

MINUTES of the **Subdivision & Development Appeal Board** held on **Thursday, August 2, 2012 at 4:00 p.m.** in Council Chambers with the following in attendance:

MEMBERS:	L. Cutforth	Chair
	V. Chester	Member at Large
	A. Haesler	Member at Large
	T. Nicholson	Member at Large
	R. Stein	Member at Large
	T. Wickersham	Alderman
OTHERS:	G. Stevenson	Senior Development Officer
	D. Sarsfield	Secretary to the Board

R. Stein:

THAT the Minutes of the Subdivision and Development Appeal Board held on May 10, 2012 be approved as presented.

-----**CARRIED**

SDAB HEARING 2012-02

Appellants: Dr. Gary and Denise Fong et al

To permit the development of a neighbourhood skateboard park directly south of the Henderson Ice Arena at 2599 Parkside Drive South

Development Application No. DEV04402
Land Use District: P-B (Public Building)

There were no objections when the Chairman asked if anyone present had a lawful reason why any particular member(s) of the Board should not hear this appeal.

Development Officer's Presentation:

Gepke Stevenson, Senior Development Officer, provided background to the case. The property is zoned under the Public Building (P-B) District whereby a "minor sports and recreation facility" is a discretionary use. The Land Use Bylaw defines this use as "development for athletic, recreation and community meeting activities with a low impact beyond the site, and may incorporate restaurants, amusement and retail facilities as accessory uses."

Development Services received an application on June 12, 2012 for the development of a neighbourhood skateboard park. The proposed site was not a park, green space, entrance feature or gateway; never designed or approved as such. It is a developable piece of land and could be developed for any number of uses. However, the most appropriate use on this site is another recreational use.

The proposed neighbourhood skateboard park would be 950 m² (10,225 square feet). This is approximately half of the size of the current skateboard park on the north side. The existing mature trees would be retained as well as a substantial boulevard on Parkside Drive South. It has good pedestrian connections. The site is connected to the City of Lethbridge's trail system and has transit service.

Ms. Stevenson concluded that the site would be appropriately co-located with similar recreation uses. The skateboard park peak season is July to September when Henderson Arena has low use. Spitz Stadium use is June to mid-August as games are not held every night and almost always start after 7 p.m.

A detailed landscaping plan must be submitted for the 6 m landscaping strip on both frontages which will be reviewed by the Police and the City of Lethbridge. The Police will be ensuring there are good sight lines for Crime Prevention through Environmental Design (CPTED). The proposed location on a busy corner allows for good visibility from the street, allowing for easy police surveillance. The skateboard park is not intended for late night use.

Most of the users will arrive by foot or bus as the majority would be in the 5-19 year age range. It was stated that most of the vehicular traffic will be for drop off and pick up. Ms. Stevenson stated the existing right-in/right-out driveway and existing parking lot will serve that need well.

Based on providing one parking space for every 15 users, each user requiring 14 m² of skateboard park space, there would be 5 parking spaces required for the possible 68 users. This would be accommodated in the existing parking lot. There are an additional 46 spaces available.

The greatest potential for impact is on the five houses directly to the north. The closest fence is 116 metres or 381 feet away from the site. There is an intervening parking lot, a row of trees, backyard fences, and landscaping that will buffer the sounds that may travel that far. A good portion of the skateboard park is behind the arena which will also buffer the noise.

The arena has been on the site since 1971, with the Stadium located there since 1924. It is difficult to gauge the impact of the noise as there is no existing comparison. It is expected the noise from the skateboard park will be a marginal addition.

The Integrated Community Sustainability Plan / Municipal Development Plan states as a policy to "encourage and promote the creation of city and neighbourhood focal points that provide opportunities for community gathering" (Policy 6.4.5).

Ms. Stevenson approved the application on July 4, 2012 for the following reasons:

- The only anticipated land use impact of this discretionary use is the potential for noise that may be experienced by 5 residential properties to the north of the site. Given the distance to the residential properties and the noise already produced by the existing uses on this property, the noise from the Skatepark will likely constitute only a marginal increase in noise levels. The potential noise impact from the Skatepark is reasonable under the circumstances.
- This site is a logical location for a Skatepark and the proposal is an appropriate fit with the surrounding uses and neighbourhood.

