

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
May 25, 2017**

**Hearing Room No. 2
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 2**

I	9:00 A.M.	SDAB-D-17-081	Construct an addition to an Accessory building (11.51 metres by 14.94 metres addition to a barn) 2360 - 28 Avenue SW Project No.: 242715687-001
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II	10:30 A.M.	SDAB-D-17-092	Construct an Accessory building (main floor Garage irregular in shape (91.36 square metres) with Garage Suite on second floor) 10637 - 69 Street NW Project No.: 242022741-001
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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-17-081

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 242715687-001

APPLICATION TO: Construct an addition to an Accessory building (11.51 metres by 14.94 metres addition to a barn)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 22, 2017

DATE OF APPEAL: April 5, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 2360 - 28 Avenue SW

LEGAL DESCRIPTION: Plan 7521733 Blk 2 Lot 2

ZONE: (RR) Rural Residential Zone

OVERLAY: N/A

STATUTORY PLAN: Decoteau Area Structure Plan

Grounds for Appeal

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

The accessory building is used as a barn and requires the height to enable a haybale wagon to unload within the structure. We require a 16' high door to enter and a clear space above the door of approx. 10' to dump. We chose this design with the clarestory windows to allow natural light to save energy and provide passive solar heating.

During design Edmonton Zoning Bylaw 12800.240.3.7 was used.

Therefore 240.4.4 became valid, which was used to determine the maximum height of the structure.

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

...

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.

The Board is advised that the Appellant filed the appeal on April 5, 2017 and requested that the hearing be postponed until May 19, 2017 or later.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 240.2(4), **Single Detached Housing** is a **Permitted Use** in the (RR) Rural Residential Zone.

Under section 6.1(2), **Accessory** means:

when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.

Under section 240.3(7), **Recreational Acreage Farms** is a **Discretionary Use** in the (RR) Rural Residential Zone.

Under section 7.6(4), **Recreational Acreage Farms** means:

development for small-scale, non-commercial agricultural pursuits Accessory to Residential or Residential Related Uses in rural residential areas. This Use shall be developed so that it does not unduly interfere with the general enjoyment of adjacent property. Animals shall be kept for the use or enjoyment of the householder only. This Use does not include Livestock Operations, Rural Farms, Urban Indoor Farms, Urban Outdoor Farms or Urban Gardens.

Section 240.1 states that the **General Purpose** of the **(RR) Rural Residential Zone** is:

to provide for Single Detached Residential development of a permanent nature in a rural setting, generally without the provision of the full range of urban utility services. The RR Zone is intended to regulate rural residential development within existing rural residential subdivisions that existed prior to the passage of this Bylaw, and is not intended to facilitate future rural residential development and subdivision, which is contrary to the Municipal Development Plan.

Height

Under section 6.1(53), **Height** means “a vertical distance between two points.”

Accessory Buildings in Residential Zones

Section 50.3(2) states “an Accessory building or structure shall not exceed 4.3 m in Height.”

Development Regulations for Permitted and Discretionary Uses

Section 240.4(4) states “The maximum building Height shall not exceed 10.0 m, in accordance with Section 52.”

Development Officer’s Determination

Note: The proposed structure is an Accessory building to the existing Single Detached House.

An Accessory Building or Structure shall not exceed 4.3m (14.1 ft) nor one storey in Height. (Reference Section 50.3(2))


