


I, JOHN D. LEACH, City Clerk of the Corporation of the City of Vaughan, in the Regional Municipality of York, do hereby certify that attached is a true copy of Amendment Number 489 to the Official Plan of the Vaughan Planning Area, which was approved by the Ontario Municipal Board, without modification, on the 2nd day of June, 1998.



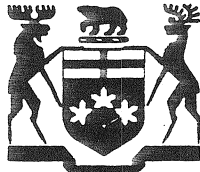
JOHN D. LEACH
City Clerk
City of Vaughan

DATED at the City of Vaughan
this 17th day of June, 1998.

ISSUE DATE

JUN 02 1998

DECISION/ORDER No. 1373



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

RECEIVED

JUN 4 1998 PL96B322

CITY OF VAUGHAN
CLERKS DEPARTMENT

Con-Strada Construction Inc. and 626138 Ontario Limited have appealed under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for City of Vaughan to redesignate the land located south of Rutherford Road, east of Jane Street and west of the CNR lands, and comprise Blocks 5, 6, 7 and 17 and the proposed Creditstone Road allowance on Draft Plan of Subdivision 19T-87060, to permit a permanent aggregate depot and concrete and asphalt recycling facility with open storage of materials
O.M.B. File No. O960155

Con-Strada Construction and 626138 Ontario Limited have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, against Council's refusal or neglect to enact a proposed amendment to Zoning By-law 1-88, as amended, for the City of Vaughan, to rezone lands respecting Part Lots 14 and 15, Concession 4 from M2 General Industrial Zone to an appropriate zoning to permit a permanent aggregate depot and concrete and asphalt recycling facility with open storage of materials
O.M.B. File No. Z960111

Con-Strada Construction Inc. and 626138 Ontario Limited have referred to the Ontario Municipal Board under subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determination and settlement of details of a site plan for lands composed of Part Lots 14 and 15, Concession 4, in the City of Vaughan
O.M.B. File No. M960081

C O U N S E L :

Roger Elliot for Con-Strada Construction Inc.
and 626138 Ontario Limited

Robert Avinoam for City of Vaughan

**MEMORANDUM OF ORAL DECISION DELIVERED BY M.A. ROSENBERG
ON JANUARY 24, 1997 AND ORDER OF THE BOARD**

The applicants, Con-Strada Construction Inc. and 626138 Ontario Limited, own a

10 acre parcel of industrial land located south of Rutherford Road and east of Jane Street in the City of Vaughan. The land is located approximately 1.4 miles east of Highway 400. The site has access to Rutherford Road by way of a private right-of-way called Creditstone Road. The property is surrounded by other industrial uses and has been operating the last three years under a temporary use by-law as a concrete and asphalt recycling facility. The owner wishes to make the temporary use permanent and is asking the Board to approve an Official Plan amendment, a zoning by-law, a site plan and certain conditions.

Mr. Ian MacNaughton is an experienced and qualified planner. Mr. MacNaughton gave evidence before the Board in support of the proposed redesignation of the site. He said the proposed recycling facility represented good planning and was appropriate and desirable. He also said the project was in the public interest and consistent with Provincial policy.

Mr. MacNaughton said the conditions set out in Exhibit 4 are sophisticated and restrictive. As well he said the Ministry of the Environment and Energy (M.O.E.E.) through the Certificate of Approval process will also have to approve this development and issue a certificate. He said recycling should be encouraged and is reflected in both the Provincial policy statement and the Official Plan of the City of Vaughan.

Mr. MacNaughton said the immediate surrounding area is designated either Prestige Industrial or Employment General Industrial and the nearest residential subdivision is located 560 metres from the site. The site itself is actually located 400 metres south of Rutherford Road with good controlled access from Rutherford Road. Rutherford Road is a major five lane arterial regional road with a traffic light at this intersection. Mr. MacNaughton said access to Rutherford Road should always remain open even if the southern limit of Creditstone Road is opened sometime in the future. He said high volumes of industrial traffic can be accommodated on Rutherford Road. Mr. MacNaughton said the appropriate distance from a residential development to the site was a minimum of 500

metres, and this application meets that criteria. He said the constraints of this recycling operation include the need to accommodate trucks, outdoor stock piles and a crushing operation. Mr. MacNaughton said the impact on any residential development in the area was minimal and the conditions imposed both by the City and the M.O.E.E. should satisfactorily address any environmental concerns.

