

Committee of the Whole (2) Report

DATE: Tuesday, April 16, 2024

WARD(S): ALL

TITLE: CITY OF VAUGHAN
ZONING BY-LAW AMENDMENT FILE Z.23.028
SEASONAL OUTDOOR PATIOS FOR RESTAURANTS AND
BANQUET HALLS CITY-WIDE

FROM:

Haiqing Xu, Deputy City Manager, Planning and Growth Management

ACTION: DECISION

Purpose

To seek approval from the Committee of the Whole on a city-initiated Zoning By-law Amendment to permit city-wide permissions for Seasonal Outdoor Patios and temporary expansions to existing Outdoor Patios accessory to Restaurants and Banquet Halls, and to amend the City's Site Plan Control By-law 123-2013.

Report Highlights

- The City proposes Zoning By-law Amendments to By-laws 1-88 and 001-2021 to permit Seasonal Outdoor Patios on an annual basis to be regulated under a Licensing By-law.
- The City's Site Plan Control By-law 123-2013, as amended, is also proposed to be further amended to waive the requirement for a Site Development Application to implement Seasonal Outdoor Patios.
- The Development Planning Department support the proposed amendments.

Recommendations

1. THAT Zoning By-law Amendment File Z.23.028 (City of Vaughan) BE APPROVED, to amend Zoning By-law 1-88, to permit the use of seasonal outdoor patios and the temporary expansion of existing outdoor patios, both accessory to Eating Establishment, Restaurant and Banquet Hall uses, together with the amendments identified in Attachment 2 of this report;

2. THAT Zoning By-law Amendment File Z.23.028 (City of Vaughan) BE APPROVED, to amend Zoning By-law 001-2021, to permit the use of seasonal outdoor patios and the temporary expansion of existing outdoor patios, both accessory to Restaurant and Banquet Hall uses, together with the amendments identified in Attachment 3 of this report; and
3. THAT the City's Site Plan Control By-law 123-2013, as amended, be further amended to exempt seasonal outdoor patios and the temporary expansion of existing outdoor patios, both accessory to Restaurant and Banquet Hall uses from Site Plan Control.

Background

Location: City-wide

On October 20, 2021, Council adopted the new Comprehensive Zoning By-law ('CZBL'), which was ordered into force by the Ontario Land Tribunal ('OLT') on December 28, 2022, and as corrected on March 28, 2023, with exceptions

The CZBL affects all lands within the City of Vaughan, except for lands in the vicinity of Yonge Street and Steeles Avenue West, as shown on Attachment 1, and any other lands subject to outstanding site-specific appeals. The CZBL replaces Zoning By-law 1-88 except for matters of transition pursuant to Section 1.6 of the CZBL, and the Yonge-Steeles Corridor Secondary Plan Area. The CZBL has been appealed to the OLT by a number of appellants. The OLT issued an Order on December 28, 2022, which was subsequently corrected on March 28, 2023, bringing into effect all sections of the CZBL that have not been appealed.

Temporary Outdoor Patios were previously approved by Vaughan Council during the COVID-19 Pandemic

On June 29, 2020, Vaughan Council approved a City-initiated Zoning By-law Amendment (File Z.20.017) and passed the associated temporary use By-law 094-2020 to permit the use of temporary outdoor patios accessory to a Restaurant or Banquet Hall subject to the required zoning standards identified in the by-law. The duration of By-law 094-2020 initially spanned the period in which the Province of Ontario declared an emergency to exist under Section 4 of the *Emergency Management and Civil Protection Act* (the 'Emergency Order') related to the COVID-19 pandemic, or up until November 2, 2020, whichever came first.

The intention of By-law 094-2020 was to allow Restaurants and Banquet Halls to temporarily continue operating outdoors while indoor dining was restricted or not permitted during the COVID-19 pandemic. By-law 094-2020 was further amended by By-law 148-2020 to extend the temporary use permissions to no longer than 14 days beyond the lifting of the Emergency Order, irrespective of the November 2, 2020, date. The Province of Ontario lifted the Emergency Order on July 24, 2022.

The temporary outdoor patio permissions received largely positive feedback from the industry and patrons, and the City did not experience significant enforcement issues or complaints from the public during this time. With the temporary outdoor patio permissions now expired, the City has an interest in reintroducing permissions to provide opportunities for Restaurant and Banquet Hall uses to erect temporary outdoor patios on a recurring seasonal basis to support businesses in the City.

The City has initiated a Zoning By-law Amendment to permit seasonal outdoor patios accessory to Restaurants and Banquet Halls

The City has initiated City-wide Zoning By-law Amendment file Z.23.028 to amend both by-laws 1-88 and 001-2021 to permit Seasonal Outdoor Patios for Restaurant and Banquet Hall uses, along with the draft zoning by-laws shown in Attachments 2 and 3 (the 'Amendments').

