

**EXTRACT FROM COUNCIL MEETING MINUTES OF MAY 17, 2016**

***By approving the following:***

***That the following be approved in accordance with Communication C8, memorandum from the Deputy City Manager, Planning and Growth Management, dated April 18, 2016:***

***That this Communication, be received as information; and***

***By receiving Communication C5, memorandum from the Deputy City Manager, Planning & Growth Management, the Director of Development Engineering and Infrastructure Planning and the Direction of Development Planning, dated May 5, 2016.***

**8                                ZONING BY-LAW AMENDMENT FILE Z.13.025  
                                    SITE DEVELOPMENT FILE DA.13.062  
                                    VAHE AND VICKY GHAZARIAN  
WARD 1 - VICINITY OF NASHVILLE ROAD AND ISLINGTON AVENUE**

**The Committee of the Whole recommends:**

- 1) That consideration of this matter be deferred to the Council meeting of May 17, 2016; and
- 2) That the coloured elevation drawings submitted by the applicant be received.

## Recommendation

The Deputy City Manager, Planning and Growth Management, Director of Development Planning and Senior Manager of Development Planning recommend:

1. THAT Zoning By-law Amendment File Z.13.025 (Vahe and Vicky Ghazarian) BE APPROVED, to amend Zoning By-law 1-88, specifically the C11 Mainstreet Commercial Zone, subject to Exception 9(132), to permit two as-built additions to the existing 1.5-storey commercial building, maintain the changes to the parking and landscape area, and permit the addition of a seasonal tent above a patio and a garbage enclosure as shown on Attachments #3 to #5, which differs from the approved layout of the property (Attachment #8), and to permit the site-specific exceptions to the Zoning By-law in the manner identified in Table 1 of this report.
2. THAT Site Development File DA.13.062 (Vahe and Vicky Ghazarian) BE APPROVED, subject to the following conditions:
  - a) that prior to the execution of the Site Plan Agreement, the Vaughan Development Planning Department shall approve the final site plan, building elevations, and landscape plan;
  - b) that prior to the issuance of a Building Permit, a Heritage Permit must be issued by the Vaughan Development Planning Department, Urban Design and Cultural Heritage Division.

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#### **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

#### **Economic Impact**

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

#### **Communications Plan**

On September 20, 2013, a Notice of Public Hearing was circulated to all property owners within 150 m of the subject lands and to the Kleinburg and Area Ratepayers' Association. The Notice of Public Hearing was also posted on the City's web-site at [www.vaughan.ca](http://www.vaughan.ca) and a Notice Sign was installed on the property in accordance with the City's Sign Notification Protocol. No comments were received by the Vaughan Development Planning Department through the notice circulation.

The recommendation of the Committee of the Whole to receive the Public Hearing report of October 15, 2013 was ratified by Council on October 29, 2013. At the Public Hearing, it was noted by Council that the dimensions of the proposed parallel parking spaces were not sufficient.

The Building Standards Department and Development Engineering and Infrastructure Planning (DEIP) Department are satisfied that the dimensions of all parking spaces on the property meet City standards.

#### **Purpose**

The purpose of this report is to seek approval from the Committee of the Whole for Zoning By-law Amendment File Z.13.025 to amend Zoning By-law 1-88, specifically the C11 Mainstreet Commercial Zone, subject to Exception 9(132), to permit the two as-built additions to the existing 1.5-storey commercial building. The report also recommends approval to maintain the changes to the parking and landscape area, and to permit the addition of a seasonal tent above a patio and a garbage enclosure as shown on Attachments #3 to #7, which differs from the approved layout of the property (as shown on Attachment #8), and to permit the site-specific exceptions to the Zoning By-law in the manner identified in Table 1 of this report. This report also recommends approval of Site Development File DA.13.062, subject to conditions, which would implement the provisions of Zoning By-law Amendment File Z.13.025.

#### **Background - Analysis and Options**

*Synopsis:*

*The Owner is proposing to amend the City's Zoning By-law 1-88 to recognize an expanded building envelope and parking area, and to permit a seasonal tent and new garbage enclosure on the subject lands, along with site-specific exceptions for the number of parking spaces, reduced setbacks, and reduced landscape strips. The proposed zoning by-law amendment would legalize changes to the existing development, which is in conformity with the in-effect Official Plan (OPA #601- Kleinburg-Nashville Community Plan) and Vaughan Official Plan 2010 (VOP 2010). The report also recommends approval of the related Site Development Application. The Vaughan*

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*Development Planning Department supports the proposed development as it will implement the Official Plan and is considered compatible with the surrounding existing and planned land uses in the area.*

#### Background

On April 10, 1995, Vaughan Council approved Site Development File DA.93.18 to permit the conversion of a former residential building into a commercial establishment (tea outlet/retail store). A Site Plan Agreement was registered on August 4, 1995, as Instrument No. 0663051 to implement the approval. The original application has since facilitated the use of the subject lands with an eating establishment (Avelyn Gardens) on the ground floor of the 1.5-storey commercial building. A personal service shop on the second floor has subsequently closed. The original approval provided for a building and parking area within the areas identified in the implementing zoning by-law as shown on Attachment #8.

