

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
May 30, 2019**

**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-19-077

To construct exterior alterations to a Single Detached House (increase finished floor height), existing without permits

10808 - 129 Street NW
Project No.: 274203217-013

II 10:30 A.M. SDAB-D-19-078

To leave as built a Single Detached House (increase building height).

10620 - 69 Street NW
Project No.: 257883235-010

III 10:30 A.M. SDAB-D-19-079

To leave as built a Single Detached House (increase building height).

10622 - 69 Street NW
Project No.: 257884965-010

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-19-077

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 274203217-013

APPLICATION TO: Construct exterior alterations to a Single Detached House (increase finished floor height), existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 1, 2019

DATE OF APPEAL: May 1, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10808 - 129 Street NW

LEGAL DESCRIPTION: Plan 1821662 Blk 22 Lot 20

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

The height variance of 0.2 metres (0.66 feet) from the peak and 0.3 metres (0.98 feet) from the midpoint does not unduly interfere with the amenities of the neighbourhood, nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. The reasons for our appeal include, but are not limited to:

- a. The Single Detached Housing is a Permitted Use in the RF1 Single Detached Residential Zone.
- b. The built form of the Single Detached House is consistent with the surrounding neighbourhood context given the majority of the

existing Single Detached Houses within the 60-metre radius, and blockface are also two storeys. In addition, the proportion of two storey homes will likely increase into the future.

- c. The height variance of 0.2 metres (0.66 feet) from the peak and 0.3 metres (0.98 feet) from the midpoint is so small within the context of the entire built form, it would be extremely difficult to almost impossible for the human-eye to identify a variance in height.
- d. The proposed development is consistent with the increased densification policy objectives of the Municipal Development Plan, The Way We Grow, specifically Policy 3.1.1.2 to encourage a minimum of 25 percent of city-housing unit growth to locate in the Downtown and mature neighbourhoods and around LRT stations and transit centres where infrastructure capacity supports development (i.e. Westmount Transit Centre).

<i>General Matters</i>

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(5), **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.

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

Section 110.1 states that the **General Purpose** of **(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.

Mature Neighbourhood Overlay - Height

Section 814.3(5) states “The maximum Height shall not exceed 8.9 m.”

Development Officer’s Determination

- 1. Height - The house shall not exceed a Height of 8.9m (Section 814.3.5)**
- Proposed Height: 9.2m**
- Exceeds by: 0.3m [unedited]**

Height and Grade

Section 52.2(c) states:

In determining whether a development conforms to the maximum Height permissible in any Zone, the following regulations shall apply:

...

- c. Where the maximum Height as determined by Section 52.1 is measured to the midpoint, the ridge line of the roof shall not extend

more than 1.5 m above the maximum permitted building Height of the Zone or overlay, or in the case of a Garden Suite the maximum permitted building Height in accordance with Section 87 of this Bylaw.

Development Officer’s Determination

**2. Height - The house roof ridge line shall not extend more than 1.5m above the permitted building Height of 8.9m (Section 52.2.c).
 Maximum ridge height: 10.4m (8.9m + 1.5m)
 Proposed ridge height: 10.6m
 Exceeds by: 0.2m [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:


Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of 60.0 metres	The assessed owners of the land wholly or partially located within a distance of 60.0 metres of the	814.3(5) - Height