Tony Cupani is the Operating Manager and the Health and Safety Officer for the existing industrial operation. Mr. Cupani said:

1. The existing crusher consists of three heavy equipment pieces of machinery and is over 20 feet in height.
2. The crushing operation should not be enclosed because:
 - a) practically speaking it cannot be done.
 - b) the restrictions on the loader, cleaning and belt movement
 - c) major safety concerns of operators running the equipment.
3. He was not aware of any other enclosed crusher operation in Ontario under similar circumstances.
4. A condition should be added to have a water truck always on the site.
5. He had received only a few complaints, (roughly somewhere between three and six) in the last year and these complaints were resolved as quickly as possible.

The Board noted that the City of Vaughan called no planning evidence in opposition and no other evidence relating to the proposed conditions.

Five residents, Mr. John Kartechner, Mrs. Marilyn lafrate, Mr. Angelo Di Nardo, Mrs.

Sheila Donadio and Mr. Ernest von Bezold all gave evidence in opposition to the proposed development. Their concerns were as follows:

1. The applicant was not acting in good faith.
2. The quality of life, relating to dust and noise issues.
3. When Creditstone Road is opened to the south the access from Rutherford Road should be closed.
4. A crushing operation should be either fully or partially enclosed to control dust emissions from the site.
5. There should be additional water spraying to control dust.
6. The cumulative effect of dust, smell and noise complaints from all industrial users in the area.
7. Potential health hazards to residents who live in the area and are directly or indirectly affected by this crushing operation.
8. Dust effects on people using the parks and open spaces in the areas close to the industrial park.

The Board has carefully weighed all the evidence and prefers the testimony of Mr. MacNaughton and Mr. Cupani. The Board is satisfied that the proposed development for a permanent recycling facility for concrete and asphalt at this location is appropriate and desirable and represents good planning. The recycling proposal is in the public interest and consistent with Provincial policy.

The parties have agreed among themselves with regard to certain conditions and these are fairly restrictive and reasonable. In addition, the Board notes that approval from the M.O.E.E. is necessary through the Certificate of Approval process. The Board is satisfied that most of the concerns raised by the residents are either adequately covered in the conditions or will be more thoroughly addressed in the Certificate of Approval process.

The Board finds that access to Rutherford Road from this site is desirable and appropriate. It is a major arterial road already carrying heavy industrial traffic. It is not necessary nor warranted that the crushing operation be either fully or partially enclosed. There is a legitimate safety concern relating to this suggestion. In addition, the Board notes that some watering now takes place in the crushing operation and the owners of the property in the last three years have made prudent and reasonable attempts to mitigate any impacts on adjoining neighbours. But the Board notes that there is a legitimate concern raised by the ratepayers relating to cumulative impact from all of the other industrial users in the area. The Board finds that it does not have enough evidence before it to properly evaluate cumulative adverse impact in these circumstances.

The owner, the City and the ratepayers have worked together over the last three days to try to resolve some of their outstanding differences. They are to be commended for this. These compromises for the most part have been incorporated into conditions set out in Exhibit 4. The Board is encouraged by the mediation undertaken by the parties and thanks them for their participation.

The Board was advised on March 11, 1998 by the City of Vaughan that Condition 12 of the Conditions for Approval has been settled and that a Certificate of Approval has been issued by the Ministry of the Environment and Energy.

In the result, the appeals are allowed. The Board will:

- 1. Approve the proposed Official Plan amendment set out in Exhibit 7 which is attached as Appendix "A".
2. Approve the draft zoning by-law set out in Exhibit 8 which amends By-law 1-88 and is attached as Appendix "B".
3. Approve the site plan filed as Exhibit 9 which is attached as Appendix "C".
4. Approve the conditions set out in Exhibit 4 which is attached as Appendix "D".

The Board so orders.

"M.A. Rosenberg"

M.A. ROSENBERG
MEMBER

"J.L. O'Brien"

J.L. O'BRIEN
MEMBER

APPENDIX "A" to Ontario Municipal Board Order #1373
dated June 2, 1998.

