

EXTRACT FROM COUNCIL MEETING MINUTES OF APRIL 19, 2017

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The Committee of the Whole recommends:

- ## Recommendation

1. THAT Zoning By-law Amendment File Z.16.009 (2109179 Ontario Inc.) BE APPROVED, to amend the A Agricultural Zone of Zoning By-law 1-88 for the subject lands shown on Attachments #1 and #2, to permit the continued use of an existing portable dry batch concrete production plant and accessory buildings in the manner shown on Attachment #3 as previously approved by the Ontario Municipal Board in Zoning By-law 031-2013 (Attachment #9), subject to the following:

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2. THAT Site Development File DA.11.086 (2109179 Ontario Inc.) BE APPROVED, to recognize the existing temporary portable dry batch concrete production plant with accessory office, truck repair and outside storage of materials and equipment, in the manner shown on Attachments #3 to #8, subject to the following conditions:
- a) Prior to the execution of the Site Plan Agreement:
 - i) the final site plan must be approved by the Vaughan Development Planning Department and Development Engineering and Infrastructure Planning (DEIP) Department;
 - ii) the final stormwater management report and environmental noise analysis must be approved by the Vaughan DEIP Department;
 - iii) the Owner shall provide confirmation that the existing driveway is paved a minimum of 30 m back from the King-Vaughan Road right-of-way to the satisfaction of the Vaughan DEIP Department;
 - iv) the Owner provide a Letter of Credit to the City of Vaughan in the amount of \$50,000 to cover the cost of any road surface repairs to King-Vaughan Road in proximity to the site entrance, which may be necessary due to potential damage from trucks entering and leaving the subject site. The Letter of Credit shall be released only after King-Vaughan Road is reconstructed by the City of Vaughan or when the use ceases, whichever occurs first;
 - v) the Owner provide a second Letter of Credit to the City of Vaughan in the amount of \$50,000 for engineering works and shall be reduced to \$25,000 upon completion of all engineering works excluding the gravel driveway. The remaining \$25,000 will be released once the gravel driveway (including the culvert and restorative planting) is complete, to the satisfaction of the Vaughan Development Engineering and Infrastructure Planning Department; and,
 - vi) That the Vaughan Development Engineering and Infrastructure Planning Department prepare the necessary By-law for enactment by Vaughan Council to amend Comprehensive Traffic By-law 284-94 to remove the 5 tonnes per axle year round restriction on King-Vaughan Road from Weston Road to Jane Street during the period between May 1st and November 30th of each year.

Contribution to Sustainability

The applications seek permission to maintain an existing portable dry batch concrete production plant use within the existing structures on the site, and therefore, there are no sustainable features proposed.

Economic Impact

There are no requirements for new funding associated with this report.

Communications Plan

On May 6, 2016, a Notice of Public Hearing was circulated to all property owners within a 150 m of the subject lands and to those individuals that made a deputation at this meeting or requested to be notified. In addition, a Notice of Public Hearing was also sent to those individuals that made

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deputation or requested to be notified of the Committee of the Whole (Public Hearing) meeting of May 11, 2010, and Committee of the Whole meeting of February 7, 2012, related to the previous Zoning By-law Amendment File Z.10.002 and Site Development File DA.11.086 to permit a temporary portable dry batch concrete production plant on the lands.

A copy of the Notice of Public Hearing was also posted on the City's web-site at www.vaughan.ca and a Notice Sign was installed on the property in accordance with the City's Notice Sign Procedures and Protocols. The recommendation of the Committee of the Whole to receive the Public Hearing report of May 31, 2016, and to forward a comprehensive technical report to a future Committee of the Whole meeting was ratified by Vaughan Council on June 7, 2016.

