

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
April 24, 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	10:30 A.M.	SDAB-D-19-058	Decommission one suite within the Apartment Housing and acquire a Development Permit for Secondary Suite before December 20, 2018 or decommission the Apartment Housing before December 20, 2018.  11005 - 95 Street NW Project No.: 140256112-001
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II	1:30 P.M.	SDAB-S-19-002	Keep the existing Single Detached House and to create one (1) additional Single Detached Residential Lot.  11304 - 9 Avenue NW Project No.: 275948150-001
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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: 10:30 A.M.

FILE: SDAB-D-19-058

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 140256112-001

APPLICATION TO: Decommission one suite within the Apartment Housing and acquire a Development Permit for Secondary Suite before December 20, 2018 or decommission the Apartment Housing before December 20, 2018

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: November 5, 2018

DATE OF APPEAL: April 2, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11005 - 95 Street NW

LEGAL DESCRIPTION: Plan 3816P Lot 2

ZONE: (RF6) Medium Density Multiple Family Zone

OVERLAY: Medium Scale Residential Infill Overlay

STATUTORY PLAN: Boyle Street McCauley Area Redevelopment Plan

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***Grounds for Appeal***

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

I bought this property the way it is as today, with 3 suites already operational.

Realtors never disclosed proper information as what was needed to keep the property with the 3 suites.

The property has been like this since at least 15 years ago.

I will provide reasons as to the late filing

***General Matters***

**Appeal Information:**

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

**Stop order**

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

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

the development authority may act under subsection (2).

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

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

within the time set out in the notice.

**(2.1)** A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

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

**Permit**

**683** Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

**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.

**(2)** In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority 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, or
    - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
  - or
  - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

**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*:**

**Apartment Housing** is **neither** a Permitted Use **nor** a Discretionary Use in the (RF6) Medium Density Multiple Family Zone, sections 170.2 and 170.3 respectively.

Under section 7.2(1), **Apartment Housing** means:

development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use.

Under section 170.3(10), **Single Detached Housing** is a **Discretionary Use** in the (RF6) Medium Density Multiple Family 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.

Under section 170.2(3), **Secondary Suites** is **Permitted Use** in the (RF6) Medium Density Multiple Family Zone.

Under section 7.2(6), **Secondary Suites** means:

development consisting of a Dwelling located within, and Accessory to, a structure in which the principal Dwelling is Single Detached Housing, Semi-detached Housing, Duplex Housing, or Row Housing. A Secondary Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are physically separate from those of the principal Dwelling within the structure. A Secondary Suite also has an entrance separate from the entrance to the principal Dwelling, either from a common indoor landing or directly from outside the structure. This Use Class includes the Development or Conversion of Basement space or space above ground level to a separate Dwelling, or the addition of new floor space for a Secondary Suite to an existing Dwelling. A Secondary Suite shall not be subject to separation from the principal Dwelling through a condominium conversion or subdivision. This Use Class does not include Apartment Housing, Garden Suites, Lodging Houses, Blatchford Lane Suites, Blatchford Accessory Suites, or Blatchford Townhousing.

Under section 6.1, **Dwelling** means:

a self contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household.

Section 170.1 states that the **General Purpose** of the (RF6) **Medium Density Multiple Family Zone** is to “to provide for medium density housing, where some units may not have access at ground level.”

Section 823.1 states that the **General Purpose** of the **Medium Scale Residential Infill Overlay** is to:

to accommodate the development of medium-scale infill housing in Edmonton’s mature residential neighbourhoods in a manner that ensures compatibility with adjacent properties while maintaining or enhancing a pedestrian-friendly streetscape.

***Requirement for a Development Permit***

Section 5.1 states:

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

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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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City of Edmonton  
Development and Zoning Services  
Development Compliance & Inquiries

5th Floor, Edmonton Tower  
10111 104 Avenue NW  
Edmonton, AB T5J 0J4  
Canada



[edmonton.ca/developmentcompliance](http://edmonton.ca/developmentcompliance)

November 5, 2018

Our File: 140256112-001

**MUNICIPAL GOVERNMENT ACT ORDER**

Dear Sir/Madam:

An Albertan Land Titles search identifies you as the registered owner(s) of the property located at 11005 - 95 Street NW in Edmonton, Alberta, legally described as Plan 3816P, Lot 2.

This Property was inspected by Development Compliance Officer Andrew Reid, on November 1, 2018. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 and 624 of the Municipal Government Act.

