



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: October 18, 2017  
Project Number: 257144931-001  
File Number: SDAB-D-17-183

**Notice of Decision**

- [1] On October 11, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **September 19, 2017**. The appeal concerned the decision of the Development Authority, issued on September 19, 2017, to refuse the following development:

Construct an Indoor Participant Recreation Services Use building (soccer dome)

- [2] The subject property is on Plan 1421138 Blk 3 Lot 6, located at 3105 - 101 Street SW, within the EIB Ellerslie Industrial Business Zone. The Special Area Ellerslie Industrial overlay applies to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
  - The Development Officer’s written submissions; and
  - The Appellant’s written submissions including Letters of Support from neighbouring property owners and the Community League.

**Preliminary Matters**

- [4] 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.
- [5] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [6] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”).

## Summary of Hearing

### *i) Position of the Appellant, Mr. A. Temofychuk, Temofychuk Gerbitz Architects*

- [7] Mr. A. Temofychuk was accompanied by Mr. K. Poissant, who is a Director with the Edmonton Scottish Society. The Scottish Society is a board governed, nonprofit group dating back to 1870. The Scottish Society owns and operates Grant MacEwan Park in the Ellerslie Industrial area.
- [8] The proposed project will allow soccer and other sports to be played and practiced year round and the facility will be made available for public use.
- [9] They have been working with the City to resolve issues since they applied for the Development Permit on July 12, 2017. Because of size of the site, the Fire Department requires two accesses and this has now been resolved.

### Height Variance

- [10] The proposed structure will be an air and cable supported structure and the height cannot be changed as it is determined by the footprint of the structure. The height is designed to reflect a soccer game played in an outdoor setting.
- [11] The height will not negatively impact any of the surrounding neighbours because:
- a) All openings to the dome will be at ground level and there will be no windows, balconies or raised viewing area.
  - b) There is no residential zoning near the property.
  - c) Many tall, mature trees (up to 45 feet in height) surround the perimeter of the property. The proposed structure is tucked into the northeast corner of the property and is masked by these tall trees.
  - d) The *Edmonton Zoning Bylaw* requires a 6 metre setback and they have allowed a setback in excess of 15 metres.
  - e) Mr. Temofychuk referred the Board to a sketch he had provided which shows how the dome slopes softly back and is set back 24.5 metres from the tree tops. It is not a vertical structure.

- [12] The Development Officer is not able to grant a height variance.

### Parking and Hardsurfacing Variances

- [13] The current lot has 269 stalls including 4 handicapped stalls and has served the Edmonton Scottish Society for many years. The new development is replacing an existing soccer field, not adding an additional one, and the current use has never required this many stalls

at one time. The parking demand should not increase because the outdoor soccer fields will not be used in the winter when the dome is used most intensely.

- [14] They are not opposed to hardsurfacing the parking area or providing additional parking but it does not make financial sense to do so at this time. The entrance to the site and the current location of the parking area will be changing when the City of Edmonton closes 101 Street. No timeline for the 101 Street closure has been provided and is dependent on the development of Ewing Trail which will be the future main access to the site.
- [15] The current parking area consists of high quality compacted gravel. They are prepared to maintain the gravel access road to the property as they have done in the past.
- [16] A number of buildings on the site are due for updating and replacing. They would like to defer any upgrades to the parking lot to when this future development occurs to ensure there is proper traffic flow and fire truck access. Currently the distance from the parking area to the proposed building is approximately 130 yards.

