

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF MAY 14, 2013

Item 14, Report No. 19, of the Committee of the Whole, which was adopted, as amended, by the Council of the City of Vaughan on May 14, 2013, as follows:

By receiving Communication C4, from the Commissioner of Community Services, dated May 14, 2013.

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**ZONING BY-LAW AMENDMENT FILE Z.12.029
SITE DEVELOPMENT FILE DA.12.065
IMPERIAL OIL LIMITED ET AL
WARD 1 – VICINITY OF JANE STREET AND TESTON ROAD**

The Committee of the Whole recommends:

- 1) That the recommendation contained in the following report of the Commissioner of Planning, dated April 30, 2013, be approved;**
- 2) That staff provide a report to the Council meeting of May 14, 2013, with respect to a proposed enclosure between the noise barrier and the property boundary wall and clarification on the height of the noise barrier;**
- 3) That the following deputations be received:**
 - 1. Mr. Michael Goldberg, Goldberg Group, Avenue Road, Toronto, representing the applicant;**
 - 2. Mr. Mohammad Bhatti, Nasir Crescent, Vaughan; and**
 - 3. Mr. Don Dussault, Elm Street, Port Colborne, representing the applicant;**
- 4) That Communication C3, from Dr. Hameed Mirza, dated April 30, 2013, be received; and**
- 5) That the coloured elevation drawings submitted by the applicant be received.**

Recommendation

The Commissioner of Planning recommends:

- 1. THAT Zoning By-law Amendment File Z.12.029 (Imperial Oil Limited et al.) BE APPROVED, to amend Zoning By-law 1-88, specifically the C3 Local Commercial Zone subject to Exception 9(1276) as follows:**
 - a) to permit a Car Wash use on the subject lands shown on Attachments #1 and #2, in the manner shown on Attachments #4, #5 and #7;**
 - b) to remove the Holding Symbol “(H)” from the subject lands, thereby effectively zoning the subject lands C3 Local Commercial Zone, subject to Exception 9(1276); and,**
 - c) to permit the site-specific zoning exceptions to facilitate the development of a Car Wash, and an Automobile Gas Bar with associated Convenience Eating Establishment and Drive-through identified in Table 1 of this report.**
- 2. THAT Site Development File DA.12.065 (Imperial Oil Limited et al) BE APPROVED, to permit the development of an Automobile Gas Bar with associated Convenience Eating Establishment and Drive-through and a Car Wash as shown on Attachments #4 to #9 inclusive, subject to the following conditions:**

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- a) that prior to the execution of the Site Plan Letter of Undertaking:
 - i. the implementing Zoning By-law shall be in full force and effect;
 - ii. the final site plan as amended to relocate the pylon sign to the east side of the Teston access, building elevations, signage plan, landscape plan, and landscape cost estimate shall be approved by the Vaughan Development Planning Department;
 - iii. the final site servicing and grading plan, stormwater management report and noise report as peer-reviewed (including final recommended changes); shall be approved by the Vaughan Development/Transportation Engineering Department;
 - iv. the Owner shall satisfy all requirements of the Region of York Transportation and Community Planning Department;
 - v. the Owner shall pay all outstanding fees to the City; and,
- b) that the Site Plan Letter of Undertaking include the following provision:
 - i) the Owner shall pay to the City of Vaughan by way of certified cheque, cash-in-lieu of the dedication of parkland equivalent to 2% of the value of the subject lands, prior to the issuance of a Building Permit, in accordance with Section 42 of the Planning Act. The Owner shall submit an appraisal of the subject lands prepared by an accredited appraiser for approval by the Vaughan Legal Department, Real Estate Division, and the approved appraisal shall form the basis of the cash-in-lieu payment.

Contribution to Sustainability

The applications implement the following Goal and Objective of Green Directions Vaughan:

Goal 4: To create a vibrant community where citizens, businesses and visitors thrive.