ZONING BYLAW INFRACTION:

This property is zoned RF6 (Medium Density Multiple Family Zone) in accordance with Section 170 of Edmonton Zoning Bylaw 12800. Our investigation revealed Apartment Housing (3 suites) has been developed without a Development Permit.

The City of Edmonton has not issued a Development Permit to develop this Secondary Suite which is contrary to Section 5.1 of Edmonton Zoning Bylaw 12800, and Section 683 of the Municipal Government Act.

Section 5.1 of Edmonton Zoning Bylaw states:  
Requirement for a Development Permit

1. No person shall commence, or cause or allow to be commenced, a development without a Development Permit issued in accordance with Section 12 of this Bylaw.
2. No person shall carry on, or cause or allow to be carried on a development without a Development Permit issued in accordance with Section 12 of this Bylaw.

Apartment Housing means development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, you are hereby ordered to:

1. Decommission one suite within the Apartment Housing and acquire a Development Permit for Secondary Suite before December 20, 2018. This includes:

- remove the key locks separating the additional suite from the main dwelling.
- remove the stove and 220 volt outlet and 220 breaker from electrical panel associated with the additional suite
- remove any other cooking facilities associated with the additional suite.

OR

2. Decommission the Apartment Housing before December 20, 2018. This includes:

- remove the keyed locks on all interior doors between each floor
- remove the stove and 220 volt outlet and 220 breaker from electrical panel associated with each suite
- remove any other cooking facilities associated with the Apartment Housing.

CONSEQUENCES FOR NON-COMPLIANCE:

The property will be inspected after December 20, 2018 to determine compliance with this Order. An inspection must be scheduled before December 20, 2018 to confirm the Apartment Housing has been decommissioned. Please contact Development Compliance by phone at 780-442-4716 or email at [developmentcompliance@edmonton.ca](mailto:developmentcompliance@edmonton.ca) to schedule this inspection.

In the event that a person fails to comply with this Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter the land and take any action necessary to carry out the Order. Section 646 authorizes the City to register a caveat under the Land Titles Act.

Section 553(1)(h.1) of the Municipal Government Act provides that the costs and expenses of carrying out an order may be added to the tax roll of the property and Section 566(1), subject to 566(2), a person who is found guilty of an offence under this Act is liable to a fine of not more that \$10,000.00 or to imprisonment for not more than one year, or to both fine and imprisonment.

Affected persons may appeal this Order by filing within the prescribed time to the Subdivision and Development Appeal Board. Visit the website at <https://sdab.edmonton.ca> or call 780-496-6079 for more information on how to file an appeal.

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

If you have any questions in regards to this matter, please contact the writer at 780-423-5224.

Regards,

Andrew Reid  
Development and Zoning  
Development Services  
Phone Number: 780-423-5224  
Email Address: [andrew.reid@edmonton.ca](mailto:andrew.reid@edmonton.ca)

**Adding Amounts  
Owing to tax roll**

- 553(1)** A council may add the following amounts to the tax roll of a parcel of land:
- (a) unpaid costs referred to in section 35(4) or 39(2) relating to service connections of a municipal public utility that are owing by the owner of the parcel;
  - (b) unpaid charges referred to in section 42 for a municipal utility service provided to the parcel by a municipal public utility that are owing by the owner of the parcel;
  - (c) unpaid expenses and costs referred to in section 549(3), if the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or a part of the parcel;
  - (d), (e) repealed 1999 c11 s35;
  - (f) costs associated with tax recovery proceedings related to the parcel;
  - (g) if the municipality has passed a bylaw making the owner of a parcel liable for expenses and costs related to the municipality extinguishing fires on the parcel, unpaid costs and expenses for extinguishing fires on the parcel;
  - (g.1) if the municipality has passed a bylaw requiring the owner or occupant of a if the municipality has passed a bylaw requiring the owner or occupant of a parcel to keep the sidewalks adjacent to the parcel clear of snow and ice, unpaid expenses and costs incurred by the municipality for removing the snow and ice in respect of the parcel;
  - (h) Unpaid costs awarded by a composite assessment review board under section 468.1 or the Municipal Government Board under section 501, if the composite assessment review board or the Municipal Government Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the composite assessment review board or the Municipal Government Board;
  - (h.1) the expenses and costs of carrying out an order under section 646;
  - (i) any other amount that may be added to the tax roll under an enactment.