**Proposed Height: 7.12m from finished floor to midpoint
Exceeds by: 2.82m [unedited]**

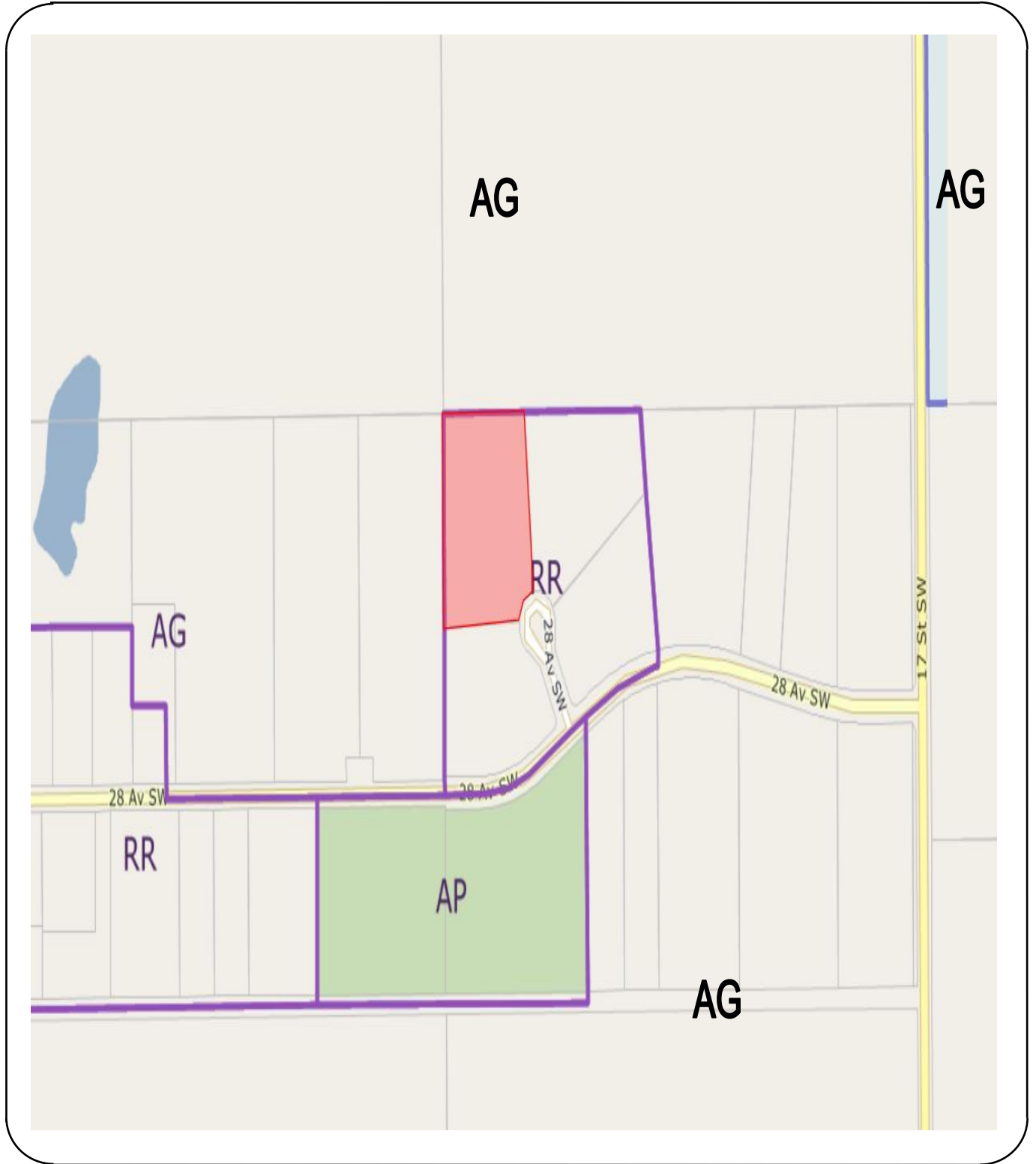
Previous Subdivision and Development Appeal Board Decision

<u>Application Number</u>	<u>Description</u>	<u>Decision</u>
<u>SDAB-D-16-090</u>	To construct an addition to an Accessory Building (addition to a barn, 14.9m x 11.5m) and exterior alterations.	April 14, 2016: The Board determined that it is unable to assume jurisdiction, pursuant to Section 686(1)(a)(i), which stipulates that an appeal must be filed within 14 days of notification of a decision regarding a development permit.

