



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: May 5, 2017  
Project Number: 176035784-007  
File Number: SDAB-D-16-144

**Notice of Decision**

- [1] On April 20, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on May 19, 2016. The appeal concerned the decision of the Development Authority, issued on May 9, 2016, to approve the following development:

Construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building)

- [2] The subject property is on Plan 8920191 Blk 1, located at 12250 - 33 Street NE, within the IM Medium Industrial Zone. The Aurum Industrial Business Park and Yellowhead Corridor Area Structure Plans apply to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copy of the approved permit; and
  - Previous tabling letters.
- [4] The following exhibits were presented during the hearing and form part of the record:
- Exhibit A – Amended Condition Two

**Preliminary Matters**

- [5] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [6] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [7] The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

## Summary of Hearing

### *i) Joint Submissions of the Parties*

- [8] The Appellant, Kiewit Energy Canada Corp., was represented by legal counsel, Mr. J. McFadyen. The City of Edmonton, Sustainable Development, was represented by legal counsel, Mr. M. Gunther.
- [9] The subject property is located in a large industrial site in northeast Edmonton, within Aurum Industrial Park, an area that is developing at varying rates. All lots in this area are subject to arterial roadway assessments as per the City's bylaw. Initially, this appeal arose over a dispute as to the amount payable, as well as whether such obligation exists. After approximately one year of negotiations, the parties have reached an agreement with respect to this assessment.
- [10] The parties submitted jointly Exhibit "A", proposed amendments to condition two of the approved permit. The amended condition better reflects the unique condition of the site. The trailers that have been moved onto the site are intended to remain on the site, but their impact will be less than what was initially anticipated when the application was first reviewed, as they will be less intense of a development, with less density.
- [11] Upon questioning by the Board, the Appellant confirmed that it did not oppose the remainder of the conditions.

## Decision

- [12] The appeal is **ALLOWED IN PART** and the decision of the Development Authority is **VARIED**. The development is **GRANTED** as approved by the Development Authority for Permit Number 176035784-007, issued on May 9, 2015, subject to the following **AMENDMENT** to the second condition:

The owner must enter into a Servicing Agreement with the City of Edmonton for the payment of the ARA. This lot is within the Aurum and Clover Bar Industrial Arterial Roadway Assessment (ARA) catchment area. The outstanding amount of ARA using the 2017 rate totals \$2,590,978 for the entire site. A portion of the ARA in the amount of \$300,000 is owing with this development application, accounting for 2.97 ha of the site, with the balance to be deferred in accordance with the terms of the Servicing Agreement. Upon future development or subdivision of the site, the deferred amount may be collected in accordance with the terms of the Servicing Agreement. The Servicing Agreement must be entered into **PRIOR** to the release of the drawings for Building Permit review. The owner must contact Dan-Christian Yeung (780-496-4195) of Sustainable Development for more information on the Servicing Agreement and ARA owing.

**Reasons for Decision**

- [13] The proposed development is for six Accessory General Industrial Use buildings. Within the IM Medium Industrial Zone, General Industrial Use is a permitted use.
- [14] Both parties have agreed to the amendment to the second condition to the development permit that was approved by the Development Authority. Originally, the second condition read as follows:

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the owner must enter into a Servicing Agreement with the City of Edmonton for the payment of the ARA. This lot is within the Aurum and Clover Bar Industrial Arterial Roadway Assessment (ARA) catchment area. The outstanding amount of ARA using the 2016 rate totals \$2,554,014 for the entire site. The proposed development represents a 22.3% increase in development on the property, therefore 22.3% of the ARA for the entire property in the amount of \$569,545 is owing with this development application and payable under this Agreement. Upon future development or subdivision of the site, the deferred amount will be collected. Notwithstanding the entire ARA amount as cited above, the assessment amount owing may be adjusted to reflect the current ARA rate at the time the Servicing Agreement is signed. The Servicing Agreement must be entered into PRIOR to the release of the drawings for Building Permit review. The owner must contact Dan-Christian Yeung (780-496-4195) of Sustainable Development for more information on the Servicing Agreement and ARA owing. The owner must enter into a Servicing Agreement with the City of Edmonton for the payment of the ARA owing on the portion of the property being developed.

- [15] At the hearing, the parties jointly submitted the following amendment to the second condition:

The owner must enter into a Servicing Agreement with the City of Edmonton for the payment of the ARA. This lot is within the Aurum and Clover Bar Industrial Arterial Roadway Assessment (ARA) catchment area. The outstanding amount of ARA using the 2017 rate totals \$2,590,978 for the entire site. A portion of the ARA in the amount of \$300,000 is owing with this development application, accounting for 2.97 ha of the site, with the balance to be deferred in accordance with the terms of the Servicing Agreement. Upon future development or subdivision of the site, the deferred amount may be collected in accordance with the terms of the Servicing Agreement. The Servicing Agreement must be entered into PRIOR to the release of the drawings for Building Permit review. The owner must contact Dan-Christian Yeung (780-496-4195) of Sustainable Development for more information on the Servicing Agreement and ARA owing.

[16] As there were no objections expressed by either party with respect to this amended condition, nor the remainder of the existing conditions, the Board accepts the proposed amended condition.



Brian Gibson, Presiding Officer  
Subdivision and Development Appeal Board

**Board Members in Attendance:**

K. Cherniawsky; G. Harris; L. Pratt; R. Hachigian

**Important Information for the Applicant/Appellant**

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
  - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
  - b) the requirements of the *Alberta Safety Codes Act*,
  - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
  - d) the requirements of any other appropriate federal, provincial or municipal legislation,
  - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of Section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

*NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.*