

Committee of the Whole (Public Hearing) Report

DATE: Thursday, June 25, 2020

WARD(S): ALL

**TITLE: CITY OF VAUGHAN
ZONING BY-LAW AMENDMENT FILE Z.20.017
TEMPORARY USE BY-LAW TO PERMIT TEMPORARY
OUTDOOR PATIOS FOR EATING ESTABLISHMENTS AND
BANQUET HALLS**

FROM:

Mary Reali, Acting Deputy City Manager, Planning and Growth Management

ACTION: DECISION

Purpose

To receive comments from the public and the Committee of the Whole on the City's proposal to enact a citywide temporary use by-law and to permit temporary Outdoor Patios and the temporary expansion of existing Outdoor Patios, both accessory to existing Eating Establishments and Banquet Halls. The temporary use by-law would apply during any period where an emergency has been declared to exist in all or part of the City under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*.

Report Highlights

- To receive input from the public and the Committee of the Whole regarding the enactment of a citywide temporary use by-law to permit temporary Outdoor Patios and the temporary expansion of existing outdoor patios, both accessory to existing Eating Establishments and Banquet Halls. The temporary use by-law would apply during any period where an emergency has been declared to exist in all or part of the City under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*
- A technical report to be prepared by the Development Planning Department, in consultation with the Building Standards Department and By-Law and Compliance, Licensing and Permit Services Department will be considered at a future Committee of the Whole meeting

Recommendations

1. THAT the Public Hearing report for Zoning By-law Amendment Z.20.017 (City of Vaughan) BE RECEIVED; and any issues identified be addressed by the Development Planning Department in a comprehensive report to the Committee of the Whole.

Background

The City is proposing to enact a temporary use by-law to permit temporary Outdoor Patios and the temporary expansion of existing Outdoor Patios, both accessory to existing Eating Establishments and Banquet Halls on a citywide basis. A Temporary Outdoor Patio by-law is also proposed to establish guidelines and criteria to address various operating requirements.

The Committee of the Whole on May 20, 2020 adopted the following recommendation:

“That staff bring forward a report, if possible, to the May 27, 2020, Council meeting exploring the possibility of relaxing City By-laws and Building Standards to enable the expansion of outdoor patios when bars and restaurants are allowed to reopen in the City, including locating them in parking lots if permitted by their landlords, to offer relief for restaurant owners to recover financial losses faced due to the COVID-19 pandemic restrictions.”

Vaughan Council on May 27, 2020 adopted the recommendation of the Committee of the Whole, as amended as follows:

“By approving the following in accordance with communication C19, from the Director & Chief Licensing Officer, By-law & Compliance, Licensing & Permit Services, dated May 27, 2020:

That Council adopt staff’s recommendations and direct staff to:

1. Schedule a Public Hearing to receive comments from the Public and the Committee of the Whole on a City-wide Zoning By-law amendment to permit temporary Outdoor Patios and the expansion of existing outdoor patios, accessory to existing Eating Establishment Uses for a temporary period during the declared emergency.
2. Prepare a Temporary Use (Zoning) Patio By-law, to amend the City’s Zoning By-law, in a manner acceptable to the City Solicitor.
3. Prepare a Temporary Outdoor Patio By-law that will prescribe the eligibility criteria and establish standards of operation in conjunction with the Temporary Use (Zoning) By-law, in a manner acceptable to City Solicitor.

4. Undertake any other subsequent technical amendments required, including any amendments as may be required to the City's Site Plan Control By-law 123-2013 to bring effect to Recommendations 1, 2 and 3."

The City of Vaughan continues to implement new measures and programs to support local businesses and entrepreneurs, consumers and the wellbeing of all citizens during the global COVID-19 pandemic. The City's By-law and Compliance, Licensing and Permit Services, Development Planning, Building Standards (Zoning), Corporate & Strategic Communications and Economic and Cultural Development Departments have partnered to explore opportunities to permit temporary outdoor patios and the expansion of existing outdoor patios, both accessory to eating establishments and banquet halls, hereafter referred to as "temporary Outdoor Patios", across the City to provide for appropriate social distancing and enable additional seating capacity.

Similar initiatives are being explored by a number of municipalities, including but not limited to, the City of Toronto, City of Markham, City of Guelph and the City of Hamilton.