#### Landscaping

- [17] Most of the perimeter of the property, as well as the current site entry, has tall, deciduous trees and shrubs consisting of native aspen, wild rose and gooseberry. The current scope of work will not affect this existing landscaping.
- [18] The entire site, which is 20 acres in size, will be re-structured in the future with the planned closure of 101 Street and the planned replacement of the hall and the clubhouse. They would like to address the landscaping when the site is re-designed as a whole. Landscaping would be done around future buildings and they would work with the City to come up with an appropriate design at that time.
- [19] The existing mature trees along the north and east perimeter would not be affected by future redevelopment plans.
- [20] The proposed dome can be taken down and re-inflated but the intent is to maintain it for the first season to determine how much it would be used during the spring and summer. Most other operators of similar facilities they have spoken with have moved from a seasonal dome to maintaining one permanently.
- [21] The Edmonton Scottish Society has a track record of successes and has had decades of involvement with cultural and sporting facilities. It has an intimate understanding of the challenges facing amateur sports and access to appropriate facilities is a significant one.
- [22] This project will also include a two lane running track within the facility which will provide opportunities for other community groups such as seniors and youth at risk.
- [23] Edmonton is a winter city and we need places to be active for twelve months of the year.

*ii) Richard Dixon in Support of the Appellant*

- [24] Mr. Dixon is the chief operating officer of the Edmonton Interdistrict Youth Soccer Association (EIYSA) and is also an adjunct professor at the University of Alberta. The proposed facility addresses an immediate need as well as a long term vision.
- [25] There is an immediate need for such a facility which would allow youth to train in an indoor facility which reflects an outdoor field as closely as possible.
- [26] The larger vision is moving towards building a high performance league and working with the Edmonton Minor Soccer Association (EMSA) to resolve differences. The U15 and U17 age groups of both EIYSA and EMSA will be playing together this summer.

*iii) Position of the Development Officer, Mr. C. Lee*

- [27] Mr. Lee responded to questions from the Board.
- [28] He confirmed that with the new interchange at Calgary Trail and 45 Avenue SW, the City plans to eventually close 101 Street. He confirmed that no definite timeline for this closure has been provided.
- [29] The Appellant has agreed to provide the required secondary access to the site.
- [30] He would have approved the proposed development but does not have the authority to grant a height variance.

*iv) Rebuttal of the Appellant*

- [31] The Appellants confirmed they have no objection to any of the suggested conditions of the Development Officer should this development be approved.
- [32] They took time to obtain the approval of the neighbouring land owners as is evidenced by the letters of support that were submitted.
- [33] The neighbouring land is zoned for light and medium industrial use, public utility corridor and rural agricultural.

**Decision**

- [34] The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The development is GRANTED as applied for to the Development Authority, subject to the following CONDITIONS:
1. The proposed Development shall be constructed in accordance with the stamped approved drawings.

2. An approved Development Permit means that the proposed development has been reviewed against the provisions of this Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the *Municipal Government Act*, the *Safety Codes Act* or any caveats, restrictive covenants or easements that might be attached to the Site. (Reference Section 5.2).
3. Existing Landscaping shall be maintained in accordance with Section 55.
4. Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices (Reference Section 51).
5. PRIOR TO RELEASE OF DRAWINGS TO PLANS EXAMINATION FOR BUILDING PERMIT REVIEW, the property owner shall enter into a Servicing Agreement to the satisfaction of Subdivision Planning.

#### SUBDIVISION (TRANSPORTATION) PLANNING CONDITIONS:

1. Access from the site to 101 Street exists, as shown on Enclosure I. Any modification to the existing access requires the review and approval of Subdivision Planning.
2. The proposed 10 metres culvert crossing access to Ewing Trail SW (91 Street) located approximately 12 metres north of the south property line is acceptable to Subdivision Planning. The access must be hard surfaced with asphalt or concrete from the edge of the driving surface to the property line as shown on Enclosures I and II.
3. The owner must enter into a Servicing Agreement with the City for the following improvements:
  - a) construction of a 10 metres wide culvert crossing, located approximately 12 metres north of the south property line; and
  - b) hard surfacing of the drive aisle from the edge of driving surface to the property line.

The Servicing Agreement must be signed PRIOR to the release of the drawings for Building Permit review.

Please contact Esther Anderson (780-944-7773) of the Development Servicing Agreements Unit for the Agreement.