PL968322

**AMENDMENT NUMBER 489
TO THE OFFICIAL PLAN
OF THE CITY OF VAUGHAN PLANNING AREA**

Amendment No. 357 to the Official Plan of the City of Vaughan Planning Area is hereby amended by:

1. Adding the Schedule "B1" attached hereto as Schedule "1".
2. Adding the following to paragraph 2.2.3 "General Industrial Area":

2.2.3.1 "Policies Respecting the Development of Concrete and Asphalt Recycling Facilities"

a) Location

Notwithstanding subparagraph 2.3.3 b), an aggregate depot and concrete and asphalt recycling facility may be located on the lands shown as "Area Subject to Amendment No. 489" on Schedule "B1" hereto, subject to the following:

- i) the lands shown as Parts 4, 5, and 6 on Reference Plan 65R-19461 shall not be used for the purposes of open storage;
- ii) any aggregate depot and concrete and asphalt recycling facility shall be confined to the lands shown as Parts 1, 2 and 3 on Reference Plan 65R-19461; and
- iii) any application for a concrete and asphalt recycling facility shall be in conformity with the following policies.

b) Definition

Concrete and Asphalt Recycling Facility: means the use of lands or buildings for the processing, by way of crushing or grinding, of non-hazardous concrete and asphalt for use as an aggregate product or as an input to another production process. This use includes the storage of incoming material awaiting processing and the storage of processed material awaiting shipment. This use does not include a central mixing, batching or any other facility/plant for the production of asphalt and concrete.

- c) The development of a concrete and asphalt recycling facility shall be subject to a site specific zoning amendment, with the exception of the areas of prohibition defined in clause d) below. Approval of the zoning amendment application shall be conditional on Council being satisfied that the proposal conforms to the policies of this plan as they pertain to the design and operation of concrete and asphalt recycling facilities.

d) Areas of Prohibition

A concrete and asphalt recycling facility shall not be permitted:

- i) On a lot abutting an arterial road or provincial highway or a single loaded road abutting an arterial road or provincial highway
- ii) within or abutting an existing or planned area designated or zoned for prestige employment area uses. Notwithstanding this clause a concrete or asphalt recycling facility operating within a wholly enclosed building may be permitted on lands abutting a prestige employment area;
- iii) within 1 kilometer of an existing or planned residential area unless controls are in place which will prevent any nuisance or other adverse effect at all

existing or planned residences and, in any event, no part of such facility shall be located within 500 m of an existing or planned residential area. Adverse effects shall include, but not be limited to, suspended particulate matter, dustfall, sound and vibration;

- iv) within 300 m of an existing or planned public parkland area;
- v) on lands designated or zoned for valleylands, within an area designated as an Environmentally Significant Area (ESA) or an Area of Natural or Scientific Interest (ANSI).

e) Assessment of Individual Proposals

Consideration of an application proposing a concrete and asphalt recycling facility, which conforms with the location policies of clauses 2.2.3.1 a) and d) shall be contingent on an applicant demonstrating that there are no substantial impacts which will extend beyond the boundaries of the subject property, so that compatibility between both existing and planned uses can be maintained. Any impacts which extend beyond the property limits should be similar to those which might reasonably be expected to be generated by a use which is already permitted.

In order to assess the appropriateness of a zoning amendment application for a proposed concrete and asphalt facility, the applicant shall submit for the consideration of Council a site management plan. The site management plan shall be based on a detailed description of the proposed operation and a range of studies which will assess the impacts of the proposed operation and where appropriate, recommend mitigation measures. The site management plan will identify how the design and operational elements necessary to minimize the impacts of the proposed facility may be implemented through the site specific zoning amendment, site plan agreement or alternative measures.

The following information will be submitted in support of an application for a zoning amendment and will form the basis for the site management plan.

- i) a description of the proposed facility shall include but not be limited to the following:
 - the name and level of experience of the proposed operator;
 - materials to be recycled and anticipated amounts;
 - type of technology to be used, including any mitigation measures;
 - hours and days of operation;
 - other sites utilized by the operator.
- ii) the methodology of any studies submitted in support of the application shall be acceptable to the City and pertinent review agencies.
- iii) the studies shall be based on an assessment of the impacts which would be associated with both the proposed and maximum potential utilization of the

site for the concrete and asphalt recycling facility, as may be determined by such factors as size and dimension of the lot or building or process employed.