- Objective 4.2: Ensure that the City of Vaughan attracts businesses and investment that will result in well-paying jobs for Vaughan citizens, a sustainable tax base and continuing prosperity into the 21st century

In accordance with the goal and objective identified above, the Owner has advised that the following, but not limited to, sustainable site and building features will be included in the proposed development:

- i) interior LED lighting for the carwash and convenience store building;
- ii) a high efficiency glycol boiler system in the car wash;
- iii) washroom fixtures fitted with motion activated flow control;
- iv) programmable thermostat;
- v) occupancy sensor in the back rooms and for refrigerators;
- vi) LED lighting with auto dimming during times of no activity under canopy;
- vii) high efficiency refrigeration units; and,
- viii) drought tolerant and native plant species to promote water efficiency.

Economic Impact

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

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Communications Plan

On December 12, 2012, a Notice of Public Hearing was circulated to all property owners within 150 m of the subject lands. The recommendation of the Committee of the Whole to receive the Public Hearing report of January 15, 2013, and to forward a comprehensive report to a future Committee of the Whole meeting was ratified by Council on January 29, 2013, with a resolution that a community meeting with the applicant, abutting residents, Local Councillor, interested Regional Councillors and staff be held by the Local Councillor to address outstanding concerns with the car wash use. Deputations, a written submission and petitions, were received from the following:

- a) Mr. Deryck Bagg, Teston Road, Maple;
- b) Mr. Mohammad Bhatti, Nasir Crescent, Maple;
- c) Mr. Burhan Goraya, Tahir Street, Maple;
- d) Mr. Usman Habib, Bashir Street, Maple;
- e) Mr. Zubair Afzal, Teston Road, Maple;
- f) Mr. Zakria Khan, Bashir Street, Maple;
- g) Mr. Mubarak Ahmed, Nasir Crescent, Maple;
- h) Mr. Rehman Masood Mohar, Bashir Street, Maple;
- i) Ms. Hibbat-ul-Qadeer Mirza, Nasir Crescent, Maple;
- j) Mr. Burhan Ahmed, Nasir Crescent, Maple;
- k) Mr. Azeem Cheema, Bashir Street, Maple;
- l) Mr. Adnan Mirza, Nasir Crescent, Maple;
- m) Mr. Syed Ahmed, Nasir Crescent, Maple;
- n) Mr. Luqman Goraya, Tahir Street, Maple;
- o) Rinki Haque;
- p) Mubashar Cheema;
- q) Usman Habib; and,
- r) Dr. Hameed Mirza, Nasir Crescent, Maple.

On February 4, 2013, the Ward 1 Councillor held a meeting with the residents, Owner, Regional Councillors and Development Planning Staff to discuss the original proposal shown on Attachment #3. The following individuals were in attendance to represent the community:

- a) Mr. Muhammad Afzal Khawaja, Nasir Crescent, Maple;
- b) Dr. Hameed Mirza, Nasir Crescent, Maple;
- c) Mr. Mohammad Bhatti, Nasir Crescent, Maple;
- d) Mr. Rehman Mohar, Bashir Street, Maple;
- e) Mr. Mubasher Ahmad, Nasir Crescent, Maple; and,
- f) Mr. Shahid Mansoor, Nasir Crescent, Maple.

The following is a summary of the resident's concerns raised at the Public Hearing (January 15, 2013), and at the subsequent Community meeting on February 4, 2013:

- i) a gas station should not be located behind residential homes;
- ii) there are health issues related to locating a gas station close to residential uses;
- iii) high ozone emissions from a gas station;
- iv) increase in theft;
- v) increase in traffic to the intersection;
- vi) increase in light pollution onto the backyards of abutting properties; and,
- vii) see Letter from Residents following the Community Meeting on Attachment #10.

The meetings allowed the residents to express their concerns which are addressed by City Departments within the Zoning and Site Plan Review sections of this report.