Appellant's Presentation:

Dr. Gary Fong spoke against the approval of the application. He stated the following:

- Not opposed to the establishment of a skateboard park or the skateboard association
- Proposed location should be refused as the proposed facility is a major recreation use as lighting and noise will impact beyond the parcel boundaries
- Neighbourhood should have greater input into the process
- Discussion should be led by City Council
- Aesthetics of the area should not allow the development of a concrete lighted structure
- Current area is a beautiful area with mature trees
- Recognize that public consultation may not be required, but perhaps it should be; suggest that it go back to City Council for consideration
- Area is a living space
- Approval assumed the arena is not used in the summer. Hockey school goes on until June and lacrosse occurs in the summer
- Area is typically occupied during the summer by teams warming up
- Development may result in the damaging of the trees; these trees will take decades to grow back
- Parking lot is full during the summer
- Difficult to gauge how much parking is needed for a ball game
- No noise impact assessment study was done

Applicant's Presentation:

Ashley Matthews, Recreation and Culture General Manager, stated the City of Lethbridge has been actively working with the Lethbridge Skateboard Association since 2010 in the replacement of the existing Skateboard Park.

Working with a community site selection team, nine sites were evaluated based on land use and site specific criteria with the parcel of land directly south of the Henderson Ice Arena scoring the highest as the site for the proposed Neighborhood skateboard park.

The washroom facilities at the Henderson Arena and Henderson Park will be open and available for skate park participants. The Henderson Arena parking lot will have five parking stalls designated and signed for skateboard park parking only. Nearby transit services are available seven days a week

The skateboard park facility will be owned and operated by the City of Lethbridge. The City will be responsible for picking up debris, grass cutting/watering and removal of graffiti. The City has a zero tolerance with vandalism and graffiti and individuals caught would be treated accordingly.

The Lethbridge Regional Police Service supports the selection of this site and will be providing regular checks of the facility.

Sam Richards, President of the Lethbridge Skateboard Association, provided information on the proposed location and the activities of the Association. Mr. Richards stated the park should be part of a neighborhood, but far enough from residences so that its legitimate use does not adversely affect the neighbours. At a distance of 100 m to residences, normal skatepark noise is easily managed. At 30 m management requires serious effort. It is not possible, and

counterproductive, to try to manage normal skatepark noise by isolating it in “no man’s land.” The proposed location is greater than 100 metres from the nearest residence.

Following the decision to pursue this site, the Lethbridge Skateboard Association provided initial input for conceptual design that could be used for development permit submittal. The conditions listed as a part of the development permit are achievable and will be met when the final design has been prepared. Furthermore, the Lethbridge Skateboard Association will be requesting the input of the community prior to the release of the final design.

The new skatepark is proposed to be about 900 m². This is about half of the size of the existing skatepark. The majority of the site will remain a grassed and landscaped area. Due to the road allowances and utility right of way, the site will be offset towards the northeast corner of the space. This will provide additional safety for the kids at the park as they are removed from the street frontage but still visible.

Examples of successful skateboard parks in other communities such as Winnipeg, Brampton, and Taber were shown. In Taber, the closest residence is 60 metres away from the facility.

Mr. Richards stated the Lethbridge Skateboard Association desired to create a skatepark facility for the youth of the city as a place for recreation and socialization. Simultaneously, the Association wants to create a facility that further beautifies and enhances our community. Combining the input of the community, professional design and proper construction techniques, the Henderson Lake Skatepark will complement and enhance the overall experience Henderson Lake Park has to offer.

Other Presentations:

Those that were against the development were invited to make a presentation.

Brian Tyson, 2402 – 6 Avenue South, outlined the reasons for his opposition to the skateboard park. Dr. Tyson stated that he expected there to be consultation with the neighbourhood before approval was granted. He has lived in the area since 1965. The facility would destroy one of the few attractive entrances to the City. This part of Lethbridge is already a sea of concrete.