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: 242715687-001 Application Date: MAR 07, 2017 Printed: April 5, 2017 at 10:26 AM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Minor Development Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
Applicant	Property Address(es) and Legal Description(s) 2360 - 28 AVENUE SW Plan 7521733 Blk 2 Lot 2 Specific Address(es) Suite: 2360 - 28 AVENUE SW Entryway: 2360 - 28 AVENUE SW Building: 2360 - 28 AVENUE SW																				
Scope of Application To construct an addition to an Accessory building (11.51m x 14.94m addition to a barn)																					
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> # of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Accessory Buildings Secondary Suite Included?: N </td> <td style="width: 50%; border: none; vertical-align: top;"> Class of Permit: Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Accessory Buildings Secondary Suite Included?: N	Class of Permit: Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none)																		
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I/We certify that the above noted details are correct. Applicant signature: _____																					
Development Application Decision Refused Reason for Refusal Note: The proposed structure is an Accessory building to the existing Single Detached House. An Accessory Building or Structure shall not exceed 4.3m (14.1 ft) nor one storey in Height. (Reference Section 50.3(2)) Proposed Height: 7.12m from finished floor to midpoint Exceeds by: 2.82m Rights of Appeal The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.																					
Issue Date: Mar 22, 2017 Development Authority: KIM, JENNIFER Signature: _____																					
Fees <table style="width: 100%; border: none; margin-top: 10px;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$113.00</td> <td style="text-align: right;">\$113.00</td> <td style="text-align: right;">03967452</td> <td style="text-align: right;">Mar 08, 2017</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$0.00</td> <td style="text-align: right; border-top: 1px solid black;"></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right;">\$113.00</td> <td style="text-align: right;">\$113.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$113.00	\$113.00	03967452	Mar 08, 2017	Total GST Amount:	\$0.00				Totals for Permit:	\$113.00	\$113.00		
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THIS IS NOT A PERMIT																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-081



ITEM II: 10:30 A.M.

FILE: SDAB-D-17-092

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 242022741-001

APPLICATION TO: Construct an Accessory building (main floor Garage irregular in shape (91.36 square metres) with Garage Suite on second floor)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 27, 2017

DATE OF APPEAL: May 2, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10637 - 69 Street NW

LEGAL DESCRIPTION: Plan 0024459 Blk 50 Lot 12A

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:

We would like to build a garage suite in the mature neighborhood of Hardisty. Our request for a Development Permit was refused due to there being too much height difference between the primary dwelling and the proposed garage suite. 1.5m is allowed. 2.31m was proposed. The primary dwelling is an old bungalow with a very low cottage roof that is restricting the development of a garage suite. We have made concessions to keep to a practical overall building height; the proposed garage suite's overall height is well below the maximum height allowed of 6.5m to midspan. Other options have been explored to reduce height between the house and proposed garage, however these options add tremendous cost or do not fit with our desire to age in place.

It is important to note that all other requirements were satisfied under RF1 zoning and the Mature Neighbourhood Overlay. Our garage suite has been thoughtfully designed, and will be built to a standard well beyond the Building Code. The garage suite will be a positive contribution toward gentle densification and neighbourhood renewal, and it will provide much needed accommodation in a unique, efficient building form. We are appealing the decision of the Development Authority: We have respected all other requirements and have designed a structure under the maximum allowable Height, yet we are being penalized for having a low, 59 year old bungalow on our property.

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

Appeals

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 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

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*:

Under section 110.3(3), a **Garage Suite** is a **Discretionary Use** in the (RF1) Single Detached Residential Zone.

Under section 7.2(3), **Garage Suite** means:

an Accessory Dwelling located above a detached Garage (above Grade); or a single-storey Accessory Dwelling attached to the side or rear of, a detached Garage (at Grade). A Garage Suite is Accessory to a building in which the principal Use is Single Detached Housing. A Garage Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are separate from those of the principal Dwelling located on the Site. A Garage Suite has an entrance separate from the vehicle entrance to the detached Garage, either from a common indoor landing or directly from the exterior of the structure. This Use does not include Garden Suites, Secondary Suites, Blatchford Lane Suites, or Blatchford Accessory Suites.

Section 110.4(5) states “Garage Suites and Garden Suites shall comply with Section 87 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, Semi-detached Housing and Duplex Housing under certain conditions.

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.

Development Officer's Determination

2. Garage Suite is a Discretionary Use in the RF1 Single Detached Residential Zone. [unedited]

<i>Height</i>

Section 87.2 states:

the maximum Height shall be as follows:

- a. Garage containing a Garage Suite (above Grade):
 - i. 6.5 m or up to 1.5m greater than the Height of the principal Dwelling as constructed at the time of the Development Permit Application, whichever is the lesser, where the building containing the Garage Suite has a roof slope of 4/12 (18.4°) or greater.
 - ii. 5.5 m or up to 1.5m greater than the Height of the principal Dwelling as constructed at the time of the Development Permit Application, whichever is the lesser, where the building containing the Garage Suite has a roof slope of less than 4/12 (18.4°).

