

Edmonton Subdivision and Development Appeal Board

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Date: April 28, 2016
Project Number: 187578083-001
File Number: SDAB-D-16-092

Notice of Decision

[1] On April 13, 2016, the Subdivision and Development Appeal Board heard an appeal that was filed on March 22, 2016. The appeal concerned the decision of the Development Authority, issued on March 14, 2016, to approve the following development:

Change the Use from General Retail Stores to Minor Alcohol Sales (Sector 17 Plaza - Liquor on 17th)

[2] The subject property is on Plan 1125688 Blk 62 Lot 2B, located at 1752 - 34 AVENUE NW, within the CB1 Low Intensity Business Zone. The Meadows Area Structure Plan and the Wild Rose Neighbourhood Structure Plan apply to the subject property.

[3] The following documents, which were received prior to the hearing and are on file, were read into the record:

- E-mail correspondence from the Appellant asking the Board to proceed in his absence;
- The approved development permit with plans attached;
- An aerial view of the neighbourhood;
- An alcohol sales map;
- A printout of Section 54.2, Schedule 1 of the *Zoning Bylaw* showing parking calculations;
- The Development Officer's written submissions;
- An online response and letter in opposition;
- The Meadows Area Structure Plan; and
- The Wild Rose Neighbourhood Structure Plan.

Summary of Hearing

[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 appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

i) Position of the Appellant, Mr. E. Saroop

[6] The Board acknowledged correspondence received from the Appellant requesting that the appeal hearing proceed in his absence and the Board rely on his written submission.

[7] The Board then read the Appellant's written submission into the record. It states:

The area is too congested...currently there is a problem with peak traffic flow...if there is another business especially a liquor store no one would be able to cross the street. [unedited]

ii) Position of the Development Officer, Ms. E. Peacock

[8] With respect to whether or not it is appropriate to have an Alcohol Sales Use in the same complex as a Child Care Services Use, the Development Officer stated that there is no required separation between the two. This is also a situation where all operations related to the proposed development occur in a closed building. If it were a Nightclub, where noise and other matters would be a concern, there would be more impact on the neighbourhood.

[9] Further, there are no other approved Alcohol Sales Uses within 500 metres of the proposed development (Section 85(3) of the *Zoning Bylaw*). The closest, approved Alcohol Sales Use appears to be 1335 metres from the proposed development.

[10] The parking variance is an aggregate for the whole Site. Therefore, as a more significant parking variance was already granted for the Child Care Services Use sharing the same complex as the proposed development, a further variance for parking is not necessary. The aggregate variance is reduced by the change of proposed Use at issue in this appeal.

iii) Position of the Respondent, Mr. B. Allsop

[11] The Respondent reiterated the Development Officer's submissions with respect to parking and the 500-metre separation requirement between Alcohol Sales Uses.

[12] The subject Site was recently rezoned to a CB1 Low Intensity Business Zone from a CNC Neighbourhood Convenience Commercial Zone. The difference between the two is that an Alcohol Sales Use is a Discretionary Use in the CB1 Zone. This change in zoning was approved unanimously by Council. No objection from the affected property owners was voiced at the time of rezoning. It was always going to be a commercial Site. If not a liquor store, there would be a general retail store on the subject Site, and there is likely no difference in terms of congestion between the two Uses.

- [13] There will be no change to the amenities of the neighbourhood resulting from the proposed development.

Decision

- [14] The Appeal is DENIED and the decision of the Development Authority is CONFIRMED. The development is GRANTED as approved by the Development Authority with the conditions included in the approved development permit.

Reasons for Decision

- [15] The proposed development, alcohol sales, is a Discretionary Use in the CB1 Low Intensity Business Zone.
- [16] The Appellant's concerns with the proposed development centered on increased traffic, the existence of other alcohol sales developments in that area, the noise associated with an unrelated business on the same Site and proximity to a Child Care Services Use. The Board does not find these concerns persuasive.
- [17] The Board notes that this Site has always been a commercial zone and was recently rezoned to a CB1 Low Intensity Business Zone.
- [18] The Board received no evidence that the proposed Minor Alcohol Sales Use would contribute to increased traffic congestion on and around the subject Site more than any other commercial Use.
- [19] The proposed change in Use requires no additional variances to the *Zoning Bylaw*. The Board notes that, with this change in Use, the aggregate parking requirements have been calculated by the Development Authority, resulting in a reduction of one stall in the required variance.
- [20] According to City records, the closest, existing Alcohol Sales development is a distance of 1335 metres away from the proposed development, well outside the required 500-metre separation distance set out in the *Zoning Bylaw* (Section 85(3)).
- [21] The Board notes that there is no separation distance required by the *Zoning Bylaw* between Alcohol Sales Uses and Child Care Services Uses. The Development Officer indicated that there would be no special concerns in this case, as the commercial activities associated with the proposed Use would occur inside the premises.

[22] Based on the above reasons, the Board is satisfied that the proposed development will not unduly interfere with the amenities of the neighbourhood or materially affect the use, enjoyment or value of neighbouring parcels of land.

Ms. K. Cherniawsky, Presiding Officer
Subdivision and Development Appeal Board

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 5th Floor, 10250 – 101 Street, Edmonton.
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*, R.S.A. 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 5th Floor, 10250 – 101 Street, Edmonton.

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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SDAB-D-16-093

Application No. 33614743-154

An appeal by Pro Consulting Design & Build to construct and operate a Child Care Services Use building (95 children - 12, 0-11 months/ 15, 12-19 months/ 14, 19 months-3 yrs/ 22, 3-4.5 yrs/ 15, 4.5-6 yrs/ 17, 6-12 yrs) and to construct exterior alterations (developing on-site outdoor play spaces and revisions to approved landscaping) on Condo Common Area (Plan 1420420), located at 2908C – 151 Avenue NW, was **TABLED TO MAY 13, 2016 and WITHDRAWN ON APRIL 26, 2016.**