Since the original approval, the building has been expanded, as shown on Attachment #3, in two areas beyond the “building envelope” without the Owner obtaining Planning approvals or a building permit. Accordingly, the Owner received an Order-to-Comply from the City of Vaughan. The Owner has also expanded the “parking area” and reduced the “landscaped area” shown on Schedule “E-136”, added a “Seasonal Tent” over the outdoor patio, and is proposing the addition of a garbage enclosure, all of which are the subject of this application. The Owner had also used the front yard as a patio area for the eating establishment, but has advised that this use will no longer continue. The front yard patio is not part of the subject application, and will no longer be used as a patio for the eating establishment.

#### Location

The subject lands are located on the east side of Islington Avenue, south of Nashville Road, as shown on Attachments #1 and #2, municipally known as 10503 Islington Avenue. The surrounding land uses are identified on Attachment #2.

#### Official Plan

The subject lands are designated “Mainstreet Commercial” by in-effect OPA #601 (Kleinburg-Nashville Community Plan), as amended by OPA #633 (Kleinburg Core Area Policy), which permits commercial uses on the subject lands, including restaurants. The application conforms to the in-effect Official Plan.

The subject lands are also designated “Mainstreet Commercial” by Vaughan Official Plan 2010 (VOP 2010), Volume 2 Area Specific Policy 12.4 Kleinburg Core, which permits retail uses and encourages an integrated mix of residential, community, and small scale retail uses intended to serve the local population. The subject application conforms to VOP 2010.

#### Zoning

The subject lands are zoned C11 Mainstreet Commercial Zone by Zoning By-law 1-88, subject to site-specific Exception 9(132), which permits all C11 Zone uses as well as a tea shop within the specified building envelope, an outdoor patio, and reduced number of parking spaces. The following site-specific zoning exceptions are required to facilitate the development proposal:

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Table 1

	<b>Zoning By-law Standard</b>	<b>By-law, C11 Mainstreet Commercial Zone, Exception 9(132) Requirements</b>	<b>Proposed Exceptions to the C11 Mainstreet Commercial Zone, Exception 9(132) Requirements</b>
a.	Definitions	Unit - Means a building or a part of a building that is used for one (1) purpose by one (1) user.	Unit - Means a building or part of a building that is used for one (1) or two (2) purposes by one (1) or two (2) users
b.	Parking Requirements	Site-specific Exception 9(132) requires 11 parking spaces for the existing development + By-law 1-88 requires an additional 5 parking spaces for the proposed 27.8 m <sup>2</sup> first floor addition to be used as an eating establishment  Total parking required = 16 spaces	A minimum of 14 parking spaces must be provided for all permitted uses and the 20 m <sup>2</sup> accessory patio
c.	Yard Encroachments and Yard Requirements	“Building Envelope” on Schedule “E-132” (Attachment #8)  Minimum rear yard setback to accessory structure is 15 metres	All buildings and structures to be located consistent with the site plan shown on Attachment #3
d.	Minimum Landscaped Area and Minimum Landscaping Area in a Commercial Zone	Abutting Residential Zoned Property to Rear – 2.4 m  Abutting Commercial Zoned property to the north and south – 1.8 m	Abutting Residential Property to Rear – 0.3 m  Abutting a Commercial Zoned property to the north – 0.0 m  Abutting a Commercial Zoned property to the south – 0.58 m
e.	Permitted Uses	<ul style="list-style-type: none"> <li>Seasonal Tent not permitted</li> <li>Tea Room, provided it does not exceed 4 m<sup>2</sup> in area devoted to customer use</li> <li>Patio, provided it is located in the rear yard and provided it does not exceed 20 m<sup>2</sup> with no more than a 16 seat capacity</li> </ul>	First floor: <ul style="list-style-type: none"> <li>Tea Room, provided it does not exceed 4 m<sup>2</sup> in area devoted to customer use</li> <li>Patio, with or without a Seasonal Tent, provided it is located in the rear yard and provided it does not exceed 20 m<sup>2</sup> with no more than a 16 seat capacity; For the</li> </ul>

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			<p>purposes of this By-law, “Seasonal Tent” is defined as a temporary structure, providing shelter for seating which is assembled and used only from April 1 to November 1 each calendar year with a maximum height of 3.4 m</p> <ul style="list-style-type: none"><li>• All C11 Mainstreet Commercial uses (except Convenience Eating Establishment) permitted through the expanded first floor</li></ul> <p>Second floor:</p> <ul style="list-style-type: none"><li>• Business or Professional Office</li><li>• Personal Service Shop</li></ul>
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The Vaughan Development Planning Department has no objection to the above proposed site-specific exceptions, for the reasons discussed below.