- f) The following studies shall be required for a concrete and asphalt recycling facility:
- i) Land Use and Urban Design - Addressing compatibility of the use with the approved planning framework for the area as established in the approved block plan and by existing development, the implications of the use on the visual environment, site design and related measures such as the extent of outside storage if permitted, landscaping and screening and the relationship of the facility to other similar uses.
 - ii) Transportation and Traffic - Addressing the impact of traffic volumes generated by the use, including the effect on the function and capacity of the receiving roads and intersections, required improvements, site access and on-site circulation including proper signage advising of vehicle speeds in the yard to minimize dust generation, and signage advising of rules restricting excessive braking, engine revving and horn blowing in order to minimize noise.
 - iii) Stormwater Management and the Environment - Addressing quantity controls required to limit post-development flows to pre-development flows, identification of quality control measures required to treat runoff and the protection of groundwater resources and the means of controlling impacts on adjacent environmental features shall also be identified.
 - iv) Noise - Addressing the measures necessary to control noise to a level compatible with adjacent uses in accordance with the requirements of the Ministry of the Environment and Energy.
 - v) Dust Study - In the case of a concrete and asphalt recycling facility a dust study addressing measures required to control dust on site generated from the processing of concrete and asphalt, the storage of material and the on-site operation of vehicles shall be required. The study shall include a review of the location and management of stockpiles to minimize dust generation. Factors to be considered include:
 - Fine aggregate piles protected from wind by coarse piles;
 - Stockpiles located as close as possible to grinding/crushing machinery
 - Implementation of a program to either tarp or cover the stockpiles in some manner or alternatively prescribe treatment with water or other suitable wetting agent when material is especially dusty or as required by wind conditions.
- g) The applicant shall prepare and submit the site management plan which identifies how the mitigation measures recommended by each study are integrated into an overall site management plan and how they are to be implemented (ie. zoning, site

plan, other measures).

- h) Council may, through an agreement with the operator, require the implementation of monitoring program after commencement of operations. The intent of the monitoring program(s) is to provide a means of resolving any off site impacts which may be identified during the on-going operation of the facility. The City, in consultation with the operator and any affected party, may require the initiation of a monitoring program, in accordance with the terms of the agreement, which would identify the specific nature of a problem and the measures necessary to resolve it.
- i) Council, by resolution may require independent or third party review on terms satisfactory to the City, of studies which have been submitted in support of the zoning amendment application.
- j) Prior to the operation of any concrete and asphalt recycling facility commencing, all necessary approvals from the Ministry of Environment and Energy or the appropriate approval authority shall have been obtained.
- k) Development Criteria

The following standards shall apply to the development of a concrete and asphalt recycling facility:

- i) the maximum area of any concrete and asphalt recycling shall be approximately 4 ha (10 acres).
- ii) the processing and storage of concrete and asphalt may occur outside of a building or enclosure. The location of the processing equipment and the storage areas will be determined through the review process and will be reflected in the implementing zoning by-law. Distance separation shall be calculated from the lot line of the subject property or portion thereof being used for this purpose.
- iii) Landscaped areas and or screening will be required in areas abutting public roads, open space areas and lots to a width and design necessary to maintain compatibility with adjacent uses.
- iv) the maximum height of storage piles shall be 9 metres.
- v) stockpiles of the source and recycled concrete and asphalt material shall not be located within 100 metres of a water body or watercourse unless engineered control works are in place.
- vi) all storage areas where source and recycled concrete and asphalt materials are stored and stockpiled shall be paved unless it can be otherwise demonstrated that adequate engineered controls are in place to provide for proper stormwater management and dust control.

- vii) all customer and employee parking areas shall be paved and landscaped. Access driveways and main truck routes shall also be paved.
- viii) in conjunction with the registration of the plan of subdivision within which the lands are situate, the existing temporary access to Rutherford Road will be closed, and access will be provided through parts 4, 5 and 6 of Reference Plan 65R-19461 to connect to Creditstone Road at a location to the satisfaction of the City of Vaughan.
- ix) all concrete and asphalt recycling facilities shall be subject to a Process 2 (Complex) site plan agreement with the City.

l) Monitoring

The City will review the effectiveness of the policies pertaining to concrete asphalt recycling facility and composting facilities and may initiate amendments as required. The following factors will form the basis for a review: the number, location and degree of concentration of concrete and asphalt recycling facilities; impact of existing facilities and City By-law enforcement and MOEE records with respect to complaints; new information with respect to technology or impacts of these facilities; and other relevant information as maybe considered appropriate.”

THIS IS SCHEDULE 'I'
TO AMENDMENT NO. 489
ADOPTED THE ___ DAY OF _____, 1997.

BOARD ORDER #1373
JUNE 2, 1998
0960155

MAYOR

CLERK

LOCATION: PART OF LOTS 14 AND 15, CONCESSION 4,
PARTS 1, 2, 3, 4, 5 AND 6, REFERENCE PLAN 65R-1946I AND
CREDITSTONE ROAD
NOT TO SCALE

