

Committee of the Whole (Public Hearing) Report

DATE: Tuesday, October 06, 2020

WARD(S): 1

**TITLE: ZONING BY-LAW AMENDMENT (TEMPORARY USE) FILE
Z.20.018
2109179 ONTARIO INC.
3501 KING-VAUGHAN ROAD
VICINITY OF KING-VAUGHAN ROAD AND HIGHWAY 400**

FROM:

Nick Spensieri, Deputy City Manager, Infrastructure Development

ACTION: DECISION

Purpose

To receive comments from the public and the Committee of the Whole on Zoning By-law Amendment File Z.20.018 for the subject lands shown on Attachment 1. The Owner seeks approval to permit the continued use of an existing portable dry batch concrete production plant and to add an accessory use consisting of the processing and storage of recycled concrete in the “A Agriculture Zone” for an additional temporary period of 3 years, as shown on Attachments 2 to 6.

Report Highlights

- To receive input from the public and Committee of the Whole on Zoning By-law Amendment application to permit the continued use of an existing portable dry batch concrete production, and to add an accessory use consisting of the processing and storage of recycled concrete, for an additional temporary period of 3 years
- A technical report prepared by the Development Planning Department will be considered at a future Committee of the Whole meeting

Recommendations

1. THAT the Public Hearing report for Zoning By-law Amendment File Z.20.018 (2109179 Ontario Inc.) 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 subject lands (the 'Subject Lands') shown on Attachment 1 are located south of King-Vaughan Road and on the west side of Highway 400. Access to the Subject Lands are obtained via an easement over the property to the north. The surrounding land uses are shown on Attachment 1.

History of Temporary Use Zoning By-law Amendment and Site Development Applications on the Subject Lands

- 1) Zoning By-law Amendment and Site Development Files Z.10.002 and DA.11.086

The Owner submitted Zoning By-law Amendment and Site Development applications to the City in January 2010 and September 2011, respectively, seeking permission to operate a dry batch concrete production plant. Planning Staff in February 2012 recommended approval of the portable dry batch concrete plant after a full review by all internal and external agencies. The review included an evaluation of all the reports and studies submitted in support of the applications.

In 2012, the Owner appealed the applications to the then Ontario Municipal Board ('OMB'), now the Local Planning Appeal Tribunal ('LPAT'), citing Council's failure to make a decision on the applications within the time allotted by the *Planning Act*. The OMB issued its Order in February 2013 allowing the appeal and directing the City to amend By-law 1-88 to rezone the lands to permit a temporary portable dry batch concrete production plant. Vaughan Council on April 23, 2013 enacted By-law 031-2013 and it included provisions identifying the By-law is in effect only for the earlier of either:

- i) A maximum temporary period of three (3) years only from the date of enactment of By-law 031-2013; or,
- ii) Upon the date of approval by Vaughan Council of a Block Plan for the OPA 637 Amendment area as applicable to the subject land, whichever occurred first.

The By-law also permits Vaughan Council to grant extensions of the Temporary Use By-law for further periods of not more than 3 years.

2) Temporary Zoning By-law Amendment File Z.16.009

By-law 031-2013 expired on April 23, 2016. The Owner, on March 15, 2016 submitted Zoning By-law Amendment File Z.16.009 to extend the temporary use provisions for an additional 3 year period.

Vaughan Council on May 23, 2018 approved the extension of the Temporary Use By-law (By-law 082-2018), shown on Attachment 8, as it was consistent with the previous temporary Zoning By-law 031-2013. By-law 082-2018 expires on May 23, 2021. The Owner has submitted the Application to seek approval to permit the use for an additional 3 years prior to the expiry of the existing permissions.

Related Site Development File DA.11.086 and the implementing Site Plan Agreement was never finalized by the Owner for the temporary use on the Subject Lands. The Owner, on May 23, 2019 filed an appeal of the City's failure to execute a site plan agreement. The City entered into a Site Plan Agreement and resolved the Site Plan Appeal with the Owner. Similarly, York Region has executed a Site Plan Agreement with the Owner in relation to the conditions under their jurisdiction. As a result of the settlement, the Owner notified the LPAT on June 16, 2020, formally withdrawing their appeal and the file is now closed.

A Zoning By-law Amendment application has been submitted to permit the continued use of an existing portable dry batch concrete production plant and to add an accessory use consisting of the processing and storage of recycled concrete for an additional temporary period of 3 years

The Owner has submitted Zoning By-law Amendment File Z.20.018 (the 'Application') to amend Zoning By-law to permit the continued use of a concrete batching plant and the storage and processing of recycled concrete for a temporary 3 year period in the "A Agriculture Zone" on the Subject Lands, together with site-specific zoning exceptions identified on Attachment 7. The Owner seeks approval to maintain the same provisions previously granted through Zoning By-law 082-2018, and to add an accessory use for the processing and storage of recycled concrete.