Definitions

The Vaughan Development Planning Department has no objection to the subject property maintaining two uses in the converted former residence. The uses will be on separate floors, and the mix of uses meet the intent of the Official Plan “Mainstreet Commercial” designation by in-effect OPA #601 (Kleinburg-Nashville Community Plan), as amended by OPA #633 (Kleinburg Core Area Policy), which permits limited small scale mixed use developments on main streets.

Parking Requirements

The Owner proposes to maintain 14 parking spaces on the property. The originally approved development required a minimum of 11 parking spaces. The Eating Establishment use occupying the first floor and the 27.8 m<sup>2</sup> building additions requires an additional 5 parking spaces, for a total of 16 spaces. The Owner has agreed to remove the current permission for a Convenience Eating Establishment, because this use has a higher parking requirement.

The Owner submitted a Parking Review dated May 23, 2014 in support of the applications. The DEIP Department reviewed a revised Parking Review submitted by BA Group Transportation Consultants dated November 25, 2015. The Parking Review provides an overview of the original parking requirement and development. The Owner proposes maintaining existing permissions for all C11 uses on the expanded first floor, and restricting the permitted uses on the second floor to Business and Professional Office and Personal Service Shop uses only.

The BA Group recommends continuing two different existing parking management strategies:

- Maximizing on-site parking through the use of valet parking operated by the eating establishment owner. During peak demand periods, through the use of contracted valet services, the site is capable of accommodating an additional four spaces (by double parking) bringing the total of on-site parking to 18 spaces

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- Maximizing the use of publicly available on-street parking. Through direct use by patrons, as well as by the valet service, approximately 25 to 30 on-street parking spaces are available within 150 metres of the subject lands along Islington Avenue and Nashville Road during typical weekday and weekend periods

The Vaughan Development Engineering and Infrastructure Planning (DEIP) Department has no objection to the proposed reduction of parking supply as recommended in the study. As the recommendations of the parking study are acceptable to the DEIP Department, no cash-in-lieu of parking is required in accordance with the Kleinburg Core Cash-in-Lieu of Parking Policy and By-law.

#### Yard Encroachments and Yard Requirements

The increased building footprint of 27.8 m<sup>2</sup> and resultant reduced setbacks to both the side and rear yards are deemed minor. The one-storey expansion reduced the southerly side yard setback to a minimum of 0.6m, which has a minor impact on the streetscape and surrounding properties. The building envelope, as shown on Attachment #3, has irregular setbacks along the southerly side yard lines. Only a part of the building maintains this reduced setback, and in this way, the impact on adjacent properties is mitigated. The expanded building envelope reduces the rear yard setback to the main building to a minimum of 29.47 m. The impact on the adjacent property to the rear is considered to be minor.

The building envelope for the proposed garbage enclosure is considered to be appropriate by the Development Planning Department. A structure requires a minimum 15 m rear yard setback, and the Owner proposes a 5.97 m setback to the 3.1 m high and 14.64 m<sup>2</sup> garbage enclosure. The garbage enclosure is necessary to meet the Vaughan Environmental Services Department's requirements for an enclosed, rodent free, vented garbage enclosure to replace the garbage bin that had been in use in the rear yard. The landscape plan (Attachment #4) shows existing tree planting to the east and south of the garbage enclosure, which will provide additional natural screening. The garbage enclosure will improve the conditions in the rear of the property.

#### Minimum Landscaped Area and Minimum Landscaping Area in a Commercial Zone

The required minimum landscaped strip width abutting the residential property to the rear is 2.4 m. The current proposal provides the minimum width along most of the property line, except where a bump out (off-set to back out) is proposed to accommodate vehicle turning movements.

The 0 m landscape strip width along the north side yard is proposed to accommodate one parallel parking space, as shown on Attachment #3. The remainder of the north property line maintains a strip with a minimum width of 0.7 m, and is fenced along the length of the shared lot line. The subject lands currently maintains an access driveway to the adjacent property to the north (day care centre), which the Owner had been using as part of an informal shared parking arrangement. The Owner advises that the access will be blocked by an extension of the existing fence, and the paved area previously used as a driveway will be landscaped to match the surrounding landscape strip, as shown on Attachments #3 and #4. The Agent for the Owner of the subject lands has verbally advised the Development Planning Department that the Owners of the property to the north have been advised of the intention to close the existing access, as the property to the north has its own direct access/egress on Islington Avenue. The remainder of the north side yard maintains a varied landscape strip width, with a minimum of 0.7 m, which is less than the required minimum width of 1.8 m (abutting lands zoned other than Residential or Open Space). The reduced landscape strip width is necessary to maintain the drive aisle width of 6 m and several parking spaces, and is sufficient to maintain a landscaped area to accommodate several deciduous trees for screening purposes from adjacent properties.

