

9. Zoning By-Law Amendment – 471 Terry Fox Drive

Modification au Règlement de zonage – 471, promenade Terry Fox

Committee Recommendation

That Council approve an amendment to Zoning By-law 2008-250 for 471 Terry Fox to permit reduced front and corner side yard setbacks for a commercial development, a reduced minimum distance for a patio to a residential zone, and an increased maximum gross leasable floor area for a gas pump and canopy island, as detailed in Document 2.

Recommandation du Comité

Que le Conseil approuve une modification au *Règlement de zonage 2008-250* visant le 471, promenade Terry-Fox afin de permettre la réduction du retrait de cour latérale d'angle et avant en vue d'un aménagement commercial, la réduction de la distance depuis une zone résidentielle en vue d'aménager une terrasse et l'augmentation de la superficie brute de location maximale pour l'ajout d'une pompe à essence et d'un îlot de distribution d'essence, comme le précise le document 2.

Documentation / Documentation

1. Director's report, Planning Services, Infrastructure and Economic Development Department, dated August 6, 2019 (ACS2019-PIE-PS-0075)

Rapport de la directrice, Services de la planification, Direction générale de la planification, de l'infrastructure et du développement économique, daté le 6 août 2019 (ACS2019-PIE-PS-0075)
2. Extract of draft Minutes, Planning Committee, August 22, 2019

Extrait de l'ébauche du procès-verbal, Comité de l'urbanisme, le 22 août 2019
3. Summary of Written and Oral Submissions to be issued separately with the Council agenda for its meeting of September 25, 2019, in the report titled, "Summary of Oral and Written Public Submissions for Items Subject

to the *Planning Act* 'Explanation Requirements' at the City Council meeting of September 11, 2019".

Résumé des observations écrites et orales à distribuer séparément avec l'ordre du jour de la réunion du 25 septembre 2019 du Conseil, dans le rapport intitulé « Résumé des observations orales et écrites du public sur les questions assujetties aux 'exigences d'explication' aux termes de la *Loi sur l'aménagement du territoire* à la réunion du Conseil municipal prévue le 11 septembre 2019 ».

**Report to
Rapport au:**

**Planning Committee
Comité de l'urbanisme
22 August 2019 / 22 août 2019**

**and Council
et au Conseil
11 September 2019 / 11 septembre 2019**

**Submitted on 6 August 2019
Soumis le 6 août 2019**

**Submitted by
Soumis par:**

**Lee Ann Snedden
Director / Directrice**

Planning Services / Services de la planification

**Planning, Infrastructure and Economic Development Department / Direction
générale de la planification, de l'infrastructure et du développement économique**

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**Ward: KANATA NORTH (4) / KANATA
NORD (4)**

File Number: ACS2019-PIE-PS-0075

SUBJECT: Zoning By-law Amendment – 471 Terry Fox Drive

OBJET: Modification au *Règlement de zonage* – 471, promenade Terry Fox

REPORT RECOMMENDATIONS

- 1. That Planning Committee recommend Council approve an amendment to Zoning By-law 2008-250 for 471 Terry Fox to permit reduced front and corner side yard setbacks for a commercial development, a reduced**

minimum distance for a patio to a residential zone, and an increased maximum gross leasable floor area for a gas pump and canopy island, as detailed in Document 2.

2. That Planning Committee approve the Consultation Details Section of this report be included as part of the 'brief explanation' in the Summary of Written and Oral Public Submissions, to be prepared by the City Clerk and Solicitor's Office and submitted to Council in the report titled, "Summary of Oral and Written Public Submissions for Items Subject to *the Planning Act* 'Explanation Requirements' at the City Council Meeting of September 11, 2019," subject to submissions received between the publication of this report and the time of Council's decision.

RECOMMANDATIONS DU RAPPORT

1. Que le Comité de l'urbanisme recommande au Conseil d'approuver une modification au *Règlement de zonage 2008-250* visant le 471, promenade Terry-Fox afin de permettre la réduction du retrait de cour latérale d'angle et avant en vue d'un aménagement commercial, la réduction de la distance depuis une zone résidentielle en vue d'aménager une terrasse et l'augmentation de la superficie brute de location maximale pour l'ajout d'une pompe à essence et d'un îlot de distribution d'essence, comme le précise le document 2.
2. Que le Comité de l'urbanisme donne son approbation à ce que la section du présent rapport consacrée aux détails de la consultation soit incluse en tant que « brève explication » dans le résumé des observations écrites et orales du public, qui sera rédigé par le Bureau du greffier municipal et de l'avocat général et soumis au Conseil dans le rapport intitulé « Résumé des observations orales et écrites du public sur les questions assujetties aux 'exigences d'explication' aux termes de la *Loi sur l'aménagement du territoire*, à la réunion du Conseil municipal prévue le 11 septembre 2019 », à la condition que les observations aient été reçues entre le moment de la publication du présent rapport et le moment de la décision du Conseil.