Dr. Tyson stated that he had been fighting for twenty years against inappropriate development proposals that have threatened to push him out of their houses and adversely affected his quality of life. The traffic situation gets worse each year. The addition of the parking lot for the Alberta Treasury Branch has resulted in detrimental lighting.

The addition of the veterinary hospital at the corner of 6 Avenue South and Mayor Magrath Drive South has further added to the traffic problem. The junction of Mayor Magrath Drive and Parkside Drive South is another location susceptible to vehicle accidents.

The current parking lot for Henderson Arena is used by the buses. The proposed skateboard park would result in a bottleneck on Mayor Magrath Drive South.

Finally, Dr. Tyson stated the area had a rise in crime, many instances in broad daylight. Some of the recent incidents were highlighted. In addition there is a constant procession of unsavoury individuals that parade down the adjacent alley. The skateboard park would act as a magnet to crime. He questioned how night use would be prevented as the park cannot close. Dr. Tyson

stated that the City should leave the one patch of greenery alone. It is currently used by sports team for outdoor training on a regular basis.

Henry Sullivan, 2855 Parkside Drive South, stated the location was too small. The Town of Taber has a smaller population and a larger skateboard park. The park will not be able to exclude BMX bikes.

It was questioned if the Skateboard Association had looked at the installation of a fence, cameras, and a thumb print entrance identification system. Mr. Sullivan believed that the site would require a 30 km speed limit for a playground because of its proximity to a highway.

Mr. Sullivan felt that the hours of use, noise, and lighting are also factors to consider. It currently takes the police one hour to respond to a complaint. He asked why other locations were not discussed such as in front of Japanese Gardens, the Civic Sportsfield and Enmax Centre. He also asked why the previously recommended sites of Nicholas Sheran Park and the Rotary Brook Park were no longer being considered.

Mr. Sullivan noted the Skateboard Association is currently advertising for sponsors on their website; will they be able to put up signs at this location?

Damage has been done recently to the Henderson Lake playground. It is expected the same will occur at the skateboard park. Washrooms will not be available after 9:30 p.m. Other amenities such as a first aid station, bleachers, shelter from the weather, video cameras, and motion sensor lights should also be considered. Special events will require extra parking.

The Skateboard Association should be responsible for maintaining the site and should have an on-site manager. The Association should provide a \$1.0 Million reclamation bond in case there are future problems and the site has to be relocated.

Mr. Sullivan also discussed the grade of the sidewalk on to Parkside Drive and Mayor Magrath Drive South. He recently had a near miss with a youth bicycling at the proposed location. Mr. Sullivan stated there are many other great locations.

Oriano Berti, 2420 - 6 Avenue South, stated that he had no objection to the youth or the proposed skateboard. Mr. Berti noted the gate north of Spitz Stadium was to be only open for events. This has not occurred. Access to the Lethbridge Tennis Courts used to be from 28 Street South. It is now from 6 Avenue South via 25 Street South.

Mr. Berti questioned what the Skateboard Association will do for music. The area does not get any response from the police to complaints. On Monday, July 30, 2012, there were four to five vehicles racing and the police did not do anything.

Mr. Berti stated he objected to another facility being built in the area as he felt there were already too many developments. He felt the proposed site was too small. There are many other areas more suitable for a skateboard park. This skateboard park will be vandalized and people will be partying all night long.

D'Arcy Foder, 2917 Parkside Drive South, stated that current public access to the existing facilities and services have already reached maximum density and utilization threshold to this area with no further capacity available for additional development. With the Nikka Yuko Gardens, Henderson Ice Arena, Spitz Stadium, Lethbridge Tennis Club, Henderson Pool, Lethbridge Exhibition hosting Whoop Up Days, Agri-Week, Farmers Market, newly expanded

playground at both the east and north quadrants of Henderson Lake, Dragon Boat Races, July 1st City Festivities, along with all the other functions that occur on the grounds of Henderson Lake, already tax the current infrastructure and enjoyment of the area by the local residents..