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The landscape strip width along the southern property line meets the By-law requirement of 1.8m, except where a reduction to 0.6 m is required to accommodate future fire escape stairs, and where the strip is reduced to 1.59 m (the minimum setback distance to the structure as shown on Attachment #8).

#### Outdoor Patio

The existing site-specific exception permits a 20 m<sup>2</sup>, 16 seat capacity, outdoor patio on the subject lands, restricted to the rear of the building. This application seeks a further exception to the By-law requirement that patios be prohibited from locating between the structure containing the main eating establishment and a Residential Zone. This provision was not captured during the initial application approved in 1995, which is supported by Development Planning Staff.

#### Permitted Uses

The proposed “Seasonal Tent”, which would have a maximum height of 3.4 m, would cover the rear yard patio (as shown on Attachment #3) between April 1 and November 1 each calendar year. The tent would not be visible from the street, and would not impact adjacent neighbours given its central location on the property. The Vaughan Development Planning Department has no objection to the seasonal tent.

#### Site Plan Review

The Owner submitted an Arborist Report by ISA Certified Arborist Goran Olbina dated February 21, 2013. There are 34 trees greater than or equal to 10 cm, which represents the diameter of the tree measured at breast height (DBH), on or within 6 m of the site. Of the 34 trees identified, the Owner proposes removing five trees because they will either be damaged during construction or are deemed to be in poor condition. The remaining 29 trees will be protected, with either the full minimum tree protection zones or a reduced tree protection zone that will result in minor to moderate injury to their root systems due to the extent of the grading activities, removal, and proposed works.

The Vaughan Development Planning Department is satisfied with the proposed site plan, building elevations, arborist report, and landscape plan shown on Attachments #3 to #7 inclusive, and will continue to work with the Owner to finalize the details. A condition to this effect is included in the recommendation of this report.

#### City Departments

##### a. Vaughan Development Engineering and Infrastructure Planning (DEIP) Department

In addition to the parking study review referenced earlier, the DEIP Department provides the following comments:

As the access to the garbage enclosure is located in front of two parking spaces, garbage collection should be done on off-peak hours. The City of Vaughan Noise By-law prohibits loading after 11:00 pm and prior to 7:00 am.

The DEIP Department is satisfied with the Site Servicing and Grading Plan, the Storm Water Management Report, and the Environmental Noise Impact Assessment. The DEIP Department is also satisfied with the area provided for snow storage.

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##### b. Vaughan Financial Planning and Development Finance Department

Development Charges and applicable Special Service Area Development Charges shall be paid to the City of Vaughan in accordance with the City of Vaughan, Region of York, York Region Catholic School Board, and York Catholic District School Board Development Charges By-laws.

##### c. Vaughan Environmental Services Department

The Vaughan Environmental Services Department has reviewed the application and supports the development of a detached, fully enclosed, vented, and rodent proof structure solely dedicated to waste storage.

##### Heritage Vaughan Committee

The subject lands are designated Part V under the *Ontario Heritage Act* as part of the Kleinburg-Nashville Heritage Conservation District, and listed on the Register under Section 27 of the *Ontario Heritage Act*. The subject applications were approved by Heritage Vaughan Committee on May 21, 2014, with the following conditions:

- That a design for the rear patio/tent be submitted for review
- That one ground sign only be allowed (Attachment #7)
- That the wall sign on the front elevation be removed
- That materials and colours be submitted for review and approval

Prior to the issuance of a Building Permit, a Heritage Permit must be issued by the Vaughan Development Planning Department, Urban Design and Cultural Heritage Division. A condition to this effect is included in the recommendation of this report.

##### **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 Region of York Community Planning and Development Services Department has confirmed they have no comments to provide in relation to the subject applications.

##### **Conclusion**

The Vaughan Development Planning Department has reviewed the proposed Zoning By-law Amendment and Site Development applications to maintain the expanded building envelope, the expanded parking area, reduced setbacks, and reduced landscape strip widths, and to permit the seasonal tent and the reduced setbacks to the accessory garbage structure, and has no objections to the approval of the subject applications, subject to the conditions included in this report. The proposal conforms to the Official Plan and is considered to be appropriate. Should the Committee concur, the recommendations in this report can be ed.

##### **Attachments**

1. Context Location Map
2. Location Map
3. Site Plan

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4. Landscape Plan
5. Elevation Plan
6. Garbage Enclosure Elevations
7. Sign Details
8. Schedule "E-136" to Zoning By-law 1-88

**Report prepared by:**

Clement Messere, Senior Planner, ext. 8409

(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.)