On May 24, 2016, the Vaughan Development Planning Department received email correspondence from a neighbouring resident identifying opposition to the applications based on the following issues and concerns:

- i) The proposed use is located in a sensitive agricultural zone on a tributary of the Humber River without any type of specialized drainage to protect the surrounding area from concrete runoff or drift;
- ii) High noise levels due to a large fleet of cement trucks and a crane lift operation as a result of trucks gearing up and down, air brakes, honking and idling in front of the driveway, black diesel exhaust in the air creating an unpleasant setting for daily living and health concerns; and,
- iii) There is a home located in close proximity to the King-Vaughan Road right-of-way which road is used by trucks operating on a daily basis, including evening and weekends where truck movement starts as early as 4:30 am at times and more commonly from 6:00 am to 9:00pm (occasionally to 1 am). Should the operation continue, the resident has requested that all vehicles use Jane Street so they are away from nearby homes and not directly impacted by traffic and noise.

The following are the responses to the above-noted concerns:

- i) The Ministry of Environment and Climate Change (MOECC) responded to reports of concrete washout, and a subsequent Provincial Officer's Order was issued. The Owner built a concrete wash-water holding facility consisting of 2 wash out stations and 3 chambers to permit the settling of solids washed out of the concrete drums of the trucks, in the area shown on Attachment #3. Pumps located inside of a shipping container are used to circulate the wash-water and installed beside the wash-out facility. The collected wash-water can then be used to clean out the drums of trucks or can be put back into the concrete mix. Recovered solids can be used as either a road base or fed back into the concrete mix. The holding system does not require any approvals from the MOECC because it is a closed loop system and does not discharge onto the site.
- ii) The crane lift operation is not a permitted use, and is not being proposed as an additional use through the current Zoning By-law Amendment application. Vaughan Development Planning Department staff conducted a site visit and noted a crane operation on the site. The Owner has advised that they are terminating the use and the cranes will be removed.
- iii) The Owner has advised the days and hours of operation of this facility are as follows: Monday to Friday 6 am to 6 pm, Saturday 6 am to 3 pm, and closed on Sundays. The City of Vaughan has a Noise and Nuisance By-law which is administered by the By-law and Compliance Department. Any violations with respect to noise can be forwarded to the By-law and Compliance Department for their investigation. With respect to truck traffic, the

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- iv) Owner has installed signage on the site advising truck drivers to use Jane Street. There are other industrial operations in the area, including a large construction company, which may be using Weston Road as an access. Presently there is no truck prohibition on Weston Road.

Purpose

To seek approval from the Committee of the Whole for Zoning By-law Amendment File Z.16.009 and Site Development File DA.11.086 to amend the A Agricultural Zone of Zoning By-law 1-88 for the subject lands shown on Attachments #1 and #2, to permit the continued use of an existing portable dry batch concrete production plant (Attachment #3) as a temporary use on a portion of the subject lands (as shown on Attachments #2 and #3) for an additional three (3) year period. The requested Zoning By-law amendment would be consistent with the previous temporary Zoning By-law 031-2013, which is attached to this report as Attachment #9.

Background - Analysis and Options

Synopsis:

The Owner is proposing to extend the continued use of an existing portable dry batch concrete production plant as a temporary use for an additional three (3) year period. The Vaughan Development Planning Department supports the Zoning By-law Amendment application because it conforms to the temporary use policies of City of Vaughan Official Plan 2010, Volume 2 - Highway 400 North Employment Lands Secondary Plan, subject to the conditions outlined in this report.

Location

The subject lands are located on the south side of King-Vaughan Road and west of Highway 400, municipally known as 3501 King-Vaughan Road, shown as "Subject Lands" on Attachments #1 and #2.

Background

The Owner previously submitted Zoning By-law Amendment File Z.10.002 and Site Development File DA.11.086 to the City of Vaughan in January 2010 and September 2011, respectively to permit a dry batch concrete production plant on the subject lands. The Vaughan Development Planning Department recommended that Vaughan Council approve of the applications for a temporary period of three (3) years. On March 20, 2012, Vaughan Council refused the applications. The Owner appealed Council's decision to the Ontario Municipal Board (OMB) on April 17, 2012. The OMB on February 28, 2013, issued its Decision Order allowing the appeal and approved the Zoning By-law Amendment application to amend Zoning By-law 1-88 to permit the portable dry batch concrete production plant. The OMB also approved Site Development File DA.11.086, subject to conditions. Zoning By-law 031-2013 (Attachment #9) was enacted by Vaughan Council on April 23, 2013, and permitted the temporary use for a period of three (3) years which has since expired.