The City also proposes to further amend Site Plan Control By-law 123-2013 to waive the requirement for a Site Development Application to implement Seasonal Outdoor Patios or temporary expansions to existing Outdoor Patios accessory to Restaurants and Banquet Halls, as shown in Attachment 4.

The City also proposes to amend its Licensing By-law to establish criteria for receiving a license to erect and operate a Seasonal Outdoor Patio, which will be considered simultaneously with the above noted by-laws. An associated report prepared by the By-law and Compliance, Licensing and Permit Services Department will also be considered at the April 16, 2024 Committee of the Whole meeting.

Public Notice was provided in accordance with the Planning Act and Council's Notification Protocol

- *Date of Notice:* Published in the February 7, 2024, edition of the Toronto Star and circulated to all Ratepayer's Associations on February 9, 2024
- *Date of Public Meeting:* March 5, 2024, ratified by Council on March 26, 2024
- The By-law and Compliance, Licensing and Permit Services Department conducted a business survey on February 15, 2024, which is detailed in the associated Licensing Report, to obtain feedback on the proposed permissions for seasonal temporary outdoor patios.

One communication was received at the March 26, 2024, Council meeting by the Kleinburg BIA submitted on March 24, 2024 in favour of permissions for Seasonal Outdoor Patios. No additional comments have been received by the Development Planning Department as of April 2, 2024.

Previous Reports/Authority

Previous reports related to the application can be found at the following links:

City of Vaughan, Committee of the Whole Report, Temporary Use By-law File Z.20.017 [June 29, 2020, Committee of the Whole \(1\) \(Item 1, Report 30\)](#)

City of Vaughan, City Council Report, Extension of Temporary Use By-law 094-2020
[October 21, 2022, Council Meeting Addendum Item 2](#)

City of Vaughan, Public Meeting Report, Zoning By-law Amendment File Z.23.028
[March 5, 2024, Committee of the Whole Public Meeting \(Item 2, Report 8\)](#)

Analysis and Options

The Amendments are consistent with the Provincial Policy Statement and conform to the Growth Plan, YROP and VOP 2010

Provincial Policy Statement, 2020 ('PPS'), A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended (the 'Growth Plan') and York Region Official Plan 2022 ('YROP 2022')

The PPS and Growth Plan provide direction on matters of Provincial interest related to land use planning and development and a framework for implementation through municipal Official Plans. The PPS and Growth Plan promote the building of complete communities that support a strong and competitive economy, make efficient use of land and infrastructure and protect public health and safety.

The YROP 2022 guides economic, environmental and community building decision making across York Region, and describes how York Region will accommodate future growth and development while meeting the needs of existing residents and businesses. YROP 2022 promotes innovation, economic diversity and resilience. Its policies intend to encourage investment and prosperity in a way that creates a competitive business environment.

The Amendments will provide flexibility for Restaurant and Banquet Hall uses to accommodate patrons on a recurring seasonal basis without the requirement to construct permanent patio facilities or obtain Site Plan Approval. These permissions will support economic development and resiliency while still protecting for public safety and site function through the use of appropriate standards identified in the corresponding Licensing By-law. Staff are satisfied that the Amendments are consistent with the PPS and conform to the Growth Plan and YROP 2022.

Vaughan Official Plan 2010 ('VOP 2010')

VOP 2010 sets out the municipality's general planning goals and policies that guide future land use. VOP 2010 permits Restaurants (which are defined as "Retail" for the purpose of VOP 2010) in the following land use designations identified on Schedule 13 - Land Use:

- "Low-Rise Mixed-Use", "Mid-Rise Mixed-Use", "High-Rise Mixed-Use", "Community Commercial Mixed-Use", "Downtown Mixed-Use" and "Major Institutional";
- "Employment Commercial Mixed-Use" subject to a maximum Gross Floor Area ('GFA') of 3,500 m² per unit;

- “Prestige Employment” provided they are accessory and directly associated to a primary use, or are ancillary subject to locational criteria and a maximum GFA of 185 m² per unit and the total GFA of all ancillary uses does not exceed 20% of the total GFA of any one lot; and
- “Theme Park and Entertainment” where they are directly associated with the Theme Park Use.

VOP 2010 does not expressly permit Banquet Halls in any land use designation; however, Section 10.2.1.4 of VOP 2010 recognizes legally existing land uses as they exist at the time VOP 2010 was approved, which may include existing Restaurant and Banquet Hall uses located across the City within various land use designations.

The Amendments will permit Seasonal Outdoor Patios on a recurring basis for Restaurants and Banquet Halls which are permitted as of right by the Zoning By-law, or are legally existing as of the date of the Amendments. The Amendments conform to VOP 2010.