BACKGROUND

Learn more about [link to Development Application process - Zoning Amendment](#)

For all the supporting documents related to this application visit the [link to Development Application Search Tool](#).

Site location

471 Terry Fox Drive

Owner

7873794 Canada Inc.

Applicant

Toon Dreessen, Dreessen Cardinal Architects

Description of site and surroundings

The site is located on the east side of Terry Fox Drive between Tillsonburg Street and Kanata Avenue (see Document 1). The site is approximately 1.17 hectares in size and is currently vacant with vegetative cover consisting of trees and grass.

The site is bounded by Terry Fox to the south, Kanata Avenue to the east and Tillsonburg Street to the west. The surrounding land uses include open space and agricultural lands to the west, low-rise residential to the north, east and south with an additional piece of vacant land to the immediate south, opposite Kanata Avenue, zoned local commercial.

Summary of requested Zoning By-law amendment proposal

The application was submitted to reduce the minimum front yard and corner yard setbacks and increase the maximum gross leasable floor area. The current zoning of Local Commercial Subzone 7, Exception 411 (LC7[411]), requires a minimum front yard setback of 10 metres and a minimum corner side yard setback of 8 metres. The application proposes to reduce both the front and corner side yard setbacks to 3 metres.

Urban Exception 411 allows for a total cumulative Gross Leasable Floor Area (GLFA) for the additional uses (a gas bar and car wash) and a convenience store of 300 square

metres. The application proposes to increase the GLFA by 177.2 square metres (total GLFA of 477.2) to permit the gas bar/pump island canopy structure.

The applicant requested an amendment to the Zoning By-law to permit an outdoor commercial patio within 21 metres of a residential zone, whereas the by-law requires a minimum of 30 metres where the patio is screened and physically separated from the residential zone by a structure, screen or wall that is two metres or more in height so as to mitigate both light and noise from the patio.

The recommended amendment, as detailed in Document 2, includes:

- An outdoor commercial patio is subject to the following provisions:
 - An outdoor commercial patio with no structure, screen or wall is permitted within 21 metres of residential zone.

Brief history of proposal

This property is also subject to a current site plan control application (D07-12-19-0017) that proposes a multi-unit commercial plaza as well as a gas bar, convenience store and car wash. The proposed uses are permitted in the current LC7 zone, however, the multi-unit commercial building does not meet the zoning provisions for front yard and corner side yard setbacks. The maximum cumulative GFLA is exceeded for the gas station pump island canopy.

Minor variance applications were made for a previously proposed development at the site seeking relief for the front yard and corner side yard setbacks. In February 2012, there was a proposal for a commercial plaza consisting of three one-storey retail buildings with surface parking spaces. The minor variance applications sought a reduced front yard setback from 10 to 3 metres for all three buildings and a reduced corner side yard setback from 8 to 3 for one building. The applications were approved following the May 2, 2012 hearings, however, the application to develop the property did not proceed.

DISCUSSION

Public Consultation

Public consultation of the application was carried out in accordance with the City's Public Notification and Consultation Policy.

The applicant held an open house on April 25, 2019 to present the development to the community. During this meeting display boards of the proposal were available for viewing, followed by a presentation by the applicant, as well as an open question and answer period. Approximately 50 individuals attended. Staff, as well as Councillor Sudds, also attended the meeting to field questions on process and next steps.

The Planning, Infrastructure and Economic Development Department received 64 comments from members of the public who were concerned with the proposed gas bar use. A petition in opposition, with 117 signatures, was received and, further, a petition was started on Change.org. The Kanata Lakes Community Association also provided comments reiterating the major concerns of the area residents. Few comments were submitted in support, with the majority of comments received in opposition to the use of a gas bar, which is already a permitted use on the subject property.

For this proposal's consultation details, see Document 3 of this report.