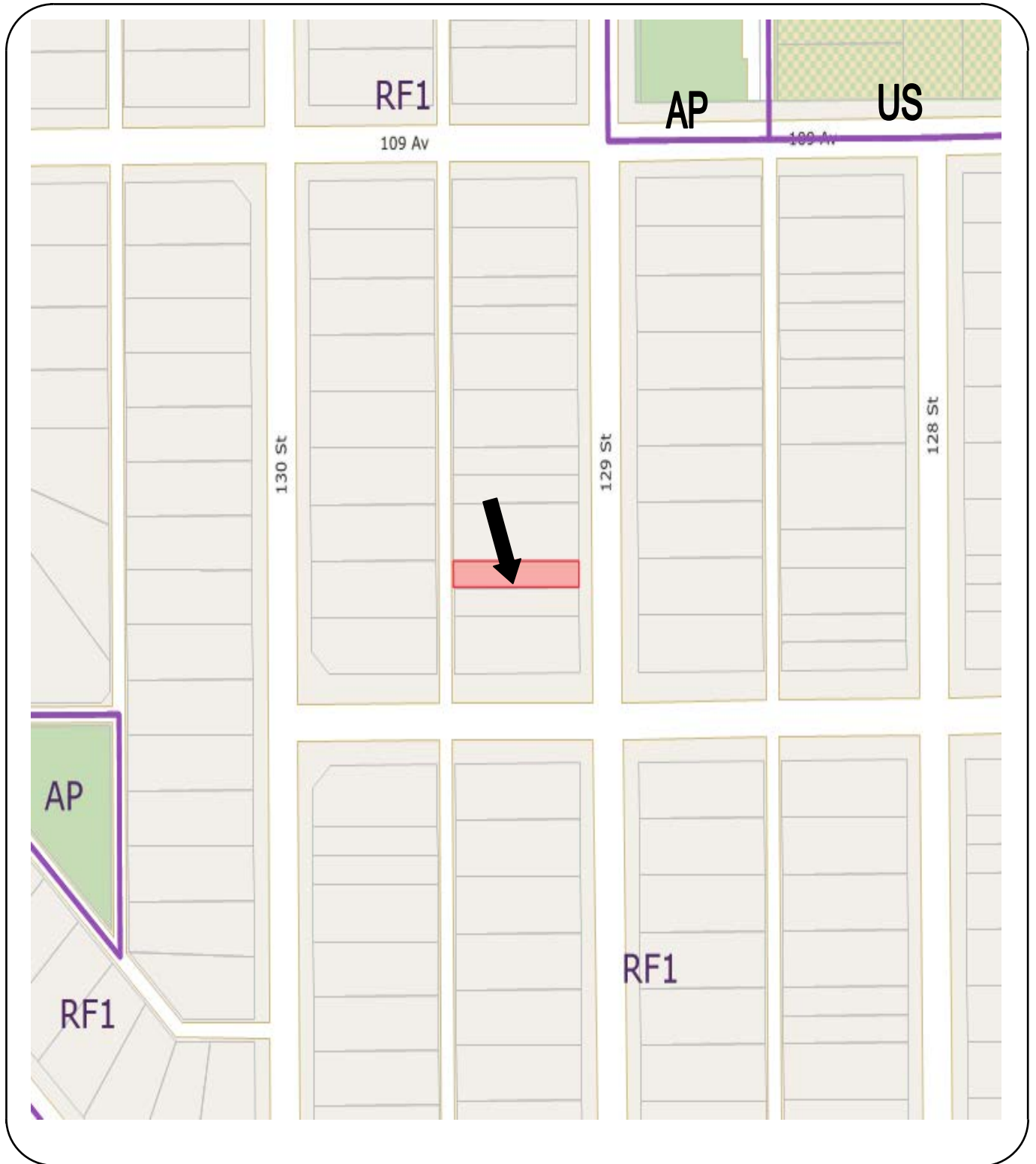
	of the Site of the proposed development and the President of each Community League	Site of the proposed development and the President of each Community League	
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Notice to Applicant/Appellant

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.

	<h2 style="margin: 0;">Application for Addition Permit</h2>	Project Number: 274203217-013 Application Date: FEB 22, 2019 Printed: May 1, 2019 at 10:59 AM Page: 1 of 2															
This document is a Development Permit Decision for the development application described below.																	
Applicant	Property Address(es) and Legal Description(s) 10808 - 129 STREET NW Plan 1821662 Blk 22 Lot 20																
	Location(s) of Work Entryway: 10808 - 129 STREET NW Building: 10808 - 129 STREET NW																
Scope of Application To construct exterior alterations to a Single Detached House (increase finished floor height), existing without permits.																	
Permit Details																	
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 325.03																
I/We certify that the above noted details are correct. Applicant signature: _____																	
Development Application Decision Refused Issue Date: May 01, 2019 Development Authority: ZHOU, ROWLEY Reason for Refusal 1. Height - The house shall not exceed a Height of 8.9m (Section 814.3.5) Proposed Height: 9.2m Exceeds by: 0.3m 2. Height - The house roof ridge line shall not extend more than 1.5m above the permitted building Height of 8.9m (Section 52.2.c). Maximum ridge height: 10.4m (8.9m + 1.5m) Proposed ridge height: 10.6m Exceeds by: 0.2m 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.																	
Building Permit Decision Refused																	
Fees <table style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th style="width: 60%;"></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>Development Application Fee</td> <td style="text-align: right;">\$425.00</td> <td style="text-align: right;">\$425.00</td> <td style="text-align: right;">05660409</td> <td style="text-align: right;">Feb 22, 2019</td> </tr> <tr> <td>Mail Out Fee</td> <td style="text-align: right; color: red;">(\$25.00)</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Development Application Fee	\$425.00	\$425.00	05660409	Feb 22, 2019	Mail Out Fee	(\$25.00)			
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Fees				
Total GST Amount:	Fee Amount \$0.00	Amount Paid	Receipt #	Date Paid
Totals for Permit: (overpaid by (\$25.00))	\$400.00	\$425.00		
THIS IS NOT A PERMIT				