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Purpose

The Owner has submitted the following applications for the subject lands shown on Attachments #1 and #2:

1. Zoning By-law Amendment File Z.12.029 to permit a Car Wash use that is to be developed with a permitted Automobile Gas Bar with associated Convenience Eating Establishment and Drive-through; to remove the Holding Symbol “(H)” from the subject lands, thereby effectively zoning the subject lands C3 Local Commercial Zone, subject to Exception 9(1276); and, permit the site-specific zoning exceptions identified in Table 1 of this report.
2. Site Development File DA.12.065 to permit the development of an Automobile Gas Bar with associated Convenience Eating Establishment and Drive-through and a Car Wash as shown on Attachments #4 to #9.

Background - Analysis and Options

Location

The vacant property is located at the southwest corner of Jane Street and Teston Road, municipally known as 10520 Jane Street, and shown as “Subject Lands” on Attachments #1 and #2. The surrounding land uses are shown on Attachment #2.

Official Plan

The subject lands are designated “Medium Density Residential/Commercial” by in-effect OPA #600, as amended by site-specific OPA #643. OPA #643 specifically permits an Automobile Gas Bar/Automobile Service Station and a Convenience Eating Establishment with Drive-Through uses within the “Medium Density Residential/Commercial” designation. The Service Station and Gas Bar policies (Section 4.2.2.7) of OPA #600 permits maintenance services for vehicles, however, the applicant is not proposing a service station use. In addition, the policies state that a noise study may be required for a car wash on lands that abut a residential area. The Owner has submitted a Noise Study in support of the application. The noise study was recently peer-reviewed at the request of the applicant and this is further discussed in the comments provided by the Vaughan Development/Transportation Engineering Department. The proposed development conforms to the use policies and criteria for service stations of the in-effect Official Plan.

The subject lands are designated “Mid-Rise Mixed-Use” by the new Vaughan Official Plan 2010 (VOP 2010), which was adopted by Vaughan Council on September 7, 2010 (as modified on 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. An automobile gas bar use is permitted under this designation, provided that the use is located on an arterial street, is limited to one gas station per intersection, and that no gas stations shall be permitted at the intersection of two arterial streets. The proposal does not conform to the locational criteria for gas stations identified in VOP 2010, as the automobile gas bar and car wash uses are located at the intersection of two arterial streets (i.e. Jane Street and Teston Road). As the new Official Plan is not yet in effect, the current policies in the in-effect OPA #643 apply to the subject lands.

The Development Planning Department is of the opinion that the proposed development of the site for an Automobile Gas Bar with associated Convenience Eating Establishment and Drive-through and a Car Wash represents good planning as it conforms to the current in-effect policies of OPA #600, as amended by OPA #643, it meets the locational and design criteria of OPA #600, and is consistent with the existing and intended character of the surrounding community through its use of materials and design.

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Zoning

The subject lands are zoned C3(H) Local Commercial Zone with the Holding Symbol “(H)” by Zoning By-law 1-88, subject to Exception 9(1276), which permits the Automobile Gas Bar use and associated Drive-Through for a Convenience Eating Establishment. The proposed additional Car Wash use is not permitted on the subject lands by Zoning By-law 1-88, and therefore, an amendment to the Zoning By-law is required.

The Owner is proposing a Car Wash use in addition to the permitted Automobile Gas Bar and associated Convenience Eating Establishment with Drive-through uses on the subject lands as shown on Attachment #4. The proposed Car Wash use is permitted by the policies of the in-effect OPA #600, however, is subject to a Noise Study which has been submitted by the Owner. The Noise Study and peer-review report is further discussed in the Development/Transportation Engineering Department section of this report.

The Development Planning Department is of the opinion that the proposed Car Wash use is a common and compatible use with an Automobile Gas Bar. An automobile gas bar with an associated car wash use located directly adjacent to residential uses are located in the City of Vaughan, including at the southeast corner of Rutherford Road and Thornhill Woods Drive (1081 Rutherford Road). There is another existing car wash located southwest of Bathurst Street and Teston Road (10700 Bathurst Street) that will be adjacent to future residential. These are two examples of existing Automobile Gas Bars where the Car Wash directly abuts or will abut residential dwelling units. There are many other sites in Vaughan where a car wash is located on a property but not directly adjacent to residential. The proposed Car Wash is a common use associated with an Automobile Gas Bar use and is considered a non-invasive and compatible use within its surroundings, when appropriately developed.

