

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF APRIL 23, 2013

Item 31, Report No. 14, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on April 23, 2013.

31

SITE DEVELOPMENT FILE DA.11.051

813229 ONTARIO LTD.

WARD 2 - VICINITY OF REGIONAL ROAD #27 AND MAJOR MACKENZIE DRIVE

The Committee of the Whole recommends:

- 1) That the recommendation contained in the following report of the Commissioner of Planning, dated April 9, 2013, be approved; and**
- 2) That the coloured elevation drawings submitted by the applicant be received.**

Recommendation

The Commissioner of Planning recommends:

1. THAT the Ontario Municipal Board be advised that City of Vaughan Council ENDORSES the following:
 - a) Minor Variance Application A195/11 to permit the addition of a drive-through facility as an expansion of the existing legal non-conforming use (Convenience Eating Establishment), as shown on Attachments #3 to #5, together with the variances to Zoning By-law 1-88 identified in Table 1 of this report; and,
 - b) Site Development File DA.11.051 (813229 Ontario Ltd.) to permit a drive-through facility for the existing Convenience Eating Establishment building as shown on Attachments #3 to #5, subject to the following conditions being satisfied prior to the execution of the Site Plan Agreement:
 - i) the final site plan, landscape plan and landscape cost estimate, and building elevations including all signage shall be approved by the Vaughan Development Planning Department;
 - ii) the final site servicing and grading plan, traffic operations review and stormwater management plan shall be approved by the Vaughan Development/Transportation Engineering Department;
 - iii) the final waste management plan and waste collection design standards submission shall be approved by the Vaughan Public Works Department;
 - iv) a sewage assessment report shall be submitted and approved by the Ministry of Environment;
 - vi) all requirements of the Region of York Transportation and Community Planning Department shall be satisfied;
 - vii) all requirements of the Toronto and Region Conservation Authority shall be satisfied; and,
 - viii) Minor Variance Application A195/11 shall be approved by the Ontario Municipal Board and be in full force and effect.
2. THAT City Staff be directed to attend the Ontario Municipal Board Hearing in support of the Site Development and Minor Variance applications.

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Contribution to Sustainability

The application implements the following Goals and Objectives of Green Directions Vaughan:

Goal 2: To ensure sustainable development and redevelopment.

Objective 2.2: To develop Vaughan as a City with maximum greenspace and an urban form that supports our expected population growth.

Objective 2.3: To create a City with sustainable built form.

Goal 3: To ensure that getting around in Vaughan is easy and has low environmental impact.

Objective 3.1: To develop and sustain a network of sidewalks, paths and trails that supports all modes of non-vehicular transportation.

The following sustainable features will be included in the development of the subject lands:

- i) bicycle parking to support active modes of transportation;
- ii) additional trees will be planted along the Regional right-of-way within the multi-use path and in the open space lands to the west;
- iii) the applicant will investigate the use of infiltration trenches;
- iv) use of drought resistant planting where it is appropriate;
- v) permeable pavers will be utilized on select areas of the site to reduce runoff and increase site permeability; and,
- vi) use of low-E argon window units; high efficiency fixtures, fittings and appliances; and, building materials and products that are extracted and manufactured within the region.

Economic Impact

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

Communications Plan

N/A

Purpose

The Owner has submitted Site Development File DA.11.051 on the subject lands shown on Attachments #1 and #2, to permit the development of a drive-through facility located on the west side of an existing eating establishment building (formerly known as the Salty Dawg Roadhouse Restaurant) as shown on Attachments #3 to #5, inclusive.

The Owner has also submitted Minor Variance Application A195/11 to permit a drive-through facility as an expansion of the existing legal non-conforming use (Convenience Eating Establishment) on the subject lands, which is discussed in the Ontario Municipal Board (OMB) Appeals section of this report. The Minor Variance application did not include the variances to Zoning By-law 1-88 identified in Table 1 of this report, which are required to implement the convenience eating establishment and proposed drive-through facility.

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Background - Analysis and Options

Location

The 6,561.9 m² subject lands shown on Attachments #1 and #2, municipally known as 9732 Regional Road #27, are located on the west side of Regional Road #27, south of Major Mackenzie Drive. The surrounding land uses are shown on Attachment #2.

Ontario Municipal Board (OMB) Appeals

The lands are occupied by a 261 m² one-storey commercial building, previously utilized as an eating establishment (Salty Dawg Roadhouse Restaurant). The current Owner has proposed to continue a similar use (Convenience Eating Establishment use) within the existing building and expand the use through the addition of a drive-through facility on the west side (rear) of the building.