**Stop order**

- 645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
- (a) this Part or a land use bylaw or regulations under this Part, or
  - (b) a development permit or subdivision approval,
- the development authority may act under subsection (2).
- (2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
  - (b) demolish, remove or replace the development, or
  - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,
- within the time set out in the notice.
- (2.1)** A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.
- (3)** A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

**Enforcement of stop order**

- 646(1)** If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.
- (2)** A municipality may register a caveat under the Land Titles Act in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.
- (3)** If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.

**Permit**

- 683** Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

**Grounds for appeal**

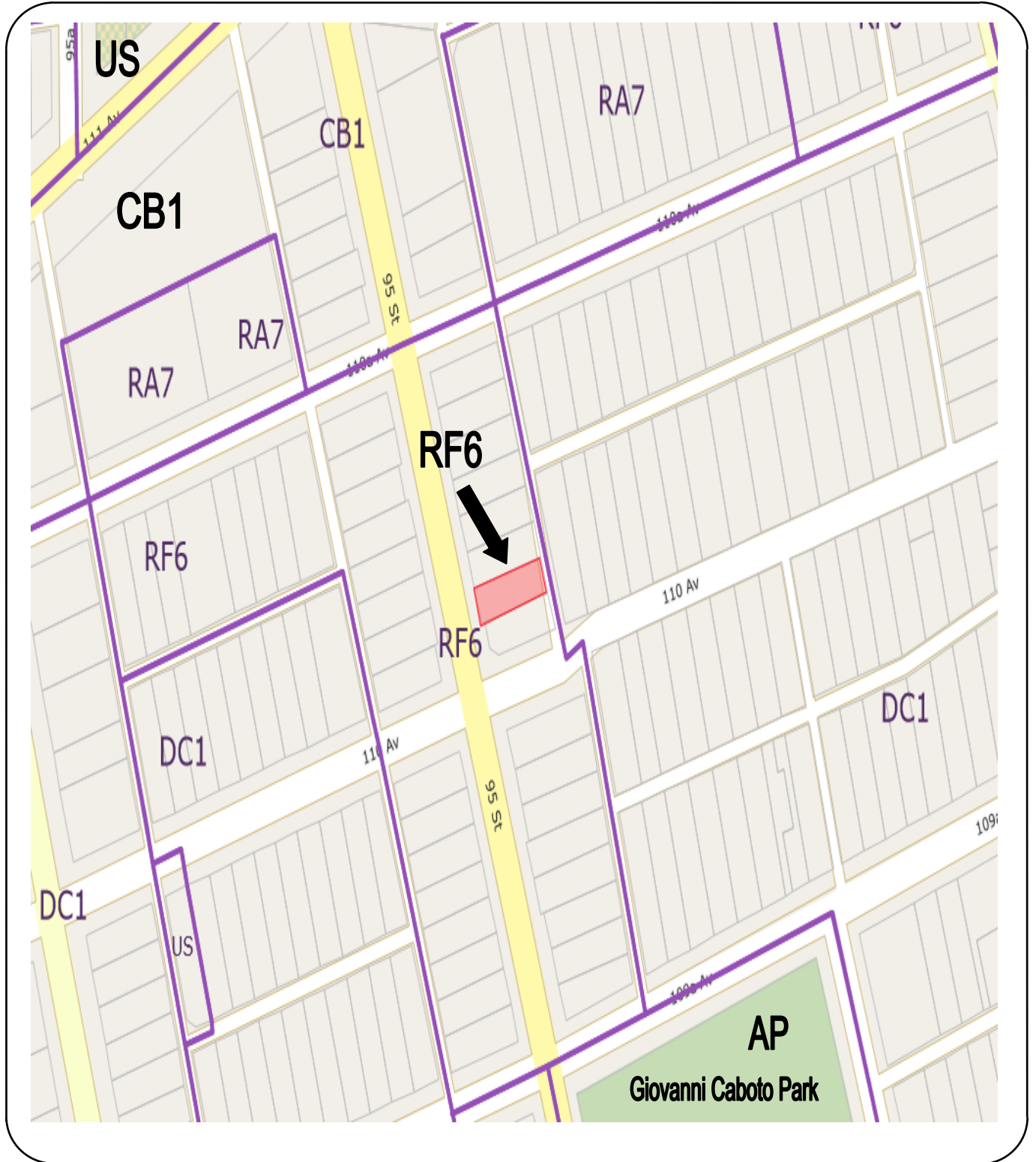
- 685(1)** If a development authority
- (a) fails or refuses to issue a development permit to a person,
  - (b) issues a development permit subject to conditions, or
  - (c) issues an order under section 645,
- the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.
- (2)** In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.
- (3)** Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted or the application for the development permit was deemed to be refused under section 683.1(8).
- (4)** Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district
- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
  - (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