The applicant is proposing the following site-specific zoning exceptions to the C3 Local Commercial Zone standards of Zoning By-law 1-88, subject to Exception 9(1276), to implement the proposed development as shown on Attachments #4 to #9:

Table 1 – Proposed Zoning Exceptions to the C3 Local Commercial Zone

	By-law Standard	By-law 1-88 C3 Local Commercial Zone Requirements	Proposed Exceptions to C3 Local Commercial Zone Exception 9(1276)
a.	Minimum Parking Requirement	28 parking spaces (Gas Bar: 187.5 m^2 @ $5.5 \text{ spaces}/100 \text{ m}^2 = 11$ spaces + Eating Establishment: 105 m^2 @ $16 \text{ spaces}/100 \text{ m}^2 = 17$ spaces)	18 parking spaces
b.	Maximum Driveway Width (Teston Road and Jane Street)	9.0 m	10.0 m
c.	Minimum Landscape Strip Width (Teston Road and abutting Sight Triangle)	6.0 m	3.0 m

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The proposed zoning exceptions for an increased driveway width, reduced number of parking spaces and reduced landscape strip width are necessary to implement the siting of the proposed development over the entire subject lands, as shown on Attachment #4.

Originally, the Owner had proposed an alternate siting of the development as shown on Attachment #3, where the proposed Convenience Store/Convenience Eating Establishment with Drive-through and patio were located adjacent to Jane Street and the Gas Pumps were located in the middle of the site and closer to the residential. Through the comments raised by the residents at the Public Hearing and the Community Meeting, the Development Planning Department consulted with the Owner to revise the siting of the Automobile Gas Bar to address the concerns from the abutting residents regarding perceived health impacts of the Gas Bar on the residents. The Owner agreed to relocate the Gas Pump Canopy adjacent to Jane Street and move the Convenience Store/Convenience Eating Establishment with Drive-through and patio to the south side of the subject lands abutting the residential dwellings, as shown on Attachments #4 and #5. As a result of the revisions to the siting of the proposed development, the increase in driveway widths from 9 m to 10 m and the reduction of the landscape strip widths adjacent to Jane Street and the Region of York's sight triangle from 6 m to 3 m were necessary to accommodate for proper vehicle and truck maneuvering and re-fueling on the proposed Automobile Gas Bar site, in addition to ensuring the provision of an increased westerly setback of the car wash from 6 m to 9m, maintaining and lengthening the sound barrier wall, and maintaining and providing the additional amount of landscaping as reflected on the original and revised site plans shown on Attachments #3 and #4, respectively. The site-specific exceptions that are necessary to implement the revised site plan substantially reflects the comments identified by the community in their letter to the City on Attachment #10, which was submitted following the Community Meeting on February 4, 2013.

The site-specific zoning provisions identify the removal of the Holding Symbol "(H)" from the subject lands is conditional upon a Site Development Application being approved by Vaughan Council. The Development Planning Department is satisfied with the proposed site plan as discussed in this report, and are recommending approval of Site Development File DA.12.065. Should Vaughan Council concur, it is recommended that the "(H)" Holding Symbol be removed to facilitate the development of the site.

The Development Planning Department can support the approval of Zoning By-law Amendment File Z.12.029. The proposed Car Wash use and site-specific zoning exceptions would facilitate a development that also includes a permitted Automobile Gas Bar with associated Convenience Eating Establishment and Drive-Through that is appropriate for the overall development of the site and will result in a building form that is compatible with the surrounding area, and in conformity with the in-effect Official Plan.