Once signed by the land owner the Agreement must be returned to Development Servicing Agreements to the attention of Esther Anderson (780-944-7773) including an irrevocable Letter of Credit in the amount of \$65,000.00 to cover 100 percent of construction costs and 30 percent for engineering drawing approval.

Upon engineering drawing approval, security will be reduced to 100 percent of the construction costs of \$50,000.00. The difference of \$15,000 shall be returned to the land owner.

Once signed, the owner is required to have a Civil Engineer submit stamped engineering drawings for approval by Development Engineering and Drawing Review.

The applicant must contact Trevor Singbeil (780-496-1799) 48 hours prior to removal or construction within city road right-of-way.

4. This lot is within the Ellerslie Arterial Roadway Assessment (ARA) catchment area. The owner must enter into a Servicing Agreement with the City of Edmonton for payment of the ARA for the proposed building. The proposed improvement is based on the new construction footprint of 12,542 square metres therefore the amount of \$204,508 is now 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 Urban Form and Corporate Strategic 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.
5. There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; [www.digshaw.ca](http://www.digshaw.ca)) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.
6. Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. OSCAM permit applications require Transportation Management Plan (TMP) information. The TMP must include:
  - the start/finish date of project;
  - accommodation of pedestrians and vehicles during construction;
  - confirmation of lay down area within legal road right of way if required; and

- to confirm if crossing the sidewalk and/or boulevard is required to temporarily access the site.

It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at:

[http://www.edmonton.ca/transportation/on\\_your\\_streets/on-street-construction-maintenance-permit.aspx](http://www.edmonton.ca/transportation/on_your_streets/on-street-construction-maintenance-permit.aspx)

7. Any boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Development Inspections, as per Section 15.5 of the *Zoning Bylaw*. The boulevard will be inspected by Development Inspections prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner

#### SUBDIVISION (TRANSPORTATION) PLANNING ADVISEMENTS:

1. The Ellerslie ARA catchment is set up as a means for cost sharing the arterial roadway construction within the Ellerslie Area. For further information regarding Arterial Roadway Assessments, please contact Dan-Christian Yeung (780-496-4195) of Development Coordination.
2. With future improvements to 25 Avenue SW and 91 Street SW (Ewing Trail SW), 101 Street SW south of 25 Avenue will eventually be closed. There are no timelines for the construction of 25 Avenue SW, west of 91 Street SW (Ewing Trail SW) and therefore the closure date of 101 Street SW is unknown at this time.
3. The site circulation and access to 91 Street SW (Ewing Trail SW) must meet the satisfaction of Fire Rescue Services. For more information, please contact Rebecca Webber at 780-496-3628 with Fire Rescue Services.

#### DRAINAGE SERVICES CONDITIONS:

1. Permanent Area Contributions (PACs) and Sanitary Servicing Strategy Expansion Assessments (EAs)

PACs must be paid by entering into a servicing agreement, which will be prepared by the Urban Form and Corporate Strategic Development Department. The applicant should contact Dan-Christian Yeung at 780-496-4195, upon issuance of the Development Permit when he/she is ready to initiate the servicing agreement and make payment.

For the purposes of DP257144931-001, the assessable area is 1.2542 hectares (obtained from drawings submitted by the applicant), and the following PAC Basins are applicable:

Ellerslie Interchange Offsite Storm: \$1,909.00/hectares

Ellerslie Interconnecting Pipe Lake 13, 14, 15, and 16: \$6,372.00/hectares

The rate information above is for information purposes only and the rates are current as of the year 2017. As PAC rates are subject to change over the course of a year, the final PAC amounts will be based on the prevailing rates at the time the applicant/owner pays and enters into a servicing agreement with the City

There may also be a PAC over-expenditure, boundary condition, and/or an oversizing payment required, which can only be determined at the time the applicant/owner is ready to enter into a servicing agreement.

PACs applicable to the above mentioned basins for the remaining 6.5742 hectares (i.e. 7.8284 hectares — 1.2542 hectares), as well as PACs applicable to basins not mentioned above but applicable to the Subject Property (such as EAs), are being deferred and will be assessed upon future application of subdivision, development permit, or servicing connection application.