Specifically, Zoning By-law 031-2013 included the following provision:

"1. That this Zoning By-law shall be in effect only for the earlier of the following:

- i) A maximum temporary period of three (3) years only from the date of enactment of By-law 031-2013; or,
- ii) Upon the date of approval by Vaughan Council of a Block Plan for the OPA #637 Amendment area, as applicable to the subject land, whichever occurs first."

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Zoning By-law 031-2013 also permits extensions to the Temporary Use By-law, which may be granted by Vaughan Council for further periods of not more than 3 years each during which the temporary use is authorized.

The current Zoning By-law Amendment application seeks permission to maintain the same provisions as Zoning By-law 031-2013, as identified in Attachment #9. Additionally, the Owner is also seeking final approval of the related Site Development File DA.11.086 that was never finalized. Should these applications be approved by Vaughan Council, the Vaughan Development Planning Department has included conditions in the recommendation of this report to ensure the Site Plan conditions of approval will be finalized and the required securities are posted by the Owner prior to the enactment of the implementing temporary use zoning by-law.

Official Plan

The portion of the subject lands being used for the facility as shown on Attachments #2 and #3, comprising 9.16 ha, is designated "Prestige Area - Office/Business Campus" by Vaughan Official Plan 2010 (VOP 2010), Volume 2 - Highway 400 North Employment Lands Secondary Plan. The balance of the subject lands (8.71 ha) is designated "Greenbelt Natural Heritage System" within the Protected Countryside of the Greenbelt Plan, and will not be utilized for the dry batch concrete production operation.

VOP 2010 does not permit a portable dry batch concrete production plant, however, it does provide for the temporary use of land, buildings or structures provided the temporary use meets the following conditions:

- a) Is consistent with the general intent of this plan;
- b) Is compatible with adjacent land-uses;
- c) Is temporary in nature and can be easily terminated when the temporary zoning-law expires;
- d) Does not require new buildings or significant structures;
- e) Does not require significant grading of land;
- f) Sufficient servicing and transportation capacity exists for the temporary use;
- g) Maintain the long-term viability of the lands for the uses permitted in this Plan; and,
- h) The duration of use and proposed interim use are to the satisfaction of the Province.

The Zoning By-law Amendments and Site Development approval required to maintain the temporary portable dry batch concrete mixing plant are consistent with the above policies. The facility is temporary in nature, compatible with surrounding land uses, do not require the extension or construction of any municipal services, can utilize the existing transportation network, and maintains the long-term viability of the lands for uses permitted in the temporary use policies of Volume 2 - Highway 400 North Employment Lands Secondary Plan. In addition, the zoning amendment applications are consistent with the previous Zoning By-law Amendment application approved by the OMB in 2013.

Zoning

The subject lands are zoned A Agricultural Zone by Zoning By-law 1-88. A portable dry batch concrete production plant is not listed as a permitted use in an A Agricultural Zone, therefore, an amendment to Zoning By-law 1-88 is required to permit the proposed use. Zoning By-law 031-2013 has expired and the Owner wishes to continue the existing use for another three (3) year period resulting in the current application Zoning By-law Amendment File Z.16.009. Should

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Council approve the Zoning Amendment application, the implementing Zoning By-law will be consistent with the expired Zoning By-law 031-2013 shown on Attachment #9, and will expire three (3) years from the date of enactment of a new temporary use by-law by Vaughan Council.

Site Plan

Site Development File DA.11.086 was submitted in support of the original Zoning By-law Amendment File Z.10.002, and considered and refused by Vaughan Council on March 20, 2012. The Site Development application was approved by the OMB, however, a Site Plan Agreement was never executed by the Owner. Subsequently, on September 10, 2014, the Owner submitted Site Development File DA.14.066 for the building enclosure surrounding the silo, as shown on Attachment #5.