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-077



AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 257883235-010
257884965-010

APPLICATION TO: Leave as built a Single Detached House
(increase building height).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 15, 2019

DATE OF APPEAL: May 3, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10620 - 69 Street NW
10622 – 69 Street NW

LEGAL DESCRIPTION: Plan 1720067 Blk 46 Lot 48
Plan 1720067 Blk 46 Lot 47

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:

Height is 1 ft higher than initial approved DP.

We are aware that objections have been raised.

We tried getting support from neighbors, however their mindset is that they are strongly against "skinnies" and will not support it. Lots of neighbors have sign regards to NO LOT SPLIT plus restricted covenant. Further, Community league does not wish to get involved.

Another reason from immediate neighbors is that this new house is blocking Sunlight to their houses----Our observation is that there is already tons of mature trees in close proximity to our project-Which means this has been the norm even prior to the project.

Strongly recommend the Appeals board team to do a site visit to check if the 1 ft height looks too obvious or an eye soar.

Our Surveyor has suggested that we can raise grades by 6 inches if needed, however this will still mean, we will be out by 0.6 inches

Our best hope is that Appeal's Board team will understand that this is a honest, plus 1st and last mistake from our Company and come up with a reasonable decision.

I will upload photos of neighbors houses with trees blocking Sun for review.

<i>General Matters</i>

Appeal Information:

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Grounds for Appeal

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Mature Neighbourhood Overlay - Height

Section 814.3(5) states “The maximum Height shall not exceed 8.9 m.”

Development Officer’s Determination (16020 – 69 Street NW / SDAB-D-19-078)

1. Height - The house was built 9.2m high (to the midpoint), instead of 8.9m (Section 814.3.5) [unedited]

Development Officer’s Determination (16022 – 69 Street NW / SDAB-D-19-079)

1. Height - The house was built 9.3m high (to the midpoint), instead of 8.9m (Section 814.3.5) [unedited]

Height and Grade

Section 52.2(c) states:

In determining whether a development conforms to the maximum Height permissible in any Zone, the following regulations shall apply:

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- c. Where the maximum Height as determined by Section 52.1 is measured to the midpoint, the ridge line of the roof shall not extend more than 1.5 m above the maximum permitted building Height of the Zone or overlay, or in the case of a Garden Suite the maximum permitted building Height in accordance with Section 87 of this Bylaw.

Development Officer’s Determination (16020 – 69 Street NW / SDAB-D-19-078)

2. Height - The house was built 10.6m high (to the peak), instead of 10.4m (Section 52.2(c)) [unedited]

Development Officer’s Determination (16022 – 69 Street NW / SDAB-D-19-079)

2. Height - The house was built 10.8m high (to the peak), instead of 10.4m (Section 52.2(c)) [unedited]

Community Consultation

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

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Section 814.5(2) states:


Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 1	The municipal address	The assessed owners	814.3(5) - Height