On June 24, 2011, Minor Variance Application A195/11 was filed with the Vaughan Committee of Adjustment to permit an expansion of the existing legal non-conforming use on the site (a Convenience Eating Establishment) with the addition of a drive-through facility. File A195/11 was originally scheduled to be considered by the Committee of Adjustment on March 1, 2012, however, the application was adjourned sine-die in order to permit the processing of related Site Development File DA.11.051 and to prepare a Technical Report for the consideration and disposition by the Committee of the Whole.

On October 4, 2012, the Applicant requested the Committee of Adjustment to reactivate Minor Variance Application A195/11 and that the application be brought forward for consideration at the next meeting on November 8, 2012. The Owner was verbally advised by City staff that review of the Site Development Application should be completed before the Minor Variance application was to be reconsidered. The Owner requested that the Minor Variance application proceed in order to obtain a decision from the Committee of Adjustment to allow them to appeal the application should it be refused, and to facilitate a consolidated Ontario Municipal Board (OMB) Hearing for the Minor Variance and Site Development Applications.

On October 5, 2012, the Owner appealed Site Development File DA.11.051 (813229 Ontario Ltd.) to the Ontario Municipal Board under Section 41(12) of the *Planning Act*, for Council's failure to make a decision. A Hearing date has been scheduled for April 26, 2013 (OMB Case No. PL121147).

On November 8, 2012, the Vaughan Committee of Adjustment refused Minor Variance Application A195/11 on the basis that the application was premature pending review and approval of the site plan, and in particular, in light of the outstanding comments from the Region of York with respect to access to the subject lands from Regional Road #27. On November 26, 2012, the Applicant appealed the Committee of Adjustment's refusal of Minor Variance Application A195/11 to the Ontario Municipal Board (OMB Case No. PL121366).

A Mediation Hearing took place on January 21, 2013, with the Owner, City of Vaughan and Region of York in order to address outstanding issues including site access, site circulation and landscaping along the Regional right-of-way. As a result of this meeting, the Owner submitted revised plans to the City on February 19, 2013, which included the following changes as shown on Attachment #3:

- i) the drive-through facility was relocated to the rear of the building, whereas it was previously proposed adjacent to Regional Road #27;

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- ii) enhanced landscaping was proposed adjacent to Regional Road #27 along the front façade of the building, and included bicycle racks and bench seating. Additional landscaping is to be provided within the Regional right-of-way and future Multi-Use Path (Region of York's Pedestrian and Cycling Master Plan, dated October 2008); and,
- iii) the loading pad was relocated to the north side of the building from its original location at the northwest corner of the building and is to be screened by landscaping and decorative fencing. The relocated loading facility will allow both the drive-through lane and loading area to function appropriately.

The above noted revisions will be discussed in greater detail in the Site Plan section of this report.

The Ontario Municipal Board has scheduled a one day Hearing on April 26, 2013, to consider the Site Development and Minor Variance Applications.

Official Plan

The subject lands are designated "Valley and Stream Corridor" by in-effect OPA #601 (Kleinburg-Nashville Community Plan) and subject to the "Non-Conforming Uses" policies of the Official Plan. OPA #601 includes the following policies to be reviewed in order to permit the expansion of a non-conforming use:

- the building continues to be used in the same manner and for the same purpose;
- the extension or enlargement of the non-conforming use will not adversely affect the welfare of the community in which it is located;
- the proposed expansion or enlargement of the use does not create any nuisance factors and add to the incompatibility of the use with the surrounding area; and,
- the neighbouring conforming uses are not impacted by the expansion.

The existing building on the property contained a 'restaurant/tavern' use, similar in nature to the proposed Convenience Eating Establishment use. The Owner is proposing to construct a drive-through facility to be located at the rear of the building as shown on Attachment #3. The Convenience Eating Establishment and drive-through facility will not create any adverse impact to the community. The drive-through facility will not create any traffic or visual impacts along Regional Road #27 at its proposed location at the rear of the building. The existing designated parking area will be utilized on the site in the same manner as was previously utilized by the Restaurant/Tavern use. The property is being upgraded by the significant amount of landscaping being proposed adjacent to the front of the building, and within the Regional right-of-way along Regional Road #27. This area also includes bicycle racks and bench seating for patrons/pedestrians. The proposed eating establishment use and drive-through conform to the in-effect Official Plan.

The lands are designated "Natural Areas" by the City of Vaughan Official Plan 2010 (VOP 2010), which was adopted by Vaughan Council on September 7, 2010 (as modified September 27, 2011, March 20, 2012, and April 17, 2012) as further modified and endorsed by Region of York Council on June 28, 2012, and is pending approval from the Ontario Municipal Board. The non-conforming policies in VOP 2010 are similar to those policies in OPA #601, and therefore, the proposed Convenience Eating Establishment and drive-through facility conforms to VOP 2010.

