

4. Zoning By-Law Amendment – 5331 Fernbank Road

Modification du Règlement de zonage – 5331, chemin Fernbank

COMMITTEE RECOMMENDATION

That Council approve an amendment to Zoning By-law 2008-250 for 5331 Fernbank Road to permit a large format retail development and associated uses of a car wash and gas bar, as detailed in Document 2.

RECOMMANDATION DU COMITÉ

Que le Conseil approuve la modification du Règlement de zonage 2008-250 visant le 5331, chemin Fernbank, afin de permettre l'aménagement de magasins de détail de grande surface et les utilisations connexes de lave-auto et de poste d'essence, comme il est décrit en détail dans le document 2.

DOCUMENTATION/DOCUMENTATION

1. Director's Report, Planning Services, Planning, Infrastructure and Economic Development Department, dated February 25, 2019 (ACS2019-PIE-PS-0025)

Rapport de la directrice, Services de la planification, Direction générale de la planification, de l'Infrastructure et du développement économique, daté le 25 février 2019 (ACS2019-PIE-PS-0025)

2. Extract of draft Minutes, Planning Committee, March 28, 2019

Extrait de l'ébauche du procès-verbal, Comité de l'urbanisme, le 28 mars 2019

3. Summary of Written and Oral Submissions to be issued separately with the Council agenda for its meeting of April 24, 2019, in the report titled, "Summary of Oral and Written Public Submissions for Items Subject to Bill 73 'Explanation Requirements' at the City Council meeting of April 10, 2019".

Résumé des observations écrites et orales à distribuer séparément avec l'ordre du jour de la réunion du 24 avril 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 du projet de loi 73, à la réunion du Conseil municipal prévue le 10 avril 2019 ».

**Report to
Rapport au:**

**Planning Committee
Comité de l'urbanisme
28 March 2019 / 28 mars 2019**

**and Council
et au Conseil
10 April 2019 / 10 avril 2019**

**Submitted on 25 February 2019
Soumis le 25 février 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 SOUTH (23) /
KANATA-SUD (23)**

File Number: ACS2019-PIE-PS-0025

SUBJECT: Zoning By-law Amendment – 5331 Fernbank Road

OBJET: Modification du Règlement de zonage – 5331, chemin Fernbank

REPORT RECOMMENDATIONS

- 1. That Planning Committee recommend Council approve an amendment to Zoning By-law 2008-250 for 5331 Fernbank Road to permit a large format**

retail development and associated uses of a car wash and gas bar, 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 Bill 73 'Explanation Requirements' at the City Council Meeting of April 10, 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 la modification du *Règlement de zonage 2008-250* visant le 5331, chemin Fernbank, afin de permettre l'aménagement de magasins de détail de grande surface et les utilisations connexes de lave-auto et de poste d'essence, comme il est décrit en détail dans 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 du projet de loi 73, à la réunion du Conseil municipal prévue le 10 avril 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

5331 Fernbank Road

Owner

Street Properties (983656 Ontario Limited)

Applicant

FoTenn Planning + Design, Carl Furney

Description of site and surroundings

The subject site is located at the northeast corner of Terry Fox Drive and Fernbank Road and is approximately 3.68 hectares in area and is currently vacant. To the north of the site is an undeveloped portion of the “Van Gaal” lands, which is slated for future residential development (current subdivision application D07-16-18-0027). To the south and east are low and medium density residential neighbourhoods. To the west, there are various large format commercial uses, as well as an automobile service station. Additionally, the southwest corner of the site is situated along the urban boundary, which culminates at the intersection of Fernbank Road and Terry Fox Drive, and continues running parallel with roads in their respective directions.

Summary of requested Zoning By-law amendment proposal

The property is zoned Business Park Industrial, Urban Exception 2411 (IP [2411]) in Zoning By-law 2008-250, which seeks to accommodate mixed office, office-type uses and low impact, light industrial uses in a business park setting, as well as allow for a variety of complementary uses such as recreational, health and fitness uses and service commercial to serve the employees and general public in the immediate vicinity, and passing traffic.

The purpose of the Zoning By-law amendment is to allow for the development of a large format retail hub, as well as the request to add gas bar and car wash as additional permitted uses. The proposed zone for the subject property is General Mixed Use (GM) with an exception that permits a gas bar and car wash as additional uses, as well as a required setback to any residential lot line for any building related to the car wash or gas bar.

The proposed development contemplates eight buildings, with a total gross leasable area of 8,332 square metres, and is to include retail buildings, a service station, car wash, and restaurants. The site will be accessible from two right-in/right-out points on Terry Fox Drive, and all movement accesses on both Cope Drive and Fernbank Road. All development on the site will be subject to a future application for Site Plan Control approval.