Official Plan designations

The site is currently designated as General Urban Area pursuant to Schedule B of the Official Plan. The General Urban Area designation permits all types and densities of housing, as well as employment, retail uses, service, industrial, cultural, leisure, greenspace, entertainment and institutional uses. Throughout the General Urban Area, the City will encourage the provision of a variety of small, locally-oriented convenience and service uses that complement adjacent residential land uses, and are of a size and scale consistent with the needs of nearby residential areas.

Other applicable policies and guidelines

The proposed development is subject to review under the Council-approved "Urban Design Guidelines for Gas Stations". The guidelines pertaining to gas stations reinforce the need for landscaping, consistent architectural style, pedestrian connections, and compatibility to address the challenges of the overall design of a gas station site.

PLANNING RATIONALE

Planning Act and Provincial Policy Statement

Section 2 of the *Planning Act* outlines those land use matters that are of Provincial interest, to which all City planning decisions shall have regard. The Provincial interests that apply to this site include the orderly development of safe and healthy communities,

the appropriate location of growth and development, the promotion of development that is designed to be sustainable to support public transit and to be oriented to pedestrians, and the promotion of a built form that is well-designed and encourages a sense of place, and provides for public spaces.

In addition, the *Planning Act* requires that all City planning decisions be consistent with the Provincial Policy Statement (PPS), 2014: a document that provides further policies on matters of Provincial interest related to land use development.

The recommended Zoning By-law amendment is considered consistent with the matters of Provincial interest as outlined in the *Planning Act* and is in keeping with the PPS, 2014 by promoting efficient land use development and use of resources, with intensification and a built form that supports healthy, active communities in proximity to services and amenities, and supports active transportation.

Official Plan Policies

This application has been reviewed under the consolidated Official Plan (2003) with regard for the Council approved amendments contained within Official Plan Amendment 150 (OPA 150). Amendments introduced by OPA 150 generally do not impact the proposal.

Section 2.5.1 of the current Official Plan and OPA 150 provides direction for urban design and compatibility in Ottawa through design objectives and policies, including objectives to create places with unique identities and ensuring development respects the character of existing areas. Section 4.11 of the Official Plan provides compatibility criteria for evaluating development proposals including, but not limited to, traffic, vehicular access, parking requirements, loading areas, and noise. Section 4.11, as further amended by OPA 150, builds on the Official Plan policies and addresses how development is to fit with the planned and existing context, including urban design aspects such as building height and massing, building orientation, architectural features, landscaping, and screening.

The General Urban Area permits a variety of uses and directs uses that may have potential noise or traffic impacts to locations along arterial or major collector roads. Additionally, these types of uses are to be located along the perimeter of established residential neighbourhoods.

The request for reduced front and corner side yard setbacks are consistent with the policies of the General Urban Area, as the amendment meets the policies set out in the Official Plan.

The proposed reduced minimum setbacks, being a reduction from 10 metres to 3 metres for the front yard setback and a reduction from 8 metres to 3 metres for the corner side yard setback, will allow for the retail plaza to be closer to the public street frontages to provide a more animated streetscape along Terry Fox Drive and Tillsonburg Street. Moving these buildings closer to Terry Fox Drive will also provide more of a buffer from the residential homes located to the north of the development, as there is mechanical equipment proposed on the rooftops of the commercial plaza.

The lands are located at the perimeter of this residential area and within the General Urban Area designation where a variety of small, locally-oriented convenience and service uses that will not result in the attraction of large volumes of vehicular traffic from outside the immediate area are encouraged. These setbacks will maintain an appropriate separation from the residential neighbourhoods surrounding the site is maintained and will not result in undue adverse impacts.

The current LC7[411] zoning permits a total cumulative GFLA of 300 square metres for additional uses including the convenience store, car wash and gas bar. The additional 177.2 square metres of total GLFA will permit the gas bar/pump island canopy structure. Since there are no existing provisions under the current Zoning By-law to regulate the size of pump islands, the pump island area has been included as part of the gas bar GFLA calculation. The addition of this pump island will add to the functional capacity of the gas bar and has been integrated into the site to minimize traffic conflict, enhance pedestrian safety and add positively to the gas bar exterior appearance.

Further supporting the intent of Section 2.5.1, the guidelines for Outdoor Commercial Patios encourage a number of positive attributes for incorporating a patio into the streetscape. The proposed patio responds to the guidelines by having clear signage for the business, a clearly defined seating area, the ability to incorporate existing landscaping, being screened and adequately separated from residential uses, and enhancing the street edge.