The Owner is of the opinion the processing and storage of recycled concrete is currently a permitted accessory use to the concrete batching plant operation because it is naturally and normally incidental, subordinate to and devoted exclusively to the concrete batching plant process. However, Staff are of the opinion the processing and storage of recycled concrete is not permitted by in-effect site-specific By-law 082-2018 and therefore, it is considered a new proposed use. Site visits conducted by Staff also confirmed there was no processing and storage of recycled concrete prior to the

enactment of Zoning By-law 082-2018. The Owner has subsequently revised the application adding the processing and storage of recycled concrete uses to the list of accessory uses in the draft zoning by-law (Attachment 7).

Public Notice was provided in accordance with the Planning Act and Vaughan Council's Notice Signs Procedures and Protocol

- a) Date the Notice of Public Hearing was circulated: September 11, 2020

The Notice of Public Hearing was also posted on the City's website at www.vaughan.ca and a Notice Sign was installed on the property in accordance with the City's Notice Signs Procedure and Protocols.

- b) Circulation Area: To all property owners within 150 m of the Subject Lands and those individuals having requested notice.

- c) Comments Received:

The Development Planning Department received written comments regarding the application from the following (as of September 11, 2020):

- A. Ney, King-Vaughan Road, emails received on various dates and letter received via email on August 27, 2020
- S. Draisey, Weston Road, King City, email dated August 21, 2020
- P. Rivington (no address provided), email dated August 27, 2020
- B. Hayhoe (no address provided), email dated August 27, 2020
- G. Conway, Weston Road, King City, letter received via email on August 27, 2020

The following is a summary of the comments provided in the written correspondence received to date. The comments have been organized by theme as follows:

Environment

- trucks using the facility cause heavy diesel exhaust laden air full of carbon, black soot, noise and dust. Trees are being burnt from truck exhaust pipes, and neighbouring resident yard smells of exhaust and the windows on the house are blackened
- the facility is environmentally destructive and endangers the health of residents (carcinogenic) and ruins the enjoyment of their home and property
- garbage is being thrown by truck drivers in front of neighbouring properties as a deliberate act of intimidation

- the neighbourhood is zoned for agriculture uses and includes residential properties. There is nothing agricultural about trucking
- the Subject Lands are surrounded by the Greenbelt, Humber River, wetlands and crops and must be protected from the plant
- the neighbours are concerned with being exposed to toxic wastewater getting into the ground water table
- the resident requests 2 independent engineers review the noise and dust studies. The studies state there is no effect on neighbours however, echo, percussion, loss of trees, people living at lower elevations, wind direction and the speed of trucks have not been considered and have a great effect on neighbouring residents and properties

Truck Traffic and Road Damage

- all the resurfacing completed on King-Vaughan Road will be destroyed by the trucks using the plant
- trucks violate the load limit restriction and speed
- York Region has given Maple Ready Mix heavy trucks and all their associated supplies restrictions to enter and exit their location via Jane Street. They have not been compliant and are not following rules and regulations heavy loaded trucks cannot make it up steep Weston Road
- the bridge over Highway 400 is finished and truck traffic continues all day everyday
- truck traffic makes walking or biking in this area very dangerous

Noise

- the pounding, crushing, jack hammer sounds and other aggregate processing sounds can be heard all hours of the day and into the night
- crushing a mountain of aggregate on site means more dust, noise and trucks
- in a one-hour span, 53 trucks pass through the Weston Road intersection, idling at times waiting for the signals to change at the intersection of Weston Road and King-Vaughan Road and homeowners in the area cannot sleep
- the plant has grown and has approximately 85 concrete trucks, 3 bulk cement tankers, aggregate trucks and many contracted long aggregate haulers and heavy industrial truck suppliers. Hundreds of trucks a day at all hours travel past the residential dwellings, changing gears and making noise

Hours of Operation

- the batching of aggregate operates beyond the hours specified by the Owner
- there is truck traffic from the site at all hours of the night

Illegal Activity

- the operation is no longer temporary, it has expanded with the number of concrete trucks, aggregate trucks and bulk cement tankers using the plant
- the permission is for a temporary concrete batching plant, not an aggregate processing plant. There are two completely different operations going on in this location and the crushing of concrete is operating without permission
- their website claims they sell aggregate and it can be seen being trucked out
- due to past temporary use approvals, other companies have started operating aggregate plants without a permit along King-Vaughan Road

Any additional written comments received will be forwarded to the Office of 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 the final technical report to be considered at a future Committee of the Whole meeting.