Brief history of proposal

The subject property has historically been referred to as the “Van Gaal Lands” and is part of a larger overall holding. The larger holding was previously part of a rezoning application (ACS2017-PIE-PS-0031) that proceeded to Planning Committee requesting expansion of the IP Zone to permit limited residential uses, further ancillary commercial uses and modifications to performance standards. The intent of the rezoning was to expand development opportunities under its former Official Plan designation.

This parcel was previously designated Enterprise Area, however, recent Official Plan Amendment 180 reviewed the City’s employment lands and redefined employment land needs of the City. As such, the land was redesignated General Urban Area and is no longer considered viable land for employment opportunities.

DISCUSSION

Public consultation

Notification and public consultation was undertaken in accordance with the Public Notification and Consultation Policy approved by Council for development applications.

The applicant held an open house on November 26, 2018 to present the development to the community. During this meeting, displays boards of the proposal were available for viewing, followed by an open question and answer period. Approximately 40 individuals attended. Staff, as well as Councillor Hubley, also attended the meeting to field questions on process and next steps.

Changes were made since the original submission based on staff and community feedback. The original proposal requested relief from the interior side yard setback from the required 7.5 metres to 6.0 metres. The applicant has agreed to remove the request for a reduced interior side yard setback and will provide 7.5 metres as required by the current IP zoning minimums.

A further change was made regarding the location of the service station in relation to the interior lot line that abuts the residential community to the east. Originally, the concept plan illustrated a different configuration for the layout of the car wash, service station and associated pumps. A revised concept plan was prepared that has altered the layout of the gas bar and car wash that ultimately moves the gas pumps closer to Terry Fox Drive and proposes a 15 metre setback for the service station in relation to the interior lot line.

Approximately 25 comments were submitted during the application review process. Few comments were submitted in support, with the majority in opposition based on the request to add a gas bar and car wash as permitted uses, the request to rezone to GM from the current IP zone to permit a retail development, and specific concerns regarding site layout.

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.

Official Plan Amendment 150 introduced new policies for the General Urban Area, however the amendments introduced do not have any significant changes relevant to this 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 current 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 off the current 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.

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

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

As discussed above, this proposed Zoning By-law amendment has been evaluated with regard to the policies of the current Official Plan and those policies as proposed by OPA 150, and has been found to conform with all applicable policies.

With regard to design objectives and compatibility policies, the proposed development respects the character of the existing area by developing a vacant parcel with uses that are ground oriented and transition appropriately to the community to the east. Appropriate setbacks and massing have also been proposed, which respects the low rise nature of development typical for commercial developments in Kanata.

Furthermore, the proposed gas bar conforms to the urban design compatibility policies concerning building height and massing, landscaping, and screening of loading areas and outdoor storage areas. Vehicular access to the site is to be from Fernbank Road and Cope and Terry Fox Drives, which are intended to serve high volumes of traffic. The buildings are low profile (i.e., one storey) in keeping with neighbouring properties, are oriented to Terry Fox Drive and the site is to be extensively landscaped to enhance the pedestrian experience and screen vehicular areas.

The proposed development of a gas bar conforms to the policies for the General Urban Area by locating this development and new uses on the periphery of established residential neighbourhoods.

A site-specific exception is recommended to permit the requested uses of a gas bar and car wash within the current GM zone, which supports the General Urban Area designation. The exception will further require any building related to the car wash or gas bar to be located at a minimum of 15 metres from any lot line abutting a residential zone in order to situate the gas pumps closer to Terry Fox Drive and further from the existing residential community. Additionally, these exceptions address the functioning of the site as a gas bar and provide more flexibility for the building design, which must incorporate safety measures related to gas bar operations such as limiting customer access and maintaining visual sight lines to the gas pumps.

The current concept plan has been reviewed against the Urban Design Guidelines for Gas Stations and staff are satisfied that the concept plan can achieve the vision as set out in the Guidelines. As the Urban Design Guidelines for Gas Stations identifies, there are challenges to developing a gas station that includes all aspects of good urban design. The proposed gas bar on the site incorporates many elements of the guidelines

including extensive landscaping, compatibility with the existing context, setbacks and building orientation. However, at the time of this report proceeding to Planning Committee, a Site Plan Control application had yet to be filed with the City. This document will be further reviewed at the time a Site Plan Control application has been submitted to ensure the proposal continues to meet the Guidelines.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

COMMENTS BY THE WARD COUNCILLOR

The Ward Councillor is supportive of this application; however, he has reservations regarding the gas station. The Councillor appreciates the mitigation measures that staff has implemented in order to move this file forward.

LEGAL IMPLICATIONS

In accordance with Bill 139, if the proposed zoning by-law is adopted, it can only be appealed on the basis of inconsistency with the Provincial Policy Statement or lack of conformity with the official plan. Were the zoning by-law appealed, the preparation of the necessary documentation for the Local Planning Appeal Tribunal and the making of