Section 4.11 can be applied to individual properties and provides direction on the impacts between new and existing development. Context is key to evaluating compatibility and design. For instance, development needs to respect the privacy of

outdoor amenity areas of adjacent residential units. The proposed commercial patio requires a minimum 2.0-metre high structure, screen or wall between the patio and residential zone. Although the nearest residential property line is 21 metres from the proposed patio, which is proposed to be located at the corner near Terry Fox Drive and Tillsonburg (See Document 4), the closest residential building that will be able to see the proposed patio from their outdoor amenity space is 76 metres from the patio. Given this separation distance as well as the small size of the patio, this report recommends that no screen fence be required for the proposed patio. In accordance with the site plan, which is currently under review, the applicant intends to install a delineation fence around the patio which will be approximately 1 metre in height.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

COMMENTS BY THE WARD COUNCILLOR

Councillor Sudds provided the following comments:

“The Councillor has been working closely with the community and the applicant on this development. There has been substantial opposition to the gas bar portion despite that it is a permitted use. The community did submit a number of additional comments with respect to landscaping, fencing, location of vacuums, walkability, and limitations on car wash hours. I will continue to work with the developer and city staff to ensure these elements are addressed in the site plan process.”

LEGAL IMPLICATIONS

There are no legal impediments to the implementation of the recommendations of this report.

Members of Council will be aware that Bill 108 has been enacted by the Legislature. At the time of the writing of this comment, final transitional regulations have not been provided. However, it is anticipated that any appeal of this zoning by-law would be subject to the Bill 108 procedure.

In any event, should the recommendations be carried and the matter appealed to the Tribunal, it is anticipated that a three day hearing would be necessary and that the appeal could be conducted within staff resources. Should the application be refused,

reasons must be provided. In the event of an appeal of a refusal, an external planner would need to be retained.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report.

ASSET MANAGEMENT IMPLICATIONS

There are no direct asset management implications associated with the recommendations of this report.

FINANCIAL IMPLICATIONS

There are no direct financial implications associated with the approval of the zoning amendment. In the event the zoning amendment is refused and appealed, an external planner would be retained. This expense would be absorbed from within Planning, Infrastructure and Economic Development's operating budget.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report. However, it should be noted that accessibility has been reviewed through the site plan control process and measures have been provided to ensure the site remains accessible.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

TERM OF COUNCIL PRIORITIES

This project addresses the following Term of Council Priorities:

- C1 – Contribute to the improvement of quality of life.
- EP2 – Support growth of local economy.

APPLICATION PROCESS TIMELINE STATUS

The application was not processed by the "On Time Decision Date" established for the processing of Zoning By-law amendments due to additional time required to review the concurrent Site Plan Control application.

SUPPORTING DOCUMENTATION

Document 1 Location Map

Document 2 Details of Recommended Zoning

Document 3 Consultation Details

Document 4 Site Plan

CONCLUSION

The Planning, Infrastructure and Economic Development department supports the application and proposed Zoning By-law amendment. Reducing the front and corner side yard setback of the retail plaza and gas bar will allow for a better layout of the proposed development by providing a more pedestrian-friendly streetscape by locating the buildings and landscaping closer to both Terry Fox Drive and Tillsonburg Street. Increasing the total cumulative Gross Leasable Floor Area for the gas bar will allow for the construction of a pump island canopy which will enhance the functionality and pedestrian safety on the site. The proposed patio enhances the pedestrian realm and is located a significant distance from the nearest residential building and therefore does not require screening from the neighbouring residential zone.

DISPOSITION

Legislative Services, Office of the City Clerk and Solicitor to notify the owner; applicant; Ottawa Scene Canada Signs, 415 Legget Drive, Kanata, ON K2K 3R1; Krista O'Brien, Tax Billing, Accounting and Policy Unit, Revenue Service, Corporate Services (Mail Code: 26-76) of City Council's decision.