Site Development File DA.11.086 will be finalized concurrently with the subject Zoning By-law application. The site plan and building elevations, as shown on Attachments #3 to #8, are consistent with the previous plans and drawings and there are no additional changes proposed with the current application.

The concrete production plant consists of an aggregate batcher, a conveyor belt and a cement silo with a cement batcher. A front-end loader places stone and sand in the aggregate batcher. Portland cement from the portable silo is placed in the cement batcher and then with the addition of water, these ingredients are poured into the concrete truck. The actual mixing takes place inside the concrete truck while in transit to the requested location.

The materials to be stored on site (stone, sand, Portland cement and equipment) are used to facilitate the operation of the batching plant. The applicant has agreed to remove any equipment or materials not related to the dry batch concrete production plant. The property is developed with one existing barn (Attachment #8), a one-storey concrete block building (Attachment #7), and an enclosed silo (Attachments #4 and #5) that stores Portland cement, and 2 office trailers (Attachment #6). Sand and gravel are stored in piles on the site within the material storage area shown on Attachment #3. The surrounding land uses are shown on Attachment #2.

According to the Owner, the operation has not changed and the Planning Justification report prepared by Humphries Planning Group Inc., dated May 2011, and the Public Hearing Meeting presentation, the portable dry batch concrete production utilizes on average about 15 ready-mix concrete trucks however, there is a fleet of 35 cement trucks, half of which supply and work for competitors. The Ministry of Environment Certificate of Air allows for production up to 100,000 cubic metres per year and the operation generates approximately 30,000 to 60,000 m³ of concrete every year. Each truck can carry up to 10 cubic metres of concrete. The production of 100 cubic metres of product requires 2 loads of gravel and 2 loads of sand. A load of cement is also delivered to the site every 3 days.

Sand and stone are stored west of the existing barn, as shown on Attachment #3 and are not visible from Highway #400. Cement is stored within the enclosed silo, located west of the barn and a plant office trailer is located east of the barn along with a vehicle parking area. Truck repairs accessory to the ready mix is undertaken in the existing block building (Attachment #7) located at the south end of the property, along with an office trailer (Attachment #6) and employee parking (Attachment #3). The enclosed silo structure is visible to the north and south from Highway 400, given its height and the higher elevation of the site in relation to Highway 400. The facility operates during the weekdays from 6am to 5pm (could run late if required to finish a job on rare occasion), Saturdays from 6am to 2pm and is closed on Sundays (only rare exceptions in the case of an emergency job).

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The previous conditions of approval for Site Development File DA.11.086 included the following, which are being recommended to be carried forward:

- i) Prior to the execution of the Site Plan Agreement, the final site plan must be approved by the Vaughan Development Planning Department;
- ii) The Owner is required to provide a Letter of Credit to the City of Vaughan in the amount of \$50,000 to cover the cost of any road surface repairs to King-Vaughan Road in proximity to the site entrance, which is necessary due to damage from trucks entering and leaving the site. The Letter of Credit shall be released only after King-Vaughan Road is reconstructed by the City;
- iii) The site plan drawing is to be revised to ensure the existing driveway is paved a minimum of 30 m back from the King-Vaughan Road right-of-way, to the satisfaction of the Vaughan Development Engineering and Infrastructure Planning (DEIP) Department; and,
- iv) That Vaughan Development Engineering and Infrastructure Planning Department prepare the necessary by-law for enactment by Vaughan Council to amend Comprehensive Traffic By-law 284-94 to remove the 5 tonnes per axle year round on King-Vaughan Road from Weston Road to Jane Street during the period between May 1st and November 30th, prior to the execution of the Site Plan Agreement.