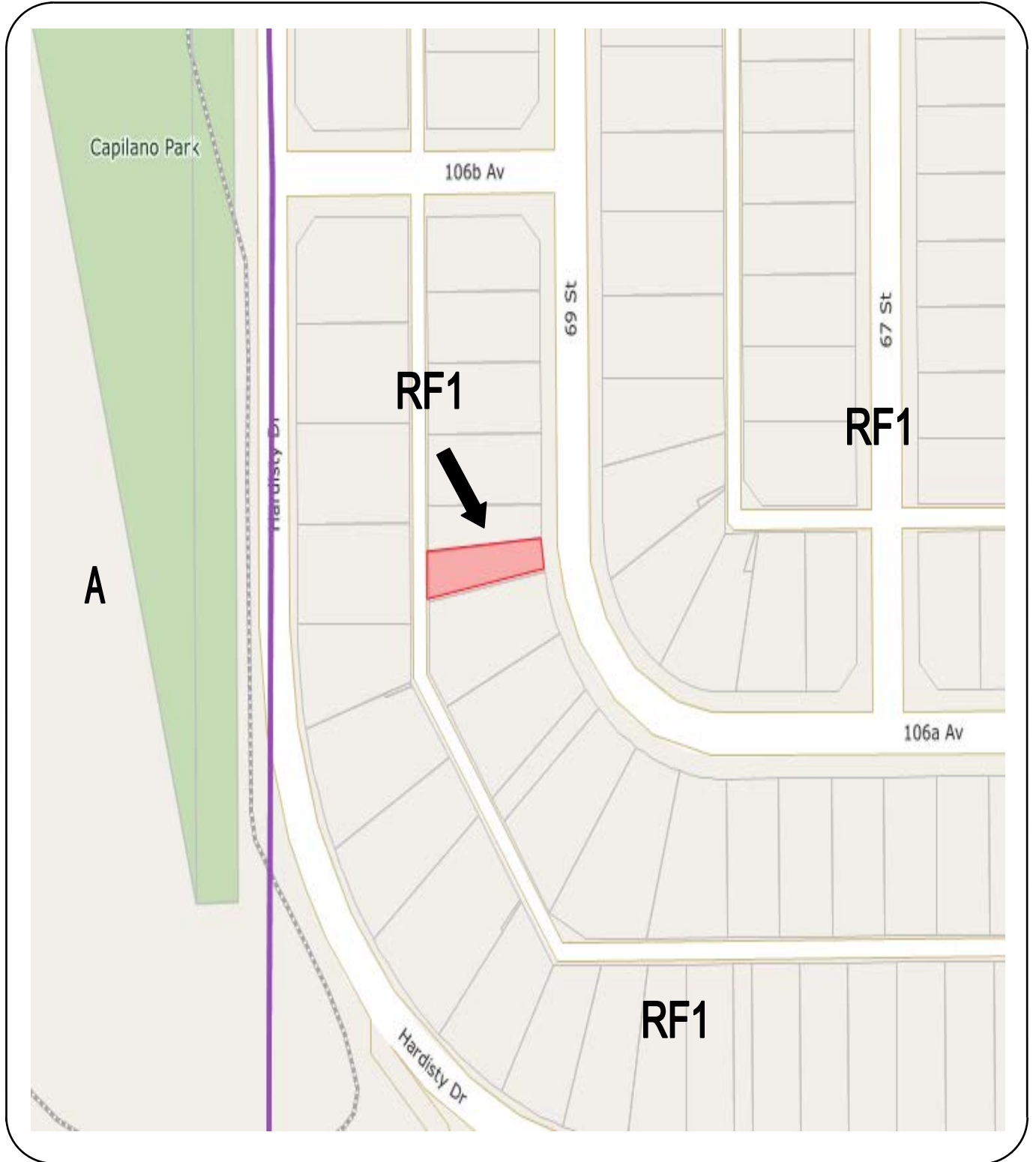
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Notice to Applicant/Appellant