Previous Reports/Authority

The following is a link to the previous Committee of the Whole report:

[Item 2, Report No. 13, April 19, 2017 Committee of the Whole Council Extract](#)

Analysis and Options

The Application conforms to City of Vaughan Official Plan 2010

The Subject Lands have an overall land area of 17.9 ha. The developable portion of the Subject Lands (9.16 ha) are designated “Prestige Area – Office/Business Campus” by Vaughan Official Plan 2010 (‘VOP 2010’) Volume 2, Section 11.4 - Highway 400 North Employment Lands Secondary Plan. The proposed temporary uses encompass 3.65ha of the total developable area.

The balance of the Subject Lands (8.74 ha) are within the “Greenbelt Natural Heritage System” within the Protected Countryside of the Greenbelt Plan and are not developable.

VOP 2010 does not permit a portable dry batch concrete production plant, however, it includes policies to permit the temporary use of land, buildings or structures provided the temporary use meets the following conditions:

- a. Is consistent with the general intent of this plan
- b. Is compatible with adjacent land-uses
- c. Is temporary in nature and can be easily terminated when the temporary zoning-law expires

- d. Does not require new buildings or significant structures
- e. Does not require significant grading of land
- f. Sufficient servicing and transportation capacity exist for the temporary use
- g. Maintains the long-term viability of the lands for the uses permitted in this Plan
- h. The duration of use and proposed interim use are to the satisfaction of the Province.

The Application will be reviewed in consideration of the Temporary Use policies of VOP 2010.

Temporary Use By-law 08-2018 for the Subject Lands expires on May 23, 2021 and the Owner has submitted a Zoning By-law Amendment application to permit the proposed uses for an additional 3 year period

The Subject Lands are zoned A Agricultural Zone by Zoning By-law 1-88, and subject to temporary use By-law 08-2018, included as Attachment 8. Once the By-law expires on May 23, 2021, the existing portable dry batch concrete production plant is no longer permitted. The Owner is seeking to permit the dry concrete batching use for an additional 3 year period, as permitted under the *Planning Act* and in site-specific By-law 082-2018.

The Owner seeks permission to maintain the same provisions included in Zoning By-law 082-2018, and to permit an additional use consisting of the processing and storage of recycled concrete. The proposed implementing Zoning By-law submitted by the Owner, is included as Attachment 7. Additional zoning exceptions may be identified through the detailed review of the Application and will be considered in a technical report to a future Committee of the Whole meeting.

Following a preliminary review of the Application, 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/Plans, Regional and City Official Plans	<ul style="list-style-type: none"> ▪ The Application will be reviewed in consideration of all applicable statutory policies of the Provincial Policy Statement 2020 (the 'PPS'), A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019 (the 'Growth Plan'), the Greenbelt Plan, the York Region Official Plan ('YROP 2010') and VOP 2010 policies

	MATTERS TO BE REVIEWED	COMMENT(S)
b.	Appropriateness of Extending the Temporary Use Zoning By-law for an Additional 3 Years and Permitting the Proposed Accessory Use	<ul style="list-style-type: none"> ▪ The appropriateness of the proposed amendments to Zoning By-law 1-88 (Attachment 7) required to implement the continued use of the dry batch concrete batching plant and the addition of the proposed accessory use will be reviewed in consideration of the impacts to the existing and planned land uses in the area, the hours of operation, size of the operation, the location of the use abutting the Greenbelt and Highway 400 and comments from internal and external agencies ▪ Details for the proposed accessory use (processing and storage of recycled concrete) will be reviewed in consideration of, but not limited to, the following: <ul style="list-style-type: none"> - the height (9.15 m) and location of the concrete stockpile waiting to be recycled - the height and location of the recycled concrete stockpiles - the stockpiled concrete being used as a berm to mitigate noise during the crushing process - recycled concrete processing time and hours of operation - any additional noise generated by the use - truck traffic volume; details provided indicate an additional 200 loads of recycled concrete are picked-up by dump trucks annually, taking anywhere from a week to 3 months to remove
c.	Studies and Reports	<ul style="list-style-type: none"> ▪ The Owner has submitted the following studies and reports in support of the Application: <ul style="list-style-type: none"> - Planning Justification Report - Updated Stormwater Brief - Traffic Impact Study - Acoustic Assessment Report