**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) within 21 days after the date on which the decision is made under section 642, or
      - (A) The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
      - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
    - or
    - (ii) if no decision is made with respect to the application within the 40-day period or within any extension under section 684, the date the period or extension expires,

or

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.
- (2)** The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
- (3)** The subdivision and development appeal board must give at least 5 days notice in writing of the hearing
  - (a) to the appellant,
  - (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
  - (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.
- (4)** The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
  - (a) the application for the development permit, the decision and the notice of appeal, or
  - (b) the order under section 645.
- (4.1)** Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).
- (5)** In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-19-058



ITEM II: 1:30 P.M.

FILE: SDAB-S-19-002

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 275948150-001

APPLICATION TO: Keep the existing Single Detached House and to create one (1) additional Single Detached Residential Lot

DECISION OF THE SUBDIVISION AUTHORITY: Refused

DECISION DATE: March 21, 2019

DATE OF APPEAL: March 28, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11304 - 9 Avenue NW

LEGAL DESCRIPTION: Plan 9422111 Blk 12 Lot 1

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: Twin Brooks Neighbourhood Area Structure Plan

***Grounds for Appeal***

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

Dear Members of the Appeal Board  
Re: LDA18-0688 – Appeal to grant subdivision

We designed and built our home in 1999 and came into occupation in Feb 2000. We like the area very much and would like to continue living here. Since our 3 children have now moved away, our home & the huge back yard is too big for us to manage physically and financially, we decided to subdivide the property and build a smaller house, a bungalow for our retirement, with a minimum yard space to maintain. We believe it is the perfect location as we know the area and the traffic patterns well. We are seeking the Subdivision appeal board to please hear our case favorably and grant us our wish.

We assure you that it will not disturb the Twin Brooks neighborhood in anyway building a house approx. 1300-1400 sq. feet with an attached garage, on the east lot, so that we could sell the present house and use the equity to build the new home.

1. Please grant us road access to the proposed subdivided lot from 9 Ave. No boulevard trees present to relocate. Good visibility for anyone travelling west or East on 9 Ave. There are many houses that have main road access along 9 Ave to the east side and on 12 Ave. in front of the George P Nicholson elementary school, with pedestrian crossings. ETS bus route # 44 runs via 111 St along 12 Ave, continuing along 9 Ave & crossing 111 St. and goes back to 12 Ave and 111 St. Site Plan & Map attached

2. Lot size is 397 Sq meters, which is over the minimum required for RF1 zone (350 Sq. meters)  
Site depth is deficient by 1.49 meters, please grant a variance

3. To change minimum set back to 1.2 meters from 4.5 meters on the west side of the new lot ( which is considered the back) as we have kept 5.39 M from the existing house (minimum required is 1.2 Meters). This makes the minimum distance from house to house is 7.1 Meters. (5.39M + 1.2M) Revised building pocket is attached with specifications.

<b><i>General Matters</i></b>
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**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 110.4(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 110.4(8) states:

The minimum Front Setback shall be 4.5 m, except that:

- a. the minimum Front Setback shall be 3.0 m when a Treed Landscaped Boulevard is provided at the front of the Lot and vehicular access is from a Lane; and
- b. the minimum distance between the Front Lot Line and the door of an attached Garage shall be 5.5 m.

Section 110.4(9) states:

The minimum Rear Setback shall be 7.5 m, except on a Corner Site, where a primary Dwelling with an attached Garage faces the flanking public roadway, it may be reduced to 4.5 m.

Section 110.4(10) states Side Setbacks shall be established on the following basis:

- a. Side Setbacks shall total at least 20% of the Site Width, with a minimum Side Setback of 1.2 m on each side;
- b. where there is no Lane abutting the Site, one Side Setback shall be at least 3.0 m for vehicular access, unless there is an attached Garage or a Garage that is an integral part of a Dwelling;
- c. on a Corner Site where the building faces the Front Lot Line or the Side Lot Line, the minimum Side Setback abutting the flanking Side Lot Line shall be 20% of the Site Width, to a maximum of 4.5 m;
- d. on a Corner Site where the building faces the flanking Side Lot Line the minimum Side Setback abutting the flanking Side Lot Line shall be 4.5 m. If the Dwelling does not have an attached Garage also facing the flanking Side Lot Line, the minimum Side Setback may be reduced to 3.0 m, in order to increase the Private Outdoor Amenity Area in the interior Side Yard; and
- e. ...