Zoning

The subject lands are zoned OS1 Open Space Conservation Zone by Zoning By-law 1-88, as shown on Attachment #2. The site is currently developed with an existing building that was used

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as a “restaurant/tavern” and has been determined to be an existing legal non-conforming Convenience Eating Establishment. The proposed drive-through facility represents a logical expansion of this use on the property, and is therefore, considered to comply with Zoning By-law 1-88.

As noted previously, when Minor Variance Application A195/11 was filed, it did not address the variances to Zoning By-law 1-88 that were required to facilitate the Convenience Eating Establishment use and the proposed drive-through facility. In order to implement the development of the site as proposed, the following variances to Zoning By-law 1-88 are required:

Table 1:

	By-law Standard	By-law 1-88, OS1 Zone Requirements	Proposed Variances to OS1 Zone Requirements
a.	Minimum Building Setbacks	15 m	7.3 m - north 7.5 m - east abutting Regional Road #27 (represents an existing situation)
b.	Minimum Parking Requirement	42 spaces (16 parking spaces/100 m ²)	26 spaces (10 parking spaces/100 m ²)
c.	Minimum Landscape Strip Abutting a Street (Regional Road #27)	6 m	4 m
d.	Location of Loading Space	Loading is to be located between the building and the rear lot line	Loading space to be located in the northerly side yard
e.	Driveways and Parking Spaces	Driveways and parking spaces shall be paved with hot-mix asphalt	Permit 7 parking spaces and associated driveway aisle at the rear (west end) of the property to be gravel (represents an existing situation)

The OS1 Open Space Conservation Zone requires that all buildings and structures have a minimum 15 m setback from each property line. The building setback variances are required to recognize and maintain the existing building on the subject lands. No changes are proposed to the building location or size.

A reduction in the number of parking spaces from 42 to 26 spaces is required as the site is situated within the regional flood plain, and as such the Toronto and Region Conservation Authority has limited any significant expansion of the paved parking area. The Owner has submitted a *Traffic Operations Review* prepared by BA Group Transportation Consultants, dated January 2013, in support of the site plan application. The report states that less on-site parking is required for restaurants with drive-through facilities compared to eat-in restaurants because the majority of customers stay within their vehicles. The Development/Transportation Engineering Department has reviewed the report and concurs with the conclusion that 26 parking spaces is sufficient for the site. It is also noted that the proposed drive-through accommodates an eight (8)

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car stacking capacity, thereby facilitating spaces for 34 cars on the site at any given time. In addition, the City has undertaken a study, conducted by the IBI Group, of the parking standards in Zoning By-law 1-88. The study recommends that the minimum parking standard for an eating establishment of 10 parking spaces/100 m² of gross floor area, which would yield a requirement for 26 parking spaces on the subject lands, is consistent with the number proposed by the Owner.

A portion of the parking area (7 parking spaces) located at the rear of the property as shown on Attachment #3, will remain in a gravel state in order to address the requirements of the Toronto and Region Conservation Authority. A variance is required as Zoning By-law 1-88 requires that all parking spaces, driveways and maneuvering areas shall be paved with hot-mix asphalt or concrete. The Development Planning Department supports the above noted variances to facilitate the proposed eating establishment and drive-through facility.

Site Plan Review

The Owner is proposing to add a drive-through facility to the west end (rear) of the existing building on the subject lands, as shown on Attachments #3 to #5 inclusive. The existing building elevations have been moderately upgraded to include a pick-up window on the west elevation, and to replace an existing roll-up door on the east elevation with a window.

The applicant has indicated that future changes to the building elevations and signage may occur. Currently the building is vacant and without a tenant. Once an eating establishment tenant is secured, corporate logos and/or signage with elevation upgrades will likely occur. If it is minor, Development Planning Department will review and approve these changes on a staff level. However, if the revisions to the building are considered by staff to be significant, then the building elevations will be forwarded to a future Committee of the Whole meeting for consideration of the Minor Site Plan Amendment application.

Following the OMB mediation on January 21, 2013, the Owner relocated the drive-through to the rear of the property satisfying City and Regional concerns with regards to access, on-site circulation, site layout and visual appeal.

A concrete pad loading space surrounded by decorative fencing and landscaping is proposed on the north side of the existing building. A planting bed is proposed at the northwest corner of the building to provide visual appeal for motorists queuing in the drive-through lane. The Public Works Department has advised that the size of the loading space must be increased from 3 m to 5 m in width, in order to appropriately accommodate truck movement. The applicant has agreed to revise the site plan and landscape plan, accordingly, and provide for additional landscaping around this area to screen the loading space from views along Regional Road #27. A condition of approval in this respect is included in the recommendation.

The landscape plan shown on Attachment #4 consists of deciduous trees, shrubs, flowers, and grasses. The plan includes a landscaped pedestrian walkway surrounding the building, along with permeable paving materials, a bench and bicycle racks adjacent to the front elevation (east) of the building.