Mr. Foder was concerned for public safety. The current road arteries are unable to safely move the high volume of traffic and there is insufficient parking to handle the volume of cars for the pool and park.

In addition, there has been increasing amount of vandalism to Henderson Lake grounds, along with the considerable disturbance occurring nightly at the 31 Street South entrance from partiers and vandals. The police stated that the 31 Street South entrance would get a lock installed so that cars could not enter the area after 11:00 p.m. Today there has been no such development to protect the park property or the residents from these nightly disruptions.

The neighbourhood has experienced people swinging from the trees, sprinkler heads being damaged, and people urinating on private property. Adding more youth to the area, will add to a larger potential problem. Mr. Foder did not believe that it is acceptable that the area has so much condensed activity

Mary Gordon, 2626 - 26 Avenue South, – was opposed to the development. This small green space is adjacent to a very busy corner with a pool, arena, ball diamond, tennis courts, and playground. Ms. Gordon's business is located at 2126 – 7 Avenue South behind the Superlodge Motel, where she has experienced many incidents of young people on BMX bicycles and skateboards trespassing on the premises to ride curbs, fences, commercial for sale signs, damaging railings, breaking tree branches and damaging concrete.

Ms. Gordon stated her house is directly behind the tennis courts, and the lights from the tennis courts are on until 2:00 a.m. She has petitioned to have the laneway paved. She walks the area every day and finds discarded liquor bottles, condoms, fast food garbage, discarded clothing, needles, etc. In addition, Ms. Gordon requested that bathrooms be available as she finds people relieving themselves alongside her building on a regular basis. There is also excessive partying in the area.

Ms. Gordon is in agreement that a skateboard park is required, but the proposed area is too small. If it becomes popular, there is no room to expand. The activities for the City need to be spread out so that they are not concentrated in a few areas.

Ms. Gordon stated that the neighbourhood pays high taxes. The city just completed a new rose garden that she sees many people enjoying and somehow the peace and tranquility from that space does not seem to be a match for the proposed activity a skateboard park would have directly across the street. She would not want a six year old to be skateboarding in the area because of the undesirables.

There was no one else wishing to speak against the development.

Those that were in favour of the development were invited to make a presentation.

Renee Richards, 2007 – 13 Avenue South, presented information on noise associated with skateboarding. In a study done by the City of Portland, it was determined that the majority of the noise attributed to skateboards does not come from the act of riding the skateboard. Rather it comes from skateboards crossing the cracks in the sidewalks and other rough surfaces. Impact of the noise from the skateboard park can be minimized through adequate planning and design. The loudest noises produced by skateboards typically come from hitting the nose and tail of the skateboard on the ground or from sliding and grinding the skateboard trucks across skatepark coping and ledges. Noise levels for skateboards typically are 65 – 71 decibels at a distance of 50 feet, compared to 59 – 63 decibels for a typical conversation. As a result, a skatepark is no noisier than similar recreation areas like a basketball court or children's playground.

Mrs. Richards stated the Skateboard Association does not feel the site is too small. The Association is proposing a neighbourhood skateboard park rather than a regional skateboard park.

Miranda de Quadros and Emma Ladouceur of the Youth Advisory Council spoke in favour of the skateboard park for the following reasons:

- the central location and Lethbridge Transit access will support and encourage its utilization not only by skaters, but also encourages positive physical activity
- the highly visible space promotes safety and security for its users and the surrounding area
- the site is not isolated. This promotes positive interaction with the broad community and opportunities for spectators
- the level of both vehicular and pedestrian traffic lend to increased visibility of activity at the facility, awareness about the Park, its utilization, safety and security
- the close proximity to Henderson Lake Park and other recreational facilities offer diverse recreational options for youth, families and the community at large
- the location allows for youth to have access to an alternate healthy activity. This is a positive crime reduction strategy for the City of Lethbridge as best practices demonstrate that inappropriate behaviour and vandalism decreases when facilities such as the skate park are located in an accessible and visible area of the community.