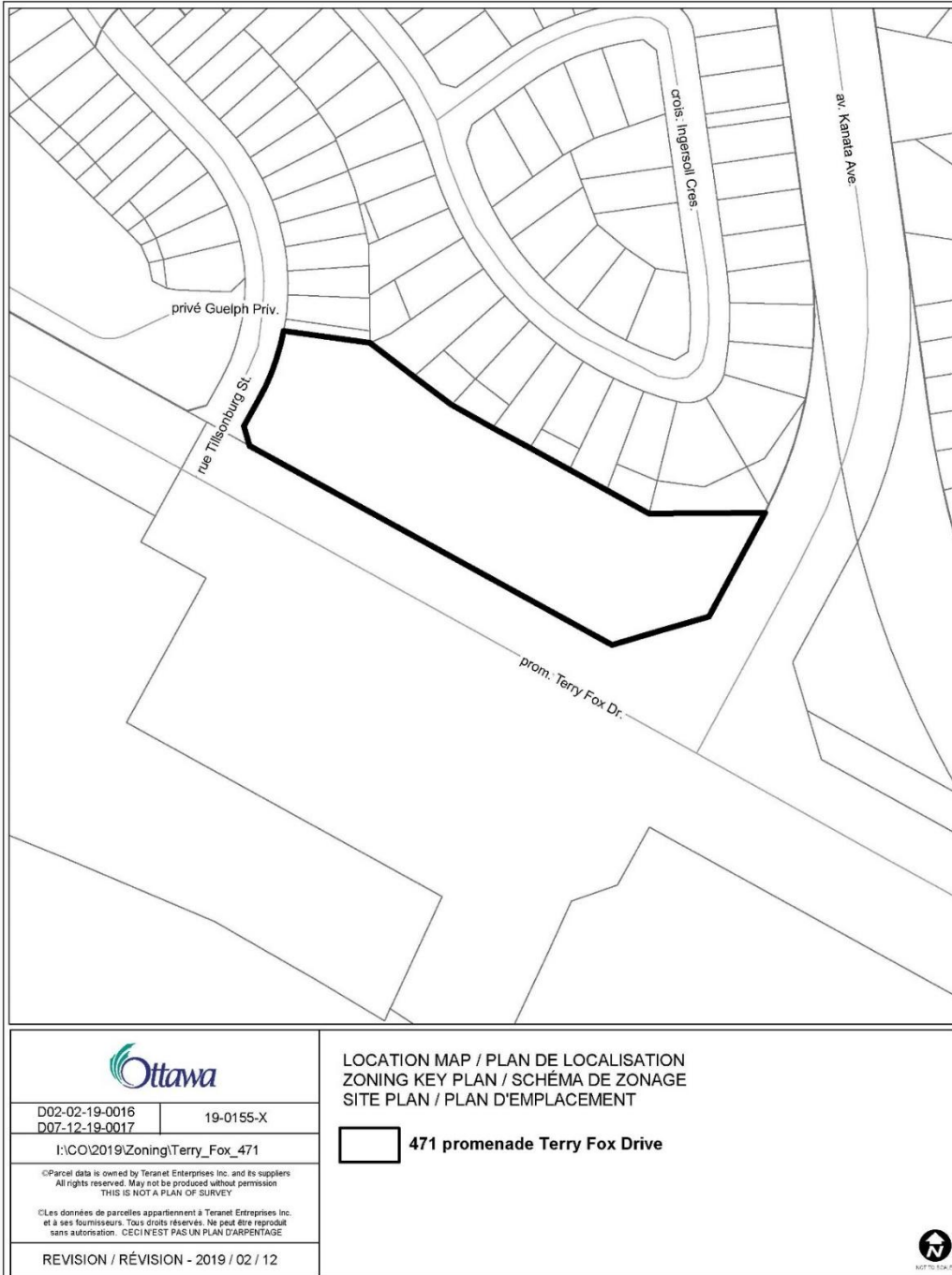
Zoning and Interpretations Unit, Planning Policy Branch, Economic Development and Long Range Planning Services to prepare the implementing by-law and forward to Legal Services.

Legal Services, Office of the City Clerk and Solicitor to forward the implementing by-law to City Council.

Planning Operations Branch, Planning Services to undertake the statutory notification.

Document 1 – Location Map

For an interactive Zoning map of Ottawa visit geoOttawa.