Under section 6.1(53), **Height** means "a vertical distance between two points."


Development Officer's Determination

1. The proposed Garage Suite is 6.04 m in height from grade to roof mid-span while the principal dwelling is 3.73 m from grade to roof mid-span. The height of the proposed Accessory Building is more than 1.5 m of the principal Dwelling. (Reference Edmonton Zoning Bylaw Section 87.2.a.i)

NOTES: In approving a Development Permit Application pursuant to Section 11.2, except as otherwise provided in this Bylaw, there shall be no variance from maximum Height, Floor Area Ratio of Density regulations. (Reference Edmonton Zoning Bylaw Section 11.3) [unedited]

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*.

	<p style="text-align: right;">Project Number: 242022741-001 Application Date: FEB 27, 2017 Printed: April 27, 2017 at 4:16 PM Page: 1 of 2</p>		
<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 2006 and City of Edmonton Bylaw 15894 Safety Codes Permit Bylaw.</p>			
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 10637 - 69 STREET NW Plan 0024459 Blk 50 Lot 12A</p> <hr/> <p>Location(s) of Work Entryway: 10637A - 69 STREET NW Building: 10637A - 69 STREET NW</p>		
<p>Scope of Application To construct an Accessory Building (main floor Garage irregular in shape (91.36sq.m.) with Garage Suite on second floor).</p>			
<p>Permit Details</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Affected Floor Area (sq. ft.): 983 Class of Permit: Front Yard (m): Rear Yard (m): Side Yard, left (m): Site Area (sq. m.): 785.44 Site Width (m): 19.81 </td> <td style="width: 50%; border: none;"> Building Height to Midpoint (m): 6.05 Dwelling Type: Garage Suite Home Design Type: Secondary Suite Included?: N Side Yard, right (m): Site Depth (m): 39.65 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		Affected Floor Area (sq. ft.): 983 Class of Permit: Front Yard (m): Rear Yard (m): Side Yard, left (m): Site Area (sq. m.): 785.44 Site Width (m): 19.81	Building Height to Midpoint (m): 6.05 Dwelling Type: Garage Suite Home Design Type: Secondary Suite Included?: N Side Yard, right (m): Site Depth (m): 39.65 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
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<p>I/We certify that the above noted details are correct. Applicant signature: _____</p>			
<p>Development Application Decision Refused</p> <p>Reason for Refusal</p> <ol style="list-style-type: none"> 1. The proposed Garage Suite is 6.04 m in height from grade to roof mid-span while the principal dwelling is 3.73 m from grade to roof mid-span. The height of the proposed Accessory Building is more than 1.5 m of the principal Dwelling. (Reference Edmonton Zoning Bylaw Section 87.2.a.i) 2. Garage Suite is a Discretionary Use in the RF1 Single Detached Residential Zone. <p>NOTES: In approving a Development Permit Application pursuant to Section 11.2, except as otherwise provided in this Bylaw, there shall be no variance from maximum Height, Floor Area Ratio of Density regulations. (Reference Edmonton Zoning Bylaw Section 11.3)</p> <p>Rights of Appeal The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.</p>			
<p>Issue Date: Apr 27, 2017 Development Authority: YEUNG, CARMAN Signature: _____</p>			
<p>THIS IS NOT A PERMIT</p>			