Access/Driveway

Vehicular access to the subject lands is from a 7.5 m wide easement for a right-of-way over the lands to the immediate north providing access to King-Vaughan Road, which was approved through the Committee of Adjustment (Minor Variance File A45/99, and Consent Application B11/99) in favour of the subject lands. The west driveway shown on Attachment #3 is used to access the facility and the east driveway is abandoned and no longer used and will be restored as required by the Toronto and Region Conservation Authority (TRCA).

Development Engineering and Infrastructure Planning (DEIP) Department

The DEIP Department has provided the following comments:

i) Municipal Servicing

There are currently no municipal services (water connections and sanitary/storm sewers) available to the subject site.

ii) Water Servicing

Water is provided for the subject site by an existing private well located south-west of the enclosed batching plant.

iii) Sanitary Servicing

Sanitary servicing is provided for the subject site by an existing portable toilet located in the vicinity of the enclosed batching plant.

iv) Storm Drainage

The DEIP Department requires a Stormwater Management Report to determine quantitative and qualitative analysis between the pre-existing and post-development conditions. Accordingly, DEIP Staff recommends that as a condition of site plan approval a Stormwater Management Report

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shall be submitted to the satisfaction of the DEIP Department. The report must demonstrate how pre-existing and post-development conditions will satisfy the quantity control, quality control, erosion control, and water balance objectives in accordance with the City of Vaughan Design Criteria and Standard Drawings and the Toronto and Region Conservation Authority's (TRCA) Stormwater Management Criteria.

vi) Site Grading/Erosion and Sediment Control

The subject site is located within the Humber River Watershed that is partially regulated by TRCA. Erosion and sediment control mitigation measures are required to be implemented to minimize silt laden runoff discharge from the subject site in accordance with the recommendations of The Municipal Infrastructure Group's (TMIG) letter of March 29, 2016. The TMIG letter has also verified that field elevations with respect to the final grading on the subject lands are in conformity with the Site Servicing and Site Plan submitted for the site.

vii) Functional Servicing and Stormwater Management Report

A Functional Servicing Report is not required for the applications because there are no municipal services (water connections and sanitary/storm sewers) available to the subject site.

viii) Sewage and Water Allocation

Sewage and water allocation is not being requested for the site.

ix) Environmental Noise Analysis

The DEIP Department has reviewed the Particulate and Noise Report prepared by Trinity Consultants dated March 11, 2016, and have recommended that an Environmental Noise Analysis be prepared and submitted for review, to the City's satisfaction, in accordance with the current Ministry of Environment and Climate Change (MOECC) guideline and the City's Design Criteria and Standard Drawings prior to the execution of the Site Plan Agreement. The previous report submitted for the initial applications were undertaken based on the previous Ministry requirements which are no longer applicable. A condition to this effect has been included in the recommendation of this report.

x) Transportation

King-Vaughan Road is a rural road designed to operate on a year-round basis with a 5 tonnes per axle year round capacity pursuant to Comprehensive Traffic By-law 284-94. Heavy truck traffic on a rural road can cause damage and accelerate the deterioration of the road surface, especially during the spring and fall seasons. Additionally, the likelihood of truck traffic from the site causing damage to the existing road surface of King-Vaughan Road is greatest at the driveway location due to the turning movements of the heavy concrete trucks.

DEIP staff recommend that prior to the execution of the Site Plan Agreement, the Owner will be required to pave the driveway apron a minimum of 30 m back from the edge of asphalt of the King-Vaughan Road right-of-way, to the City's satisfaction. Additionally, the Owner is required to provide a \$50,000 Letter of Credit to the City of Vaughan to cover the cost of any necessary repairs or improvements to King-Vaughan Road which may be necessary due to damage from trucks entering and leaving the site. Council must also grant an exemption to the 5 tonnes per axle year round limit restriction under Traffic By-law 284-94.

A second Letter of Credit in the amount of \$50,000 is required to be deposited by the Owner with the City for engineering works pursuant to the Site Plan Agreement, and shall be reduced to \$25,000 upon completion of all engineering works, excluding the gravel driveway, to the

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satisfaction of the DEIP Department. The remaining \$25,000 held by the City shall be released upon completion of the gravel driveway (including the culvert and restorative plantings) are complete to the satisfaction of the DEIP Department. Conditions respecting the above are included in the recommendation of this report.

