

Committee of Adjustment**MISSION STATEMENT:**

"Our City is built on relationships – between citizens and their government, businesses and public institutions, city and region – all interconnected, mutually supportive, and focused on the brightest future we can create together."

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To: Committee of Adjustment

Subject Application: Expansion of Legal Non-Conforming Use

Owner: D.C. McCloskey Engineering Ltd.

Applicant: Epic Properties Limited Partnership

Location: 4325 Cabana Rd E

Legal Description: CON 7; PT GORE LOT 17; RP 12R8108; PARTS 4; 5; 7 & 8; PT PARTS 1 TO 3;
6 & 9; RP 12R28421; PARTS 4 TO 6

1. RECOMMENDATION:

That the Minor Variance application of Epic Properties Limited Partnership for an expansion of legal non-conforming use to allow for an addition to the existing sports facility on the property municipally known as 4325 Cabana Road East **BE GRANTED** with no conditions.

2. THE REQUESTED VARIANCES:

Requesting an expansion of legal non-conforming use to allow for an addition onto the existing sports facility.

3. PLANNING ANALYSIS:

The subject property currently contains a legal non-conforming sports facility, specifically a gymnastics studio. The applicant is requesting permission to allow for an addition to the existing building. The addition will not add a new use but will serve as extra space for the continued use of the existing sports facility. Changes to the existing parking area are required to facilitate this addition and these changes have been provided and are shown in the submitted site plan. The proposal is in compliance with the requirements of Zoning By-law 85-18. The proposed

addition is not expected to have any adverse impacts on the subject property, adjacent properties or the surrounding neighbourhood.

PLANNING ACT

Subsection 45(2) of the Planning Act authorizes the Committee of Adjustment to consider applications for enlargement or extension of a building or structure for which the non-conforming use existed prior to the passing of a Zoning By-law. The Committee may permit the enlargement or extension, or the use of such land, building or structure for a purpose that, in the opinion of the Committee, is similar to the purpose for which it was used on the day the by-law was passed.

PROVINCIAL PLANNING STATEMENT (PPS) 2024

Planning Staff have reviewed the relevant policies of the PPS - "Building Homes, Sustaining Strong and Competitive Communities" (Policy statement 2.2.1.b of the PPS). The requested minor variance is consistent with these policies permitting and facilitating all housing options required to meet the social, health, economic, and well-being requirements of current and future residents.

OFFICIAL PLAN (OP)

Non-Conforming Use Policies Section 11.6.7 (Appendix A) confirm the Committee of Adjustment's authority in dealing with matters regarding non-conforming uses and also provide criteria for evaluating applications to expand/enlarge non-conforming uses. Below is the review of the proposed development per evaluation criteria.

The scale of the proposed expansion is appropriate to the size of the existing non-conforming use and the subject property, therefore, complying with Section 11.6.7.2 (a).

The subject property is serviced by municipal services and infrastructure, complying with Section 11.6.7.2 (b).

The applicant has complied with the amenity and parking requirements of the Zoning By-law, complying with Section 11.6.7.2 (c).

The proposed expansion will not inhibit or discourage conforming developments in the surrounding area, therefore, complying with Section 11.6.7.2 (d).

The proposed expansion has included changes to the parking area that serve to minimize any potential negative impacts on adjacent properties, therefore, complying with Section 11.6.7.2 (e).

ZONING BY-LAW

The subject land is zoned Industrial Zone (M1) per Zoning By-law 85-18. The proposed expansion complies with the applicable provisions of the Zoning By-law. The requested expansion will not result in undue hardship on the owner, adjoining properties, or the public realm; therefore, the requested expansion is considered minor in nature. The proposed expansion meets the intent of Zoning By-law 85-18.

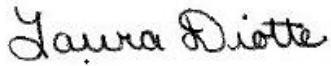
4. PLANNER'S OPINION:

The requested expansion of legal non-conforming use is minor in nature and maintains the general intent and purpose of the Official Plan and Zoning By-law 85-18. Therefore, the expansion is consistent with section 45 (2) of the Planning Act. The Planning Division recommends approval of the applicant's request with no conditions.



Conner O'Rourke
Planner II – Development Review

I concur with the above comments and opinion of the Planner II.



Laura Diotte MCIP, RPP
Manager of Development Applications

APPENDICES:

Appendix "A" - Excerpts from the Official Plan Volume I

Appendix "B" - Comments received by the Secretary Treasurer of the Committee of Adjustment

APPENDIX “A”
Excerpts From Official Plan Volume I

11.6.7 Non-Conforming Use Policies

<i>EXTENSION AND ENLARGEMENT</i>	11.6.7.1	The Committee of Adjustment shall review applications for the extension or enlargement of a building or structure continuing as a non-conforming use.
<i>EVALUATION CRITERIA</i>	11.6.7.2	The Committee of Adjustment will evaluate applications for the extension or enlargement of a building or structure continuing as a non-conforming use using the following criteria: (a) The scale of the proposed expansion or enlargement is appropriate to the size of the existing non-conforming use; (b) Adequate municipal services and infrastructure are or can be provided; (c) There are adequate on-site parking and loading facilities and amenities to accommodate the proposed expansion or enlargement; (d) The proposed extension will not inhibit or discourage conforming development in the surrounding area; and (e) The extension or enlargement will include measures that will minimize any negative impacts on adjacent properties.
<i>LOSS OF STATUS</i>	11.6.7.3	Notwithstanding any other provisions of this Plan, where a non-conforming use has been discontinued, Council may enact an amendment to the Zoning By-law for a use that otherwise would not be allowed under the provisions of this Plan.