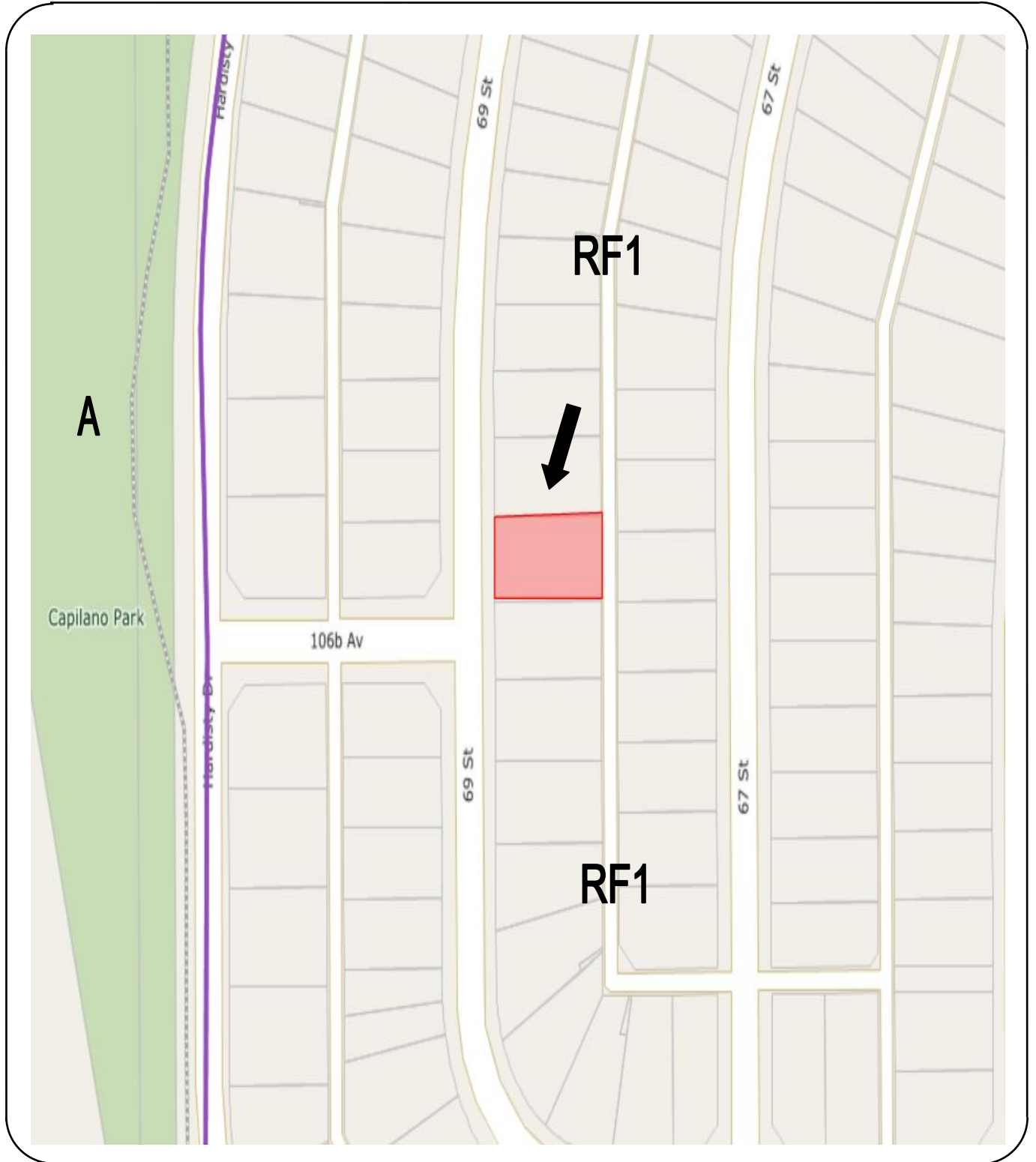
Project Number: **242022741-001**
Application Date: FEB 27, 2017
Printed: April 27, 2017 at 4:16 PM
Page: 2 of 2

Application for House Development and Building Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Water Usage Fee	\$25.41	\$25.41	03945814	Feb 27, 2017
Electrical Fee (Service)	\$79.00	\$79.00	03945814	Feb 27, 2017
Sanitary Sewer Trunk Fund	\$693.00	\$693.00	03945814	Feb 27, 2017
Electrical Safety Codes Fee	\$13.42	\$13.42	03945814	Feb 27, 2017
Safety Codes Fee	\$42.56	\$42.56	03945814	Feb 27, 2017
Building Permit Fee	\$1,064.00	\$1,064.00	03945814	Feb 27, 2017
Electrical Fees (House)	\$223.00	\$223.00	03945814	Feb 27, 2017
Lot Grading Fee	\$0.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,140.39	\$2,140.39		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-092