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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Development Application Decision Refused Issue Date: Apr 15, 2019 Development Authority: BAUER, KERRY Reason for Refusal <ol style="list-style-type: none"> 1. Height - The house was built 9.3m high (to the midpoint), instead of 8.9m (Section 814.3.5) 2. Height - The house was built 10.8m high (to the peak), instead of 10.4m (Section 52.2(c)) 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 <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;">\$170.00</td> <td style="text-align: right;">\$170.00</td> <td style="text-align: right;">05350630</td> <td style="text-align: right;">Sep 21, 2018</td> </tr> <tr> <td>Existing Without Permit Penalty Fee</td> <td style="text-align: right;">\$170.00</td> <td style="text-align: right;">\$170.00</td> <td style="text-align: right;">05350630</td> <td style="text-align: right;">Sep 21, 2018</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$340.00</td> <td style="text-align: right; border-top: 1px solid black;">\$340.00</td> <td></td> <td></td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$170.00	\$170.00	05350630	Sep 21, 2018	Existing Without Permit Penalty Fee	\$170.00	\$170.00	05350630	Sep 21, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$340.00	\$340.00		
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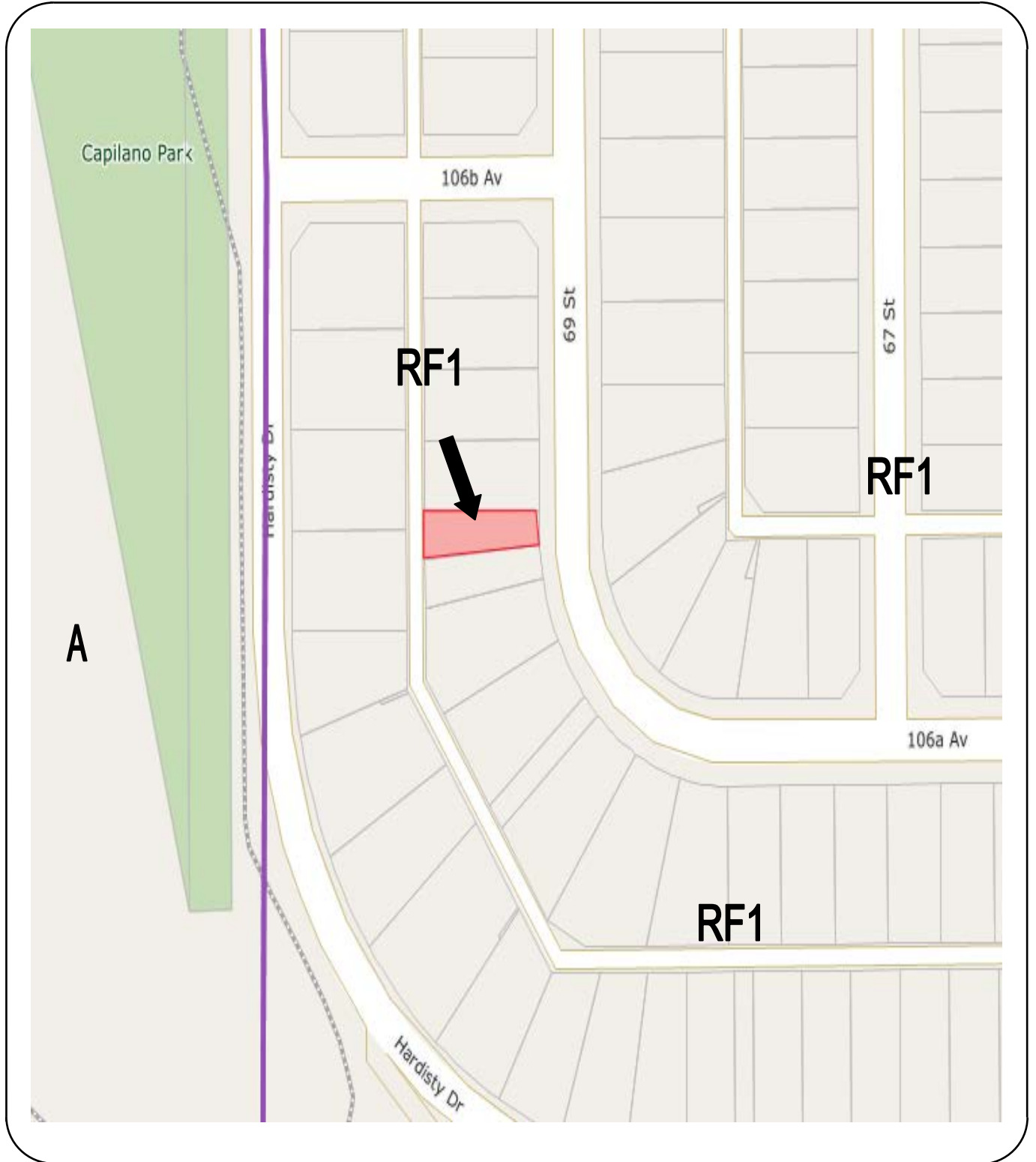


SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-078





SURROUNDING LAND USE DISTRICTS

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