APPENDIX "B"
Comments Received by the Secretary Treasurer of the Committee of Adjustment

Zoning Review

Requesting relief for an expansion of legal non-conforming use.

[*Samuel Perry- Zoning Coordinator*]

Development, Projects & Right-of-Way

This department has no objection to the proposed application. Right of Way permits must be obtained for any work within the Right of Way

[*Dan Perissinotti- Technologist*]

Heritage Planner

There is no apparent built heritage concern with this property, and it is not located within an Archaeological Potential Zone (APZ). Nevertheless, the Applicant should be notified of the following archaeological precaution.

1. Should archaeological resources be found during grading, construction or soil removal activities, all work in the area must stop immediately and the City's Planning & Development Services Department, the City's Manager of Culture and Events, and the Ontario Ministry of Citizenship and Multiculturalism must be notified and confirm satisfaction of any archaeological requirements before work can recommence.
2. In the event that human remains are encountered during grading, construction or soil removal activities, all work in that area must be stopped immediately and the site secured. The local police or coroner must be contacted to determine whether or not the skeletal remains are human, and whether the remains constitute a part of a crime scene. The Local police or coroner will then notify the Ontario Ministry of Citizenship and Multiculturalism and the Registrar at the Ministry of Government and Consumer Services if needed, and notification and satisfactory confirmation be given by the Ministry of Citizenship and Multiculturalism.

Contacts:

Windsor Planning & Development Services Department:

519-255-6543 x6179, ktang@citywindsor.ca, planningdept@citywindsor.ca

Windsor Manager of Culture and Events (A):

Michelle Staaedegaard, (O) 519-253-2300x2726, (C) 519-816-0711, mstaadegaard@citywindsor.ca

Ontario Ministry of Citizenship and Multiculturalism

Archaeology Programs Unit, 1-416-212-8886, Archaeology@ontario.ca

Windsor Police: 911

Ontario Ministry of Public and Business Service Delivery and Procurement

Registrar of Burial Sites, War Graves, Abandoned Cemeteries and Cemetery Closures:

Ian Hember, 1-437-244-9840, ian.hember@ontario.ca

[*Ryan Upton- Heritage Planner*]

Windsor Police Service

The Windsor Police Service has no concerns or objections with any of the applications listed in this agenda. In reviewing them, all are relatively minor in terms of their potential impact to public safety, security, or public

disorder. None of the applications to be considered are therefore anticipated to create outcomes that will negatively impact the ability of the Windsor Police Service to provide proper and adequate response to incidents, whether emergency or non-emergency in nature, and other service delivery requirements.

[*Barry Horrobin- Windsor Police Service*]

Environmental Policy

Environmental Policy staff have no objection to the proposal, and nothing further is required at this time. To maintain high regard for Natural Heritage in the City during development, the following applies:

1. Should a Protected Species or their habitat be found at any time on or adjacent to the site, cease activity immediately and refer to the Species Conservation Act (2025) (SCA). The SCA is administered by the MECP. SAR biologists can be contacted at SAROntario@ontario.ca and may provide recommendations on next steps to prevent contravention of the SCA. The City of Windsor SAR hotline (519-816-5352) can also be used for relevant questions and concerns.
2. For a list of Protected Species and other provincially tracked species with potential to be around the site, use the Natural Heritage Information Centre (NHIC) Make A Map tool, found at <https://www.ontario.ca/page/make-natural-heritage-area-map>
3. Active nests of most bird species are protected under the Migratory Birds Convention Act (1994), the Fish and Wildlife Conservation Act (1997), and/or the Species Conservation Act (2025). If trees, shrubs or ground area on/adjacent to the site are to be removed, damaged, or disturbed during the breeding bird season (April 1 – August 31), then sweeps for nesting birds should be conducted to prevent contravention of these regulations. Protect any trees, shrub or ground area where an active nest is found and leave the nest unharmed until the young have permanently left the vicinity of the nest. Visit <https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html> for more information.
4. Beaver dams and dens of fur-bearing mammals are protected under section 8 of the Fish and Wildlife Conservation Act (1997) and are not to be damaged or destroyed without the proper authorization and/or license.
5. The City of Windsor is a Bird Friendly City. Bird Friendly Design is encouraged, particularly window collision mitigation. Options for integrating bird friendly design can be found here: www.birdsafe.ca and bird friendly guidelines can be found here: Bird-Friendly Guidelines – City of Toronto.
6. Ontario has a list of Regulated Species in the Ontario Invasive Species Act (ISA) (2015). If any species on this list are identified on site, it is recommended that Best Management Practices be followed to remove the invasive species from the site prior to starting development activities. If guidance is required, report the occurrence to the City Naturalist. For a list of ISA Regulated species: Ontario Invasive Species Act – Invasive Species Centre.

Contacts:

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Connor Wilson
Planner II – Revitalization & Policy Initiatives
conwilson@citywindsor.ca

[*Connor Wilson- Environmental Policy*]