Site Plan Review

The Owner is proposing an Automobile Gas Bar with an associated 250 m² Convenience Store/Convenience Eating Establishment with Drive-through and Touchless Car Wash, as shown on Attachments #4 to #9. The Owner is also proposing a patio, located adjacent to the Convenience Store, to provide pedestrian movement and activity on the site. The site will be developed with two right-in/right-out access driveways onto Jane Street and Teston Road. A total of 18 parking spaces are provided, including a barrier free parking space for the convenience retail store. The gas bar will be developed with 5 gas pumps sheltered by a canopy to serve 10 vehicles. The proposed Esso signage on the canopy and rear of the car wash building will not be lit to minimize light pollution into the rear yards of the abutting residential dwellings. The Owner is providing a 3 m high sound barrier wall along the west and south areas of the subject lands, abutting the residential dwellings to mitigate any noise from the proposed development as shown on Attachment #4.

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The Owner has proposed extensive landscaping around the entire perimeter of the property. Landscape treatment is also proposed within the Region of York's sight triangle, including a masonry feature wall with a metal picket fence, permeable pavers, bicycle racks and large planting areas. Landscaping will also be provided on both sides of the sound barrier wall including between the sound barrier wall and the existing residential rear yard fences to facilitate additional sound mitigation and visual screening as shown on Attachment #5.

The elevation plans shown on Attachments #6 (Convenience Store) and #7 (Car Wash) include brown shingles, brown masonry and stone cladding. Additional treatment of the east elevation of the convenience retail store has been agreed to by the applicant in the form of a door, spandrel glazing and illuminated signage to match the west elevation, and will be reflected on the final elevation drawings and consistent with what is depicted on the coloured handout drawing to Members of Council at this Committee Meeting. The automobile gas bar will be branded as ESSO Gas Bar. Corporate ESSO signage, "On the Run", will be included on the north façade of the convenience retail store, as shown on Attachment #6. The proposed gas bar canopy will include the ESSO corporate logo with a non-lit sign band on the north and south façades as shown on Attachment #8. The pylon sign shown on Attachments #4 and #9 will be located along the Jane Street and Teston Road accesses. The pylon sign on Jane Street will be located on the north side of the access and away from the residences to the south. The pylon sign on Teston Road, although revised to be set back further from the westerly residences from 6 m to 9 m, is now being relocated to the east side of the Teston access as red-lined on the site plan and landscape plan shown on Attachments #4 and #5. Development Planning Staff have been working with the applicant to revise the landscape strip immediately adjacent to the east side of the Teston access to "bump out" in order to relocate the pylon sign (away from the residences) without impacting upon truck re-fuelling manoeuvres at that location. The pylon sign is 7.5 m in height and will be fixed to a masonry stone base.

The Vaughan Development Planning Department is satisfied with the revised siting of the proposed gas pumps and convenience building, increased amount of landscaping and placement of the noise barrier wall, and the revised location of the pylon sign on Teston Road, and will continue to work with the Owner to finalize site plan, landscape plan and elevation plan. A condition to this effect is included in the recommendation of this report.

Development Planning Staff are also satisfied that the revised site layout as red-lined on Attachment #4, reasonably addresses the majority of the residents comments as identified in their letter on Attachment #10.

Vaughan Development/Transportation Engineering Department

The proposed Gas Bar/Car Wash Development is located next to an existing residential area so the applicant provided an Environmental Noise Analysis, prepared by Valcoustics Canada Ltd., and dated March 12, 2013, which assesses the impacts that noise from the proposed site development may have on the adjacent residential community and recommends certain mitigation measures.

The Valcoustics report identified a number of noise sources associated with the proposed site development including the car wash, rooftop air conditioning units, loudspeakers, etc., that have the potential of impacting the neighbouring residential properties. These noise sources are primarily stationary in nature, therefore, Valcoustics has used the MOE Environmental Noise Guidelines NPC-205 as the basis of their assessment. Based on the noise assessment by Valcoustics, the noise sources from the proposed site development can be mitigated to meet the MOE guidelines using a combination of the following measures:

- i) a wing wall sound barrier 3.0 metres in height for the car wash exit, extending northerly along the west façade of the car wash building for 4.0 metres;

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- ii) a sound barrier 3.6 metres in height for the car wash entrance, car wash queue and drive-through queue, extending southerly along the west façade of the car wash building and then turns easterly parallel to the car wash and drive-through queue, for a total of 75 metres; and,
- iii) limiting garbage pick-up to weekdays between 7 a.m. and 7 p.m.