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

Under section 6.1, **Site Depth** means “the distance between the mid-points of the Front Lot Line and the mid-points of the Rear Lot Line.”

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.

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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

March 21, 2019

File No. LDA18-0688

RE: Tentative plan of subdivision to create one (1) additional single detached residential lot from Lot 1, Block 12, Plan 942 2111, located north of 9 Avenue NW and west of 113 Street NW; **TWIN BROOKS**

---

**The Subdivision by Plan is REFUSED on March 21, 2019 for the following reasons:**

1. The proposed subdivision does not comply with the minimum development regulation identified in Section 110.4(1)(c) of the City of Edmonton Zoning Bylaw 12800. The Site is zoned (RF1) Single Detached Residential Zone. The minimum Site Depth identified in the (RF1) Single Detached Residential Zone for Single Detached Housing is 30.0 metres. The Site Depth of the proposed east Lot is 27.69 metres, and is therefore deficient by 2.31 metres or approximately 9%.
2. The proposed east Lot has a Site Depth, and ultimately a Lot size, that is uncharacteristically small when compared to most surrounding properties. For example, Site Depths in this vicinity typically range from approximately 34.0 to 40.0 metres. Additionally, the ten residential lots immediately west of the subject site yield an average Site Area of 629.8 square metres. The proposed east Lot has a Site Depth of 28.57 metres and a Site Area of 397 square metres, making it considerably smaller than other properties characteristic to the immediate area.
3. When the minimum development setbacks identified in Section 110.4 of the City of Edmonton Zoning Bylaw 12800 are applied to the proposed east Lot, the building envelope is relatively small. The minimum Front Setback identified in the (RF1) Single Detached Residential Zone for Single Detached Housing is 4.5 metres.

The minimum Side Setback identified in the (RF1) Single Detached Residential Zone for Single Detached Housing is 1.2 metres. This setback may change along the proposed Lot's south edge (9 Street NW), depending on details typically established at the Development Permit stage. The minimum setback can increase up to 4.5 metres, depending on the presence of a Garage and the development's orientation. Additionally, a utility right-of-way is registered on title for Lot 1, Block 12, Plan 942 2111. It prevents development within approximately 2.0 metres of the proposed Lot's north edge, which abuts a Public Utility Lot.

The applicant's proposed building envelope does not comply with the minimum development regulation identified in Section 110.4(9) of the City of Edmonton Zoning Bylaw 12800 (see Enclosure II). The minimum Rear Setback identified in the (RF1) Single Detached Residential Zone

for Single Detached Housing is 7.5 metres, or 4.5 metres if the residence has an attached Garage and both face the flanking roadway (9 Avenue NW).

4. The proposed subdivision creates a non-conforming Lot that does not meet development regulations in the City of Edmonton Zoning Bylaw 12800. This situation creates unnecessary hardship for existing and future landowners. Property owners wishing to further develop or redevelop the proposed Site will require one or more Development Permit variances.
5. Given the absence of a Lane, the applicant proposes site access to the east Lot off of 9 Avenue NW (see Enclosure I). This vehicular access will interrupt an existing sidewalk and may require boulevard tree relocation. The neighbourhood has been designed so that no driveways front onto 9 Avenue NW, in order to accommodate the collector roadway's traffic volumes. Proposed access #1 is located along a curved portion of 9 Avenue NW and it is in close proximity to the 113 Street NW intersection. This access point's location creates concern about appropriate visibility and safety for the property's vehicles, approaching drivers, cyclists, and pedestrians. Proposed access #2 cannot be supported due to its immediate proximity to the 113 Street NW intersection, a marked pedestrian crosswalk, and a Canada Post community mailbox.
6. The proposed subdivision does not align with the intent of the City of Edmonton's Municipal Development Plan (MDP), The Way We Grow. This strategic growth plan supports redevelopment and residential infill that are both safe and sensitive to a community's character. For example, MDP Policy 5.2.1.1 directs development to fit with the existing and planned neighbourhood context. It is required to respect the scale, form, massing, style and materials of the neighbourhood.