The Traffic Impact study concludes that traffic volumes generated by the proposal forms a small component of the total traffic passing through the various intersections of the study area during the am and pm peak hours. The Transportation Engineering Division of the DEIP Department concurs with the overall study and methodology and have accepted the conclusions.

Toronto and Region Conservation Authority (TRCA)

The TRCA has advised that a previous permit issued to the Owner to facilitate restoration works on the property expired on April 7, 2015, and therefore, a new permit is required. The TRCA has no objection to the approval of Zoning By-law Amendment File Z.16.009 subject to the Owner obtaining a permit from the TRCA. A condition to this effect is included in the recommendation of this report.

Ministry of Transportation Ontario (MTO)

The MTO Highway Corridor Management has advised that the site is located within MTO's Permit Control Area, therefore an MTO Building and Land Use Permit is required to be submitted for the works already completed. In addition, MTO requests that the Owner submit a hydraulic design report, stamped and signed by a Professional Engineer of Ontario for the culvert and entrance road crossing of the watercourse.

The site is located within the Focused Analysis Area of the Highway 400 North Employment Lands Secondary Plan, Volume 2 within VOP 2010. As such, the subject lands are still subject to the outcome of the Focused Analysis including the determination of the preferred transportation solution. This process could have a significant impact on the subject property. The MTO recommends that the temporary use permission be provided for not more than three (3) years and advises the property Owner against making substantial improvements to the property during this period of time. The Ministry's concerns must be addressed prior to the enactment of the implementing zoning by-law, should the applications be approved. A condition to this effect is included in the recommendation of this report.

Ministry of Municipal Affairs and Housing (MMAH)

The MMAH has reviewed the proposal, which is located within the GTA West Corridor Study area, and is generally supportive of the temporary portable dry batch concrete production plant, on the basis the Planning and Design Section of MTO has recommended the approval of the three year extension of the temporary use. The Ministry is satisfied that the application would not contravene any Provincial interests as identified in the Provincial Policy Statement and the Growth Plan.

Ministry of Environment and Climate Change (MOECC)

As part of the approval of the original applications (Files Z.10.002 and DA.11.086) the MOECC issued a Certificate of Approval that contained a number of conditions requiring the Owner to submit annual reports to the Ministry and maintain documentation of the dry batch concrete operation. The MOECC was circulated the current applications and have advised that the proponent does not need a new or amended Certificate of Approval from the Ministry.

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Relationship to Term of Council Service Excellence Strategy Map (2014-2018)

This report supports the following priority set forth in the Term of Council Service Excellence Strategy Map (2014-2018):

- Attract investment and create jobs

Regional Implications

The York Region has no objection to the extension of the existing temporary use zoning by-law for an additional three (3) year period.

Conclusion

Zoning By-law Amendment File Z.16.009 and Site Development File DA.11.086 have been reviewed in accordance with Vaughan Official Plan 2010, Zoning By-law 1-88, comments from City Departments and external public agencies, and the area context. The Vaughan Development Planning Department is satisfied that the proposal to permit the extension of the temporary portable dry batch concrete production plant for maximum period of three (3) years conforms with the temporary use policies of the Official Plan, is consistent with the existing temporary use approved by the OMB on this site, and is appropriate and compatible with the planned uses in the surrounding area. Accordingly, the Vaughan Development Planning Department can support the approval of the Zoning By-law Amendment File Z.16.009 and Site Development File DA.11.086, subject to the conditions of this report.

Attachments

1. Context Location Map
2. Location Map
3. Site Plan
4. Concrete Batching Plant Enclosure
5. Concrete Batching Plant Silo Mixing Structure Elevations
6. Existing Office Trailer Elevations
7. Existing Building - Vehicle Repair Shop
8. Existing Barn Building
9. Previously Expired Council Approved Zoning By-law 031-2013

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(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)