	MATTERS TO BE REVIEWED	COMMENT(S)
		<ul style="list-style-type: none"> - Engineering Opinion Letter on Phase 2 Environmental Site Assessment, Functional Servicing Report and Geotechnical / Soils Study - Emission Summary and Dispersion Modelling (Air Quality/ Dust Assessment) Report - Scoped Environmental Impact Study - Greenbelt Conformity Statement including Arborist Statement <ul style="list-style-type: none"> ▪ These studies and reports are available on the City's website at https://maps.v Vaughan.ca/planit/ (Planit Viewer) ▪ Additional studies and/or reports may be required as part of the development application review process ▪ The Application and supporting documents must be reviewed by the appropriate external public review authorities including the Ministry of Transportation Ontario ('MTO'), the Ministry of Municipal Affairs and Housing ('MMAH'), the Ministry of Environment, Conservation and Parks ('MECP'), York Region ('YR'), the Toronto and Region Conservation Authority ('TRCA'). The Application has been circulated to these agencies for review. The Owner will be required to address the comments from the review agencies
d.	Toronto and Region Conservation Authority ('TRCA')	<ul style="list-style-type: none"> ▪ The Subject Lands are located within the TRCA's Regulated Area pursuant to Ontario Regulation 166/06. The Owner must satisfy the requirements of the TRCA
e.	Ministry of Transportation ('MTO') and the	<ul style="list-style-type: none"> ▪ The property abuts Highway 400 and is located within the GTA West Corridor Study area. The Owner must satisfy all requirements of the MTO and MMAH

	MATTERS TO BE REVIEWED	COMMENT(S)
	Ministry of Municipal Affairs & Housing ('MMAH')	
f.	Ministry of the Environment, Conservation and Parks ('MECP')	<ul style="list-style-type: none"> ▪ The Application was circulated to the MECP for review and comment as a Certificate of Approval (Air and Noise) is required by the MECP
g.	Road Widening and Access	<ul style="list-style-type: none"> ▪ The Subject Lands have an access easement over the property to the north fronting on King-Vaughan Road. King-Vaughan Road is owned by York Region, therefore, must approve the road right-of-way and any additional widenings, if required, the driveway access, location and design. Should additional land for a road widening be required, the related Site Development File DA.20.029 must be revised accordingly
h.	Related Site Development File DA.20.029	<ul style="list-style-type: none"> ▪ The related Site Development File DA.20.029 will be reviewed concurrently with the Application, and in consideration of, but not limited to, the following: <ul style="list-style-type: none"> - the appropriateness of the stockpiled concrete being used as a berm to mitigate noise - location, area and height of the outside storage - the stockpiling of materials abutting the Greenbelt - the visibility of the outside storage from Highway 400 - grading and stormwater management meeting City and MTO requirements - noise and truck traffic related to the facility - traffic impact on King-Vaughan Road - hours of operation

	MATTERS TO BE REVIEWED	COMMENT(S)
i.	Employment Land Conversion	<ul style="list-style-type: none"> The appropriateness of the proposed temporary use will be reviewed in consideration of Council's recent recommendation to endorse an Employment Land Conversion request for the lands bounded by King-Vaughan Road to the north, Weston Road to the west and Kirby Road to the south (Vaughan 400 North Landowners Group Inc.). York Region, the approval authority for Employment Conversion requests, must consider and make a decision regarding the request

Financial Impact

Not Applicable.

Broader Regional Impacts/Considerations

The Application has been circulated to the York Region Community Planning and Development Services Department for review and comment. Any issues will be addressed when the technical report is considered.

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 of the Application, together with comments from the public and Vaughan Council expressed at the Public Hearing or in writing. The comments will be addressed in a comprehensive report to a future Committee of the Whole meeting.

For more information, please contact: Margaret Holyday, Senior Planner, Development Planning Department, ext. 8216

Attachments

1. Context & Location Map
2. Proposed Site Plan
3. Concrete Batching Plant Enclosure Elevations
4. Concrete Batching Plant Silo Mixing Structure Elevations
5. Elevations - Existing Office Trailers

6. Existing Vehicle Repair Shop Elevations
7. Draft Zoning By-law Amendment
8. Previous Council Approved Zoning By-law 082-2018

Prepared by

Margaret Holyday, Senior Planner, ext. 8216

Carmela Marrelli, Senior Manager of Development Planning, ext. 8791

Mauro Peverini, Director of Development Planning, ext. 8407

Approved by

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Nick Spensieri, Deputy City
Manager, Infrastructure
Development

Reviewed by

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Jim Harnum, City Manager