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

The City on June 4, 2020, mailed a Notice of Public Hearing to all registered Ratepayers Associations within the City of Vaughan. The Notice of Public Hearing was also posted on the City's website at www.vaughan.ca and published in the June 4, 2020 editions of the Vaughan Citizen and The Thornhill Liberal.

Any written comments received will be forwarded to the Office of the City Clerk to be distributed to the Committee of the Whole as a Communication. All written comments received will be reviewed by the Development Planning Department as input in the Application review process and will be addressed in a technical report to be considered at a future Committee of the Whole meeting.

Previous Reports/Authority

The following are links to reports related to this application:

[Council Communication May 27, 2020 - C19 - Director & Chief Licensing Officer, By-law Compliance, Licensing & Permit Services](#)

[Committee of the Whole - May 20, 2020 - Report 20, Item 30 - New Business - Restaurant Patio Expansion](#)

Analysis and Options

Temporary Outdoor Patios conform to VOP 2010

Vaughan Official Plan 2010 ('VOP 2010') permits Eating Establishments and Banquet Halls including accessory Outdoor Patios in the following designations: "Low-Rise Mixed-Use"; "Mid-Rise Mixed-Use"; "High-Rise Mixed-Use"; "Employment Commercial

Mixed-Use”; “Community Commercial Mixed-Use”; “Downtown Mixed-Use”; “Prestige Employment”; “Major Institutional”; and, “Theme Park and Entertainment”. The proposed temporary use By-law would permit temporary Outdoor Patios during the Emergency Order.

Section 10.1.2.4 of VOP 2010, enables the City to enact temporary use By-laws for the temporary use of land, buildings or structures. The temporary use must be: consistent with the general intent of VOP 2010; compatible with adjacent land-uses; temporary in nature; located in an area where sufficient servicing and transportation capacity exists; and, maintains the long-term viability of the lands for the uses permitted by VOP 2010.

Section 10.1.2.20 of VOP 2010, enables the City to consider Site Plan Control for new development. Section 10.1.2.25 allows the City to consider Site Plan Control to include design objectives, including but not limited to, compatibility, conflicts in land use with any adjacent sensitive uses, access routes, internal driveways, pedestrian walkways and parking configurations, suitable parking areas, services and utilities, grading, fencing, lighting, signage, and landscaping. Outdoor Patios are subject to Site Plan Control by the City’s Site Plan Control By-law 123-2013. Site Plan Control for Outdoor Patios is further discussed under the Amendments to Site Plan Control By-law 123-2013 Section of this report.

The proposal to enact a temporary use By-law to permit temporary Outdoor Patios conforms with the temporary use By-law of VOP 2010.

A Temporary Use By-law and an amendment to Site Plan Control By-law 123-2013 are required to permit the temporary Outdoor Patios

Zoning By-law 1-88 permits Outdoor Patios accessory to an Eating Establishment and Banquet Halls in a number of Commercial and Employment Zones. A draft temporary Outdoor Patio by-law, including the proposed provisions are shown in Attachment 1.

Outdoor Patios are subject to the City’s Site Plan Control By-law 123-2013. This By-law delegates to the Commissioner of Planning or designate (Director of Development Planning) authority to make minor changes to existing or approved buildings or site alterations. This includes any amendments to complex agreements or Site Plan Letter of Undertakings for all classes of development where the application conforms to the zoning by-law, the use and development of the lands provided for by the original agreement remains substantially unaltered, and where no City Department or public agency objects to the application. Zoning By-law 1-88 also requires Outdoor Patios to be developed in accordance with an approved site plan. An amendment to Site Plan Control By-law 123-2013, as shown on Attachment 2, is required to exempt the temporary Outdoor Patios from the provisions of Site Plan Control.

Additional provisions for inclusion in the temporary use by-law may be identified through the detailed review of Zoning By-law 1-88 and the Site Plan Control By-law 123-2013 to permit temporary Outdoor Patios and will be considered in a technical report to a future Committee of the Whole meeting.

Temporary Outdoor Patio By-law

The enactment of a standalone Temporary Outdoor Patio By-law is also proposed to establish guidelines and criteria being considered for a temporary outdoor patio to address various operating requirements and related safety concerns, including but not limited to, physical delineation (e.g. curb-stops and fencing) and physical distancing. There is no intent to permit the construction of permanent structures, decks and other fixtures requiring a building permit.