Amendments to Zoning By-laws 1-88 and 001-2021 are required to permit the Seasonal Temporary Outdoor Patios

Zoning By-law 1-88:

- Zoning By-law 1-88 continues to apply to lands subject to ongoing site-specific appeals to Zoning by-law 001-2021, matters of transition under Section 1.6 of the CZBL, and the Yonge and Steeles area
- Outdoor Patios accessory to an Eating Establishment (Restaurant) are permitted
- A Banquet Hall is also permitted to contain an Eating Establishment up to a maximum 20% GFA of the building, which may also have an accessory Outdoor Patio

Zoning By-law 001-2021:

- Zoning By-law 001-2021 applies to all other areas of the City
- Outdoor Patios accessory to a Restaurant are permitted
- A Banquet Hall is also permitted to contain the incidental preparation and sale of food and beverages

The Amendments will establish the definition of a Seasonal Outdoor Patio in both Zoning By-laws 1-88 and 001-2021 to permit their use accessory to a Restaurant or Banquet Hall. The use would be permitted to operate between April 1 and November 1 every year, except in 2024 where the use is expected to be permitted starting May 28 after the last day of the by-law appeal period. Drafts of the proposed amending zoning by-laws are included in Attachments 2 and 3.

Parking

Under the temporary use By-law 094-2020 implemented during the COVID-19 pandemic, Temporary Outdoor Patios were permitted to be up to 100% of the existing Restaurant use’s gross floor area (‘GFA’) or up to 50% of the existing Banquet Hall

use's GFA, did not require any additional parking spaces, and could occupy a maximum of 20% of the total parking supply on the lot.

Under the CZBL, Outdoor Patios already do not require any additional parking spaces, but rather restrict their maximum GFA up to 40% of the existing restaurant GFA. The CZBL does not currently permit a Banquet Hall to have an accessory Outdoor Patio.

The Amendment will permit both a Restaurant and Banquet Hall use to establish a Seasonal Outdoor Patio, subject to the following:

- No requirement for additional parking spaces for the Seasonal Outdoor Patio
- Seasonal Outdoor Patios may occupy existing required parking spaces for the site if the spaces are adjacent to the sidewalk that is fronting the entrance to the Restaurant or Banquet Hall use, provided they are not designated barrier-free parking spaces. This restriction will limit the location of Seasonal Outdoor Patios and prevent them from occupying parking spaces intended for other users of the site.

By allowing the Seasonal Outdoor Patios to occupy required parking spaces, some flexibility is afforded that avoids the need for a detailed parking calculation to be conducted for the site, recognizing that the Seasonal Outdoor Patio placement will be temporary.

Pedestrian and Vehicle Circulation and Safety

To avoid potential conflict between the location of Seasonal Outdoor Patios and the safe circulation of pedestrians and vehicles, they will not be permitted within roads, lanes aisles or parking areas, except for parking spaces that are adjacent to the Restaurant or Banquet Hall use. Seasonal Outdoor Patios will also require enclosure by a temporary fence to add safety for patrons.

The Development Planning Department can support the Amendments identified in Attachments 2 and 3 and the proposed provisions in the Licensing By-law as they are consistent with the PPS, conform to the Growth Plan, YROP 2022 and VOP 2010, and will support economic development and resiliency while still protecting for public safety and site function through the use of the standards as noted above and identified in the proposed Licensing By-law. Minor modifications may be made to the draft amendments prior to the enactment of an implementing Zoning By-law, as required, should the Application be approved.

An amendment to Site Plan Control By-law 123-2013 is required to exempt Temporary Outdoor Patios from Site Plan Control

Site Plan Control By-law 123-2013 designates the City as a Site Plan Control Area pursuant to Subsection 41(2) of the *Planning Act* and requires certain classes of development to be subject to Site Plan Control, including Outdoor Patios. An amendment to Site Plan Control By-law 123-2013 is required to exempt the Seasonal

Temporary Outdoor Patios from the provisions of Site Plan Control. A draft Site Plan Control amendment by-law is included as Attachment 4.

Financial Impact

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

Operational Impact

Various City Departments have provided feedback to develop the proposed permissions for Seasonal Outdoor Patios

The By-law and Compliance, Licensing and Permit Services Department, in consultation with the Development Planning, Building Standards, and Development Engineering Departments have developed the proposed provisions for Seasonal Outdoor Patios contained in their Licensing By-law. The Development Planning Department prepared the draft amending zoning by-laws included in Attachments 2 and 3 to add the definition of Seasonal Outdoor Patios and facilitate the application of the Licensing By-law. The permissions consider appropriate development standards which would enable an efficient permitting process to be implemented by the By-law and Compliance, Licensing and Permit Services Department.

Broader Regional Impacts/Considerations

There are no broader regional impacts or considerations associated with this report.

Conclusion

The Development Planning Department is satisfied the Application is consistent with the PPS, conforms with the Growth Plan, YROP and VOP 2010, and provide appropriate development standards for the implementation of Seasonal Temporary Outdoor Patios. Accordingly, the Development Planning Department can recommend approval of the Application.

For more information, please contact Chris Cosentino, Senior Planner, at extension 8215.

Attachments

1. Location Map.
2. Draft Zoning By-law 1-88 Amendment.
3. Draft Zoning By-law 001-2021 Amendment.
4. Draft Site Plan Control By-law Amendment.

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