The 7.8284 hectares is the entire area of the Subject Property and is obtained from the City's information computer program called POSSE.

The above assessment is made based on information currently available to the Urban Form and Corporate Strategic Development Department. Should such information change in the future, a new assessment will have to be prepared.

More information about PACs and EAs can be found on the City of Edmonton website: [www.edmonton.ca](http://www.edmonton.ca)

[35] In granting the development the following variances to the *Edmonton Zoning Bylaw* are allowed:

1. The maximum allowable Height of 12.0 metres, pursuant to Section 930.4(4)(6), is varied to allow an excess of 10.86 metres, thereby increasing the maximum allowed Height to 22.86 metres.
2. The minimum number of required parking stalls of 894, pursuant to Section 54.2 – Schedule 1(A)(37) is varied to allow a deficiency of 625 stalls, thereby decreasing the minimum required number of parking stalls to 269.
3. The Landscaping requirements, pursuant to Section 55.4 and Section 55, are waived.
4. The Hardsurfacing requirement, pursuant to Section 54.6, is waived.

### **Reasons for Decision**

[36] An Indoor Participant Recreation Services is a Discretionary Use in the (EIB) Ellerslie Industrial Business Zone.



[37] The Appellants requested four variances, all of which have been granted for the following reasons:

1. Height

A variance of 10.86 metres was granted with respect to the Height of the structure because:

- i. The structure is surrounded by industrial and agricultural uses, not residential uses, meaning that the size of the structure will not impact anyone's enjoyment of their private residence.
- ii. The site is a very large and primarily composed of outdoor soccer fields, meaning there is a huge expanse of negative space on the subject site which mitigates any massing effect that may be created by the structure's Height. This effect has been further mitigated by the developer increasing the required setbacks to over 15 metres from the property line.
- iii. The property lines closest to the proposed structure are completely lined with mature trees which further mask any massing effect by the building.
- iv. The structure is a domed structure which, by its very design, incorporates a significant step-back from its walls which further mitigates the visual appearance occasioned by the building's Height.
- v. Finally, as the structure is an air-supported dome, by necessity it contains no windows; therefore, no oversight risks are created by the Height of the structure.

2. Parking.

- i. The parking variance was granted as the evidence presented to the Board by the developer and the owner of the site is that the existing parking is already sufficient for the current use and the proposed development will not significantly alter the parking demands of the site. The location of the proposed indoor soccer building is currently an outdoor soccer field meaning that this will not increase the overall number of fields on the site. Further, indoor soccer centres are primarily used in the winter months when the outdoor fields are not in use.

3. Landscaping and Hardsurfacing

- i. Landscaping and Hardsurfacing requirements are very desirable and in a normal course would be required to be complied with. The developer, however, as confirmed by the Development Officer, has laid out a case of particular hardship with respect to this lot. The current access to the site is off of 101 Street SW. That access also configures the internal road system and parking system on the subject property. This road will be closed sometime in the future by the City of

Edmonton, as confirmed by the Development Officer. Neither party knows when the closure of that road will occur.

- ii. The owners of the land indicate that their final parking facilities and landscaping arrangements can only be determined once that road is closed and the proposed road that is currently 91 Street SW and will be known as Ewing Trail SW is developed. Therefore it would be a hardship to require compliance at this present time with the Landscaping and Hardsurfacing requirements when the City's alteration to the road network will very likely require any such Hardsurfacing and Landscaping to be re-arranged. Furthermore, the site is already significantly landscaped with a natural growth of trees which completely envelopes the north and east boundaries of the subject site.
- iii. The current parking lot, while not hardsurfaced, has operated on the basis of packed earth and gravel and the evidence before the Board is that it is currently sufficient for the present use of the subject site as a sports complex, a use which will not be significantly altered by the proposed development.

