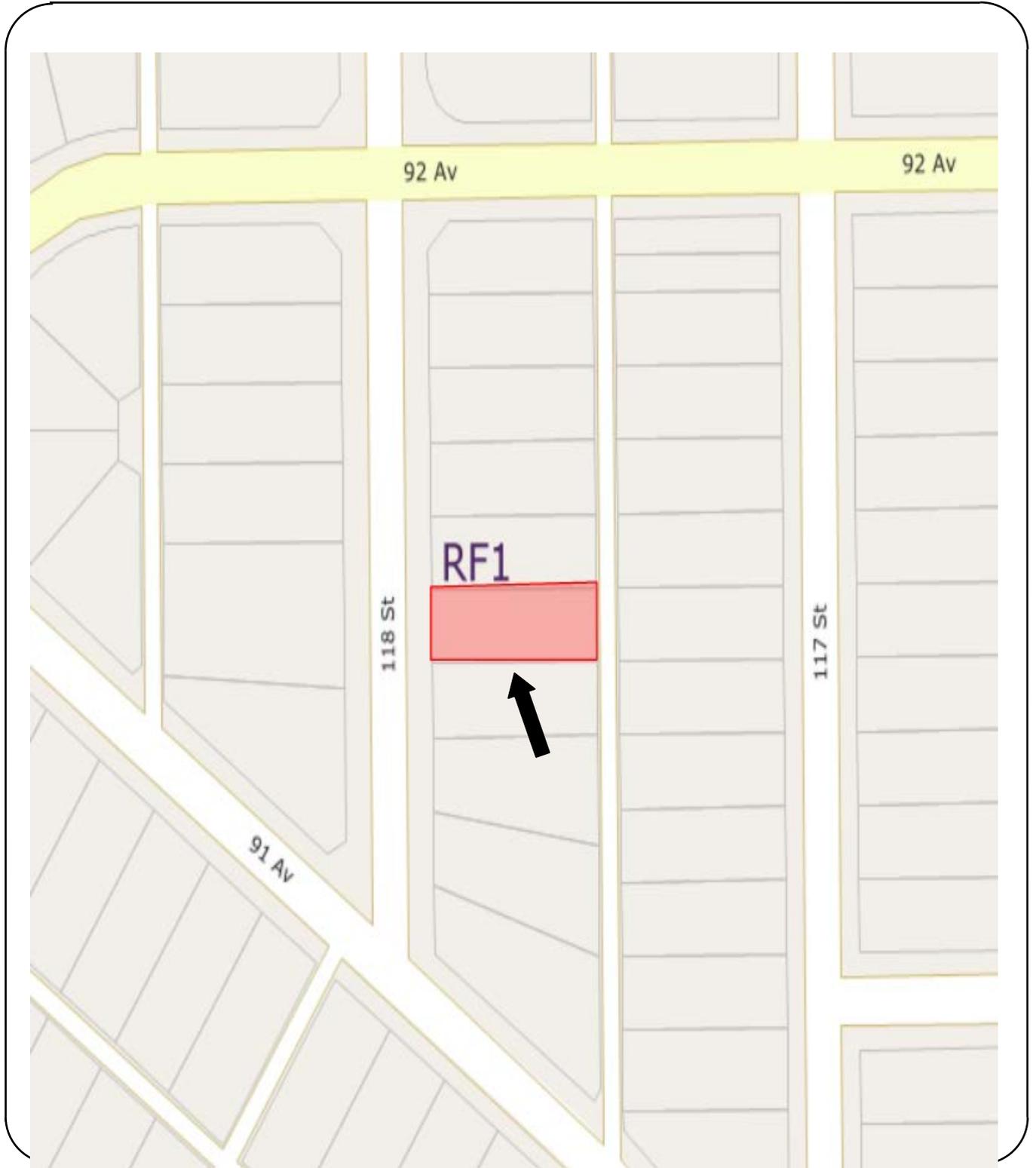
Project Number: **233863289-001**
Application Date: OCT 28, 2016
Printed: April 6, 2017 at 5:20 PM
Page: 2 of 2

Application for House Development and Building Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$102.00	\$102.00	03981498	Mar 15, 2017
Safety Codes Fee	\$103.92	\$103.92	03709581	Oct 28, 2016
Electrical Safety Codes Fee	\$17.42	\$17.42	03709581	Oct 28, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$3,441.04	\$3,441.04		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-070