Eating Establishments and Banquet Halls providing for liquor consumption must have a liquor license including for an Outdoor Patio area, in accordance with the Alcohol & Gaming Commission of Ontario ('AGCO'). The AGCO is currently conducting a feasibility study with respect to providing relief to certain conditions to help support the service of alcohol on expanded patios areas during the declared emergency. Staff will continue to monitor for any related information and decisions made or expected from the AGCO. This By-law will also include any requirements of the AGCO (where service of Alcohol is permitted), any other standards recommended by public health officials and/or any other reasonable standards as determined by the City's Chief Licensing Officer, Fire Chief and Chief Building Official.

Following a preliminary review of the requirements for a temporary use by-law, and the Development Planning Department has identified the following matters to be reviewed in greater detail

| | MATTERS TO BE REVIEWED | COMMENT(S) |
|----|---|---|
| a. | Consistency and Conformity with Provincial Policies, York Region and City of Vaughan Official Plan Policies | <ul style="list-style-type: none"> ▪ The proposal to permit temporary Outdoor Patios and the temporary expansion of existing outdoor patios, both accessory to existing Eating Establishments and Banquet Halls during the Emergency Order will be reviewed for consistency and conformity with the applicable policies of the Provincial Policy Statement 2020, A Place to Grow: The Growth Plan for the Greater Golden Horseshoe 2019 (the 'Growth Plan'), the York Region Official Plan and Vaughan Official Plan 2010 policies ▪ The proposal will be reviewed in consideration of the temporary use and site plan control policies in VOP 2010 |

| | MATTERS TO BE REVIEWED | COMMENT(S) |
|----|--|---|
| b. | Proposed Temporary Use By-law | <ul style="list-style-type: none"> ▪ The necessary provisions to be included in a temporary use by-law as they relate to Zoning By-law 1-88, as identified in Attachment 1, required to permit temporary Outdoor Patios during the Emergency Order will be reviewed ▪ Matters including, but not limited to, the temporary provision of Outdoor Patios in parking and landscaped areas, the maximum size of the patio in consideration of the eating establishment or banquet hall, proximity to a Residential Zone, parking standards, and the duration of the temporary use By-law will be reviewed |
| c. | Heritage Properties | <ul style="list-style-type: none"> ▪ Under the <i>Ontario Heritage Act</i>, RSO 1990, c O.18, any alterations to a Heritage property, or property within a Heritage Conservation District requires Heritage Vaughan review and approval of Council ▪ In consideration of the Outdoor Patios being temporary (i.e. no permanent structures) and will not alter a heritage dwelling, approval from Heritage Vaughan and Council is not required |
| c. | Exemption from Site Plan Control | <ul style="list-style-type: none"> ▪ Outdoor Patios are currently subject to Site Plan Control. An amendment to Site Plan Control By-law 123-2013 would be required to exempt temporary Outdoor Patios from the requirement for Site Plan Control during the Emergency Order |
| d. | Timing of Enactment and Duration of a Temporary Use By-law | <ul style="list-style-type: none"> ▪ A technical report for consideration by the Committee of the Whole will be brought forward to the June 29, 2020, meeting immediately followed by a Council meeting thereafter. |

| | MATTERS TO BE REVIEWED | COMMENT(S) |
|--|------------------------|---|
| | | <ul style="list-style-type: none"> ▪ Should the Committee of the Whole approve Staff's recommendation(s), the proposed temporary use by-law, amendment to the Site Plan Control By-law and Temporary Outdoor Patio By-law will be forwarded to the June 29, 2020 Council meeting for enactment ▪ It is proposed that the Temporary Use By-law will come into effect once Eating Establishments and Banquet Halls are able to resume dine-in operations (even if restricted to outdoor dine-in options) ▪ It is proposed that the Temporary Use By-law will expire two weeks after the COVID-19 Emergency Order is lifted or January 1, 2021, whichever comes first |

Financial Impact

Not applicable.

Broader Regional Impacts/Considerations

Not applicable.

Conclusion

The preliminary issues identified in this report and any other issues identified through the processing of the application will be considered in the technical review. A communication will be provided to address comments from the public and Vaughan Council expressed at the Public Hearing or in writing to a future Committee of the Whole meeting.

For more information, please contact: Mary Caputo, Senior Planner, Development Planning Department, extension 8635.

Attachments

1. Draft Temporary Use By-law
2. Draft Site Plan Control Amendment By-law

Prepared by

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