[38] With respect to all of the requested variances, the Board notes the support of all of the neighbouring land owners and Community League and the lack of any opposition to this appeal, as well as the support of the Development Officer for all of the requested variances at the hearing today.

[39] For these reasons the Board finds that granting these variances will 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.

Ian Wachowicz, Chair  
Subdivision and Development Appeal Board

Board Members in Attendance:

Mr. B. Gibson, Ms. E. Solez, Mr. R. Hobson, Ms. N. Hack

**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.*



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Date: October 18, 2017  
Project Number: 170758816-006  
File Number: SDAB-D-17-184

**Notice of Decision**

- [1] On October 11, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **September 18, 2017**. The appeal concerned the decision of the Development Authority, issued on September 6, 2017, to approve the following development:

Construct 22 Semi-detached Housing buildings (total of 44 Dwellings)

- [2] The subject property is on SW-18-52-25-4, located at 5122 - 213A Street NW, within the RF4 Semi-Detached Residential Zone. The Grange Area Structure Plan and The Hamptons Neighbourhood Structure Plan apply to the subject property.
- [3] The following documents were received prior to the hearing and form part of the record:
- Copy of the Development Permit application with attachments, proposed plans, and the approved Development Permit;
  - The Development Officer’s written submissions; and
  - The Appellant’s written Reasons for Appeal.

**Preliminary Matters**

- [4] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”).

**Summary of Hearing**

*i) Position of the Appellant, Kenneth Hawkins*

- [5] Mr. Kenneth Hawkins did not appear and the Board relied on his reasons for appeal:

- a) There is inadequate road access and there is already a significant burden of traffic heading eastward to the Anthony Henday exits every day. The proposed development will aggravate the situation and create further issues with inadequate street parking.
- b) Water drainage has been an ongoing issue for several years and the proposed development could lead to surface flooding issues.
- c) Housing targeted towards older adults is not an appropriate development on this site due to the proximity to two public schools.

ii) *Position of the Development Officer, K. Bacon*

[6] The Development Authority provided written submissions and did not attend the hearing.

iii) *Position of the Respondent, Invistec Consulting Ltd.*

[7] The Respondent did not appear.

### **Decision**

[8] The appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is GRANTED as approved by the Development Authority.

### **Reasons for Decision**

[9] Semi-detached Housing is a Permitted Use in the RF4 Semi-Detached Residential Zone.

[10] The proposed development, besides being a Permitted Use, complies with all of the required development regulations with two exceptions:

- a. The first exception deals with the landscaping requirements pursuant to Section 150.4.10 of the *Edmonton Zoning Bylaw*. A variance is being granted waiving strict compliance with this subsection because the only alteration being sought to the landscaping plan is a reduction in landscaping on the north (rear) setback. The required trees for that setback are provided elsewhere on the site plan instead of within the rear setback. Furthermore, the rear setback, which is to the north of the subject site, abuts the Hamptons natural area which more than provides for sufficient vegetative views on the north side of this development.
- b. The second variance sought was the waiving of Section 150.4.17 of the *Edmonton Zoning Bylaw* which requires that each Dwelling with direct access to Grade shall have an entrance door or entrance feature that faces a public roadway, other than a lane. In the subject site, the doors and entrance features will face an internal roadway instead of a public roadway which is necessitated by the size and shape of the subject site and the presence of development immediately to the south of the subject site

without any intervening public roadway. The site is therefore impossible to develop in a manner that would allow all of the dwellings to have doors that face a public roadway. The Board also notes that this development is for 22 buildings that will surround a new private internal roadway which will allow the development to still have a pedestrian oriented feel for those people who will eventually live on the subject site. The Board further notes that while the site abuts Winterburn Road on the west there is a berm and sound attenuation fence constructed right on the west property line. Entrances oriented towards Winterburn Road would not be visible or practical.

- [11] For the above reasons the Board finds that granting these two variances will 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.

Ian Wachowicz, Chair  
Subdivision and Development Appeal Board

Board Members in Attendance:

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