Robin Hepher, 2019 – 13 Avenue South, stated that he was an avid skateboarder when he was younger, and am now rediscovering the sport through his ten year old son. Mr. Hepher stated that when he grew up, there was no place to skateboard. As a result, when he skateboarded, he was exposed to violence, threats of violence, and traffic issues.

Mr. Hepher stated that he was excited to have a skateboard park available soon. He felt the central location was good as it has good exposure and easy access as it is close to other recreational facilities, bus stops, and the bike path system.

Mark Archibald, Pastor for First Baptist Church located at 1614 – 5 Avenue South, stated he was a recent resident to the City. He has worked for the past fifteen years with youth at summer camps and church youth ministry. Pastor Archibald observed that youth involved in sports and other healthy activities are less likely to take part in high risk, illegal activities. Youth are hard-wired with the need to take risks and challenge them. When they do not have healthy avenues to take risks and challenge themselves – such as on a sports team or at a skate park – they are more likely to take dangerous risks that harm themselves and others.

Pastor Archibald stated that he loves Henderson Lake Park. Part of that is due to the many events and activities that occur around that area. The proposed location for the skateboard park has close proximity to many schools which is a great asset.

Pastor Archibald stated he had recently moved from Fredericton, New Brunswick which has allowed skate parks in residential locations throughout the City which are easily accessible. Many of the people he has worked with who are mentors to youth, use skateboard as an avenue to communicate. Approval of the proposed location, would result in a healthier, safer, intergenerational community.

Stephen Graham, 1410 Aspen Place South, stated that providing a venue for a relatively low-cost, all-ages, and physical activity in a visible and accessible location would be an excellent decision.

Mr. Graham stated he took exception to some of the objections raised by the appellants, namely the objections about policing, parking, traffic congestion, activity density, and noise. He believed that placing a public skate park in full public view of a primary artery will aid in deterring unwanted behaviours. Lethbridge Regional Police Service and the public would be able to see the site, and, together with the park users, would be able to keep an eye on the park.

Mr. Graham stated that the majority of the skate park users will not drive to the park, but use their boards. As a result, there should not be any noticeable increase in the traffic congestion. He felt that creating a skate park in this area would move any skateboarding activity off the main park paths. This would improve safety and enjoyment for pedestrian, bicycle, and skateboard users of this park zone.

Mr. Graham stated that a study from Herndon, Virginia reported that little noise rises above the surrounding ambient noise at 100 feet from a skate park, no matter what type of surface is used. Most of the appellants live more than 500 m from the zoned site or about sixteen times that distance. It would be akin to someone in London Road Neighbourhood being concerned about noise from Park Place Mall.

Mr. Graham stated that skateboarding builds strength and coordination, does not require a team or a lot of equipment. He was happy that a highly visible, public, maintained, and endorsed skateboard park for his kids was proposed.

There were no other presentations either in support or in opposition to the appeal.

Discussion:

The Board addressed the following issues during question period:

- Responsibility for maintenance of the site
- Possibility of having video cameras
- Differences between major and minor sports and recreation facility processes
- Definitions of major and minor sports and recreation facility uses
- Signage compliance with the Land Use Bylaw
- Timing of future skateboard parks
- Plan for bike racks
- Possibility of whether this site would be considered to be a playground zone and therefore subject to a reduction in the speed limit
- Requirement and hours for the lighting

- Access to washrooms
- Traffic volumes for Mayor Magrath Drive South and Parkside Drive South
- Grading plan
- Derivation of the parking formula
- Seasonal and daily compatibility of the site with neighbouring recreational uses
- Self-regulation of skateboard park by skateboard users
- Access to parking lot from 25 Street South
- Locking of the gate located north of Spitz Stadium
- Possibility of turning Henderson Lake Pool into a skateboard park

Rebuttal by Applicant:

The Applicant was given the opportunity to provide a rebuttal. Sam Richards stated that the Lethbridge Skateboard Association is working with the City on how signage for the park may proceed. Mr. Richards also said the following:

- Skateboard parks are not the cause of criminal activity
- Differences between skateboard park concrete and sidewalk concrete mean that there is limited noise from the skateboard park
- the facility is small and there is no intention to make this facility bigger
- No comparison between the estimated traffic for the skateboard park (5 parked vehicles and 25 drop offs per hour) versus the Parkside Drive traffic

Rebuttal by Appellant:

Dr. Gary Fong was given the opportunity to provide the final word. He stated the following:

- Whole neighbourhood is occupied by seniors, many of which could not attend today because of the timing of the hearing
- Neighbours are proud of the area
- Residents are not opposed to a skateboard park, but opposed to the location which is the jewel of the city
- Area has valid policing concerns, especially around the playground

He concluded by stating there was potential for damage to occur. The area residents are just opposed to the location. It is a tough one for us to accept.

The Board retired to discuss to merits of the Appeals.

Decision:

IN THE MATTER OF the Municipal Government Act

AND IN THE MATTER OF an Appeal made to the Subdivision and Development Appeal Board with respect to:

Appellants: Dr. Gary and Denise Fong et al

To permit the development of a neighbourhood skateboard park directly south of the Henderson Ice Arena at 2599 Parkside Drive South

AND UPON HEARING from the Development Officer, the Appellants, the Applicants, and other interested parties,

AND UPON CONSIDERING the relevant provisions of the Municipal Government Act, the Municipal Development Plan, the Land Use By-law, any applicable Statutory Plans, and the circumstances and merits of this case, the decision of the Subdivision and Development Appeal Board is as follows and for the following reasons:

V. CHESTER/L. CUTFORTH/A. HAESLERT. NICHOLSON/R. STEINT. WICKERSHAM

DECISION: The Appeal is **DENIED** and the decision of the Development Officer regarding Development Application DEV04402 on July 4, 2012 to permit the development of a neighbourhood skateboard park directly south of the Henderson Ice Arena at 2599 Parkside Drive South is hereby confirmed.

REASON FOR DECISION:

1. It was not sufficiently demonstrated that the proposed development would unduly interfere with the amenities of the neighbourhood nor affect the use, enjoyment or value of neighbouring parcels of land.

RATIONALE:

It has been determined by this Board that the proposed skateboard park is a proper and permissible use at this location.

In making that decision, we acknowledge the numerous complaints and concerns expressed by the Appellants, and others supporting the appeal, regarding the circumstances they face in the area. In particular, we note the problems they have expressed in relation to traffic and parking congestion, special events, extensive public use of existing facilities, as well as the periodic presence of public nuisances. In rendering our decision, we are not dismissing or otherwise passing judgment on those concerns.

However, the neighbourhood problems raised in this hearing does pre-date the proposed development, and to that extent, are external to it. Based on those problems alone, we are unable to conclude that the proposed skateboard park would exacerbate the circumstances that give rise to the residents' complaints.

From an evidentiary standard, the fear that a skateboard park, as designed, at this location would have a significant adverse effect on the surrounding neighbourhood and adjacent residents appears to be based more on speculation and personal opinion than on empirical evidence. Again, this is not to minimize the problems that residents may be facing at the present time. But, to the extent that any neighbourhood problems exist, they will exist whether or not this development proceeds. There is an absence of objective evidence to provide a causal connection between the skateboard park and projected worsening circumstances - we cannot just extrapolate any existing problems on to the skateboard park. Thus, there is an insufficient factual basis to presume that this development would incrementally contribute to those neighbourhood problems to any appreciable degree.

Accordingly, we are left with the conclusion that the proposed skateboard park is a use that is permissible and even appropriate in this area. The related Development Permit should be allowed to stand.

Having come to this determination, we also believe that as the development is executed, a number of actions should be encouraged. This includes the following:

- Locking of the gate located on the north side of the parcel
- Review of the facility after one year to determine if video cameras are advisable
- Inclusion of bicycle racks
- Inclusion of calming barriers at the entrance/exits of the pedestrian pathways

-----CARRIED

R. Stein:

THAT this meeting of the Subdivision and Development Appeal Board be adjourned.

-----CARRIED

CHAIRMAN

SECRETARY TO THE BOARD