Maple trees will also be added within the Regional right-of-way abutting the future multi-use path. The multi-use path will form part of the Region of York's Pedestrian and Cycling Master Plan, dated October 2008. As part of the Pedestrian and Bicycle Master Plan Study adopted by the City in 2007, a number of facilities are provided in the Kleinburg area including:

- Community Multi-use Boulevard Pathways (CMBP) along Regional Road #27, south of the subject site and north of Major Mackenzie Drive.

No pedestrian sidewalks or bicycle paths are currently provided on the section of Regional Road #27 directly in front of the subject site, however, the Owner has included bicycle racks and a bench adjacent to the multi-use path.

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The Development Planning Department is generally satisfied with the proposed site plan, landscape plan, and building elevations, subject to the conditions listed in the recommendation section of this report.

Vaughan Development/Transportation Engineering Department

The Owner has submitted a site servicing and grading plan and storm water management report, and the final documents must be approved to the satisfaction of the Vaughan Development/Transportation Engineering Department prior to the execution of the Site Plan Agreement. A condition to this effect is included in the recommendation of this report.

A Traffic Operations Review prepared by BA Group dated January 2013, supported the reduced parking supply of 26 spaces over the City Zoning By-law requirement of 42 spaces. The study concludes that the proposed parking supply rate of 26 spaces is sufficient for the development's specific requirements. This conclusion is substantiated by a parking utilization survey conducted by the Consultant on similar existing facilities.

The proposed parking supply is adequate based on the supporting analysis provided in the Consultant's report. The Development/Transportation Engineering Department has no objection with the proposed parking supply rate.

Ministry of Environment

The proposed site plan requires a sewage system. The site has a subsurface sewage disposal system that is greater than 10,000 litres/day which triggers Ministry of Environment (MOE) involvement.

The MOE has concerns related to the damage to the septic tank, pump chamber and connecting pipes, etc., by vehicles that will be driving and parking on these components possibly damaging them and leading to sewage break-outs. The MOE is also concerned with paving of the drive-through and parking lot to the extent that components are covered over and not accessible for inspection and maintenance.

The sewage system must be inspected by a qualified contractor/consultant to determine its current status, make any necessary repairs and determine whether the current system is able to handle the increased flow affiliated with the proposal. Then if permitted, appropriate protection should be installed around the system components to ensure they will not be damaged or crushed by vehicles in the drive-through or by the truck removing garbage from the site.

An Assessment Report is required prior to final site plan sign-off (execution of the implementing Site Plan Agreement), which must be approved by the Ministry of Environment. A condition to this effect has been provided for in the recommendation of this report.

Toronto and Region Conservation Authority

The Toronto and Region Conservation Authority (TRCA) has no objection to the approval of the Site Plan. The applicant must obtain a TRCA Permit under Ontario Regulation 166/06 for the proposed changes to the existing structure and the paved parking area.

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the following initiatives set forth in the Vaughan Vision 2020/Strategic Plan:

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i) Lead and Promote Environmental Sustainability

The Owner will be incorporating the sustainable site and building features identified in this report, specifically with respect to the built form by using building materials and products that are extracted and manufactured within the region and by using high efficiency fixtures, fittings and appliances.

The Owner is providing an environmental benefit to the community by improving an underutilized site.

ii) Enhance and Ensure Community Safety/Health and Wellness

The proposed development includes additional planting within the future multi-use path (Region of York's Pedestrian and Cycling Master Plan, October 2008) as well as bicycle racks to complement the City's existing inventory of public amenity space.

Regional Implications

The Region of York Transportation and Community Planning Department has reviewed the site plan application and has no objections to the proposed development, subject to the Owner satisfying all requirements of the Region prior to the execution of the City's Site Plan Agreement.

Conclusion

The Vaughan Development Planning Department has reviewed Site Development File DA.11.051 in accordance with OPA #601, Zoning By-law 1-88, comments from City Departments and external public agencies, and the area context. The Development Planning Department is satisfied that the expansion of the existing Convenience Eating Establishment with a proposed drive-through facility is appropriate and compatible with the surrounding land uses and satisfies the policies of the Official Plan with respect to the expansion of legal non-conforming uses. Accordingly, the Development Planning Department recommends that Vaughan Council endorse the approval of the Site Development and Minor Variance Applications to be considered by the Ontario Municipal Board, subject to the recommendations in this report. It is also recommended that Council direct City Staff to attend the OMB Hearing on April 26, 2013, in support of the Site Development and Minor Variance Applications.

Attachments

1. Context Location Map
2. Location Map
3. Site Plan
4. Landscape Plan
5. Building Elevations

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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.)