Enclosure I is a tentative plan of the proposed subdivision. Enclosure II is a modification to the tentative plan, it identifies a proposed building envelope.

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 Kristen Rutherford at [kristen.rutherford@edmonton.ca](mailto:kristen.rutherford@edmonton.ca) or 780-442-5047.

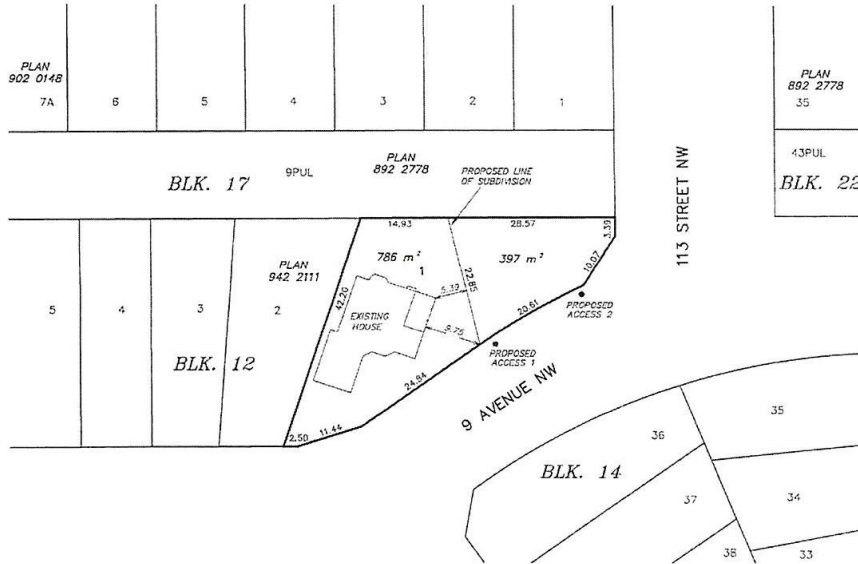
Regards,



Blair McDowell  
Subdivision Authority

BM/kr/Posse #275948150-001

Enclosures



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Client  
**BERNADETTE & ANIL FERNANDO**

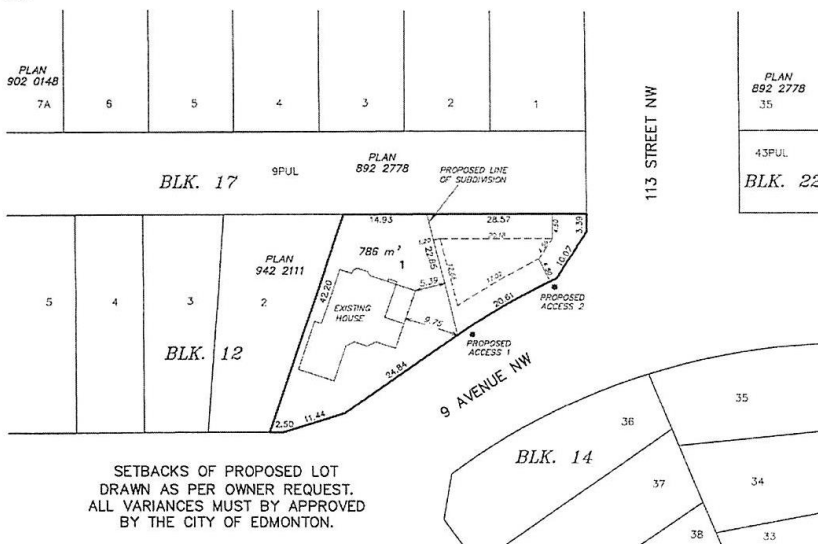
TENTATIVE PLAN SHOWING  
**PROPOSED SUBDIVISION**

OF  
 LOT 1, BLK 12 PLAN 942 2111  
 WITHIN  
 N.E. 1/4 SEC 30, TWP. S1, RGE. 24, W.4 MER.  
 AND  
 S.E. 1/4 SEC 31, TWP. S1, RGE. 24, W.4 MER.

TWIN BROOKS  
 SCALE 1:500  
 OCTOBER 2018

- NOTES**
- All distances are expressed in metres and decimals thereof.
  - Area referred to bounded thus      containing 0.110 Hectares, including 1 residential lot.





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**Client**

**BERNADETTE & ANIL FERNANDO**

**PROPOSED SUBDIVISION**

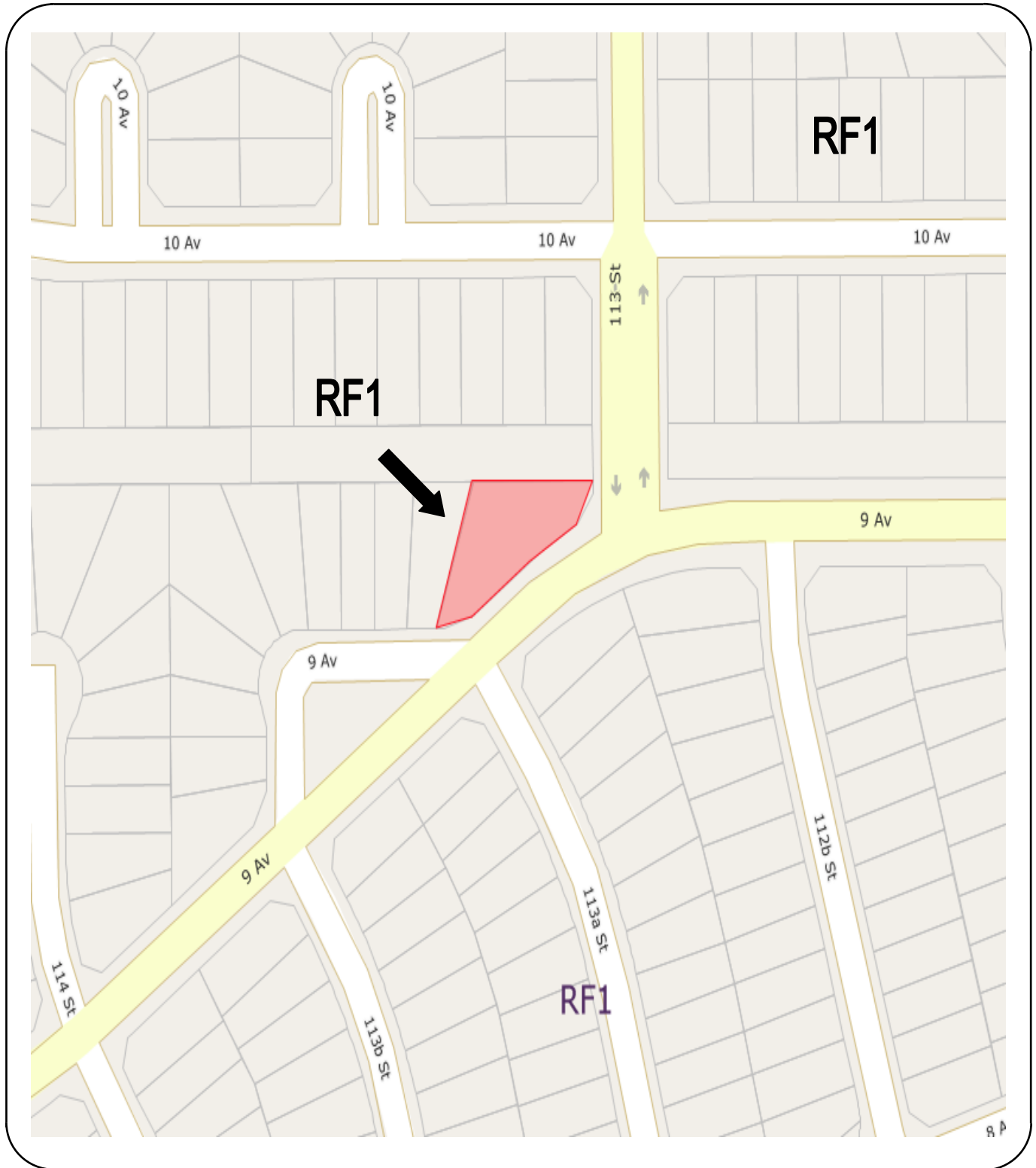
LOT 1, BLK 12 PLAN 942 2111  
 WITHIN:  
 N.E. 1/4 SEC 30, TWP. 51, RGE. 24, W.4 MER.  
 AND  
 S.E. 1/4 SEC 31, TWP. 51, RGE. 24, W.4 MER.

**TWIN BROOKS**

SCALE 1:500  
 NOVEMBER 2018

**NOTES**

- All distances are expressed in metres (and decimal thereof).
- Area referred to boundary must contain 0.118 Hectares, including 1 residential lot.



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-S-19-002