Document 2 – Details of Recommended Zoning

The proposed change to the City of Ottawa Zoning By-law No. 2008-250 for 471 Terry Fox Drive:

1. Amend Section 239, Urban Exception 411, as follows:
 - a. In Column V delete its contents in its entirety and replace it with the following provisions:
 - I. The total cumulative Gross Floor Area for the additional uses and a convenience store must not exceed 480 m²; and
 - II. Despite Clause 85(3)(a) an outdoor commercial patio is permitted where it is located a minimum of 21.0 metres from a lot in a residential zone and no screen is required.
 - III. -Provisions (a) through (e) Table 189(3) do not apply and the following provisions apply:
 - Minimum lot area:
 - Additional uses and a convenience store: 4,000 m²
 - Other non-residential uses: 1,800 m²
 - Minimum lot width: 30 m
 - Minimum front yard setback:
 - Pump Islands: 10 metres
 - All other buildings and structures: 3 metres
 - Minimum corner side yard setback:
 - pump islands: 11.5 m
 - other buildings and structures: 3 m
 - Minimum interior side yard setback: 5 m
 - Minimum rear yard setback: 5 m
 - The property line abutting Terry Fox Drive is deemed to be the front property line.

Document 3 – Consultation Details

Notification and Consultation Process

Notification and public consultation was undertaken in accordance with the Public Notification and Public Consultation Policy approved by City Council for Zoning By-law amendments. One community information session was also held in the community on April 25th, 2019 at the Kanata Recreation Complex. Approximately, 64 comments were submitted during the application review process. Few comments were submitted in support, with the majority in opposition of the permitted use of a gas bar.

At the community information session, staff reiterated that the proposed gas bar is already a permitted use on the subject property; the applicant was applying for relief for performance standards in the Zoning By-law. The discussion largely revolved around the community's opposition for a gas bar at this location, and there were few comments regarding the relief sought for setbacks and gross floor leasable area (GFLA) for the gas bar and canopy.

Many of the comments received were regarding the proposed use of a gas bar and how this new use was not warranted at this location. Furthermore, the bulk of comments had little to do with the actual relief sought, but mainly comments and concerns that are dealt with through the Site Plan Control Process.

Comment: Health and Environmental

Comments received included impacts to residents health and safety and the impact that a gas bar would have on the community.

Response:

The gas bar and associated uses conform to the Zoning By-law regarding required setbacks and appropriate landscaping and siting have been provided. This will provide for a sufficient buffer from the neighbouring residential properties.

The gas bar has been designed to mitigate odour and any potential nuisances.

The Mississippi Valley Conservation Authority has reviewed the proposal and have no concerns related to the gas bar and Carp River Watershed.

Comment: Noise and Light

Comments were received regarding noise and light pollution from the proposed development on neighbouring properties, as well as noise from the increased traffic.

Response:

These details are reviewed through the Site Plan Control process and a site lighting certificate must be submitted by the applicant that demonstrates there will be no light spillage onto neighbouring properties.

A Noise Impact Assessment was submitted in support of the application and staff have reviewed the document and deemed it satisfactory.

Comment: Site Design, Setbacks and Zoning

Comments were received regarding moving the buildings closer to Terry Fox which would not be in keeping with the neighbourhood, which would thereby increase the parking lot size. The requested reduction in setbacks for the proposed building site will create a hazardous condition for traffic entering (exiting) Tillsonburg Street from (to) Terry Fox Drive.

Response:

Staff are of the opinion that moving the buildings closer to Terry Fox Drive represents good planning. The current required setbacks for the subject site represent the former City of Kanata zoning and not current design standards. Locating the buildings closer to Terry Fox Drive provides a better experience for pedestrians.

Comment: Transportation and Safety

Many of the comments submitted stated that another gas station as not warranted in this location and the new use would pose a safety risk for nearby residents.

Comments were also received regarding trucks utilizing Tillsonburg Avenue once they exited the site.

Response:

The applicant submitted a Transportation Impact Assessment, which staff have reviewed and found satisfactory. The applicant will be constructing a right turn auxiliary lane on Terry Fox Drive directly north of Kanata Avenue, which will allow vehicles to slow

down (or stop) out of the through-traffic lane before entering the site; this will increase the safety for pedestrians crossing the access.

Community Organization Comments and Responses

The Kanata Lakes Community Association submitted comments in opposition to the application.

Comment:

A new gas station at this intersection which has an unusual number of accidents is not a good idea, while there are three existing gas stations just 1 kilometre down the road.

Response:

The use of a gas bar is a permitted use on the subject property through Urban Exception 411. Furthermore, staff's review of the proposal does not take into account the number of surrounding gas bars.

Comment:

The proposed gas station plus car washing facility are too close to the existing houses.

Response:

The gas bar and car wash currently meet the required setbacks as outlined in the Zoning By-law.

Comment:

The intersection has at least one accident every two or three weeks.

Response:

The applicant submitted a Transportation Impact Assessment, which staff have reviewed and found satisfactory.