The physical measures noted above have been incorporated into the design of the site development.

Given the concerns expressed by the abutting residents about the impact of noise from the proposed development, the City retained the firm of Novus Environmental to peer review the Valcoustics Noise Analysis, at the Owner's expense. In their letter dated April 9, 2013, Novus Environmental recommended that the following matters be further reviewed:

- the MOE Environmental Noise Guidelines LU-131 (vehicle noise) should be considered in the noise assessment;
- additional noise sources should be assessed including rooftop refrigeration equipment, gas pumps, on-site vehicle movements, and car starting; and,
- additional analysis is required of the impacts from the drive-through loudspeakers.

The peer review comments have been provided to the applicant and shall be addressed to the satisfaction of the Vaughan Development/Transportation Engineering Department.

Vaughan Development/Transportation Engineering Department is working with the Owner to finalize the grading and servicing plans, stormwater management report and noise report as peer-reviewed for the proposed development. The final plans and reports must be approved to the satisfaction of the Vaughan Development/Transportation Engineering Department. A condition to this effect is included in the recommendation of this report.

Relationship to Vaughan Vision 2020/Strategic Plan

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

i) Lead and Promote Environmental Sustainability

The Owner will be incorporating the sustainable site and building features identified in this report.

The proposed development includes a three stream waste disposal system (molek system) which will contribute to increasing the waste diversion targets as part of the Greening Vaughan strategy.

The proposed landscape plan includes drought tolerant plant material to promote water efficiency and quantity to encourage proper management of stormwater discharge into the City's natural corridors and sewer systems.

ii) Plan and Manage Growth & Economic

The proposed development implements the City's current in-effect Official Plan.

Regional Implications

The applications were circulated to the Region of York Transportation and Community Planning Department for review and comment. On September 26, 2012, the Region of York provided

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preliminary comments outlining requirements and conditions necessary to obtain Regional approvals. The subject lands are located at the southwest corner of two Regional Roads, Jane Street and Teston Road. Access to Jane Street and Teston Road will be restricted to right-in/right-out movements only. The Owner is required to enter into an Encroachment Agreement for the works to be undertaken in York Region's sight triangle. The Owner must satisfy all requirements and conditions of the Region of York Transportation and Community Planning Department, including the execution of a Regional Site Plan Agreement. A condition to this effect is included in the recommendation of this report.

Conclusion

The Vaughan Development Planning Department has reviewed Zoning By-law Amendment File Z.12.029 and Site Development File DA.12.065 (Imperial Oil Limited et al.) in accordance with OPA #600, OPA #643, Zoning By-law 1-88, comments from City Departments and external public agencies, comments from the area residents, and the area context. The Development Planning Department is satisfied that the proposed additional Car Wash use together with the site-specific zoning exceptions to the C3 Local Commercial Zone identified in Table 1 of this report, to facilitate the development of an Automobile Gas Bar with associated Convenience Eating Establishment and Drive-Through and a Car Wash are appropriate and will facilitate development that is compatible with the existing and permitted uses in the surrounding area, in conformity with the in-effect Official Plan. Accordingly, the Development Planning Department can support the approval of the Zoning By-law Amendment and Site Development Applications, subject to the comments, conditions, and red-lined site plan revisions contained in this report.

Attachments

1. Context Location Map
2. Location Map
3. Original Site Plan
4. Revised Site Plan
5. Landscape Plan
6. Elevations - Convenience Store
7. Elevations - Car Wash
8. Elevations - Canopy and Pumps
9. Elevations - Pylon Sign
10. Letter from Residents

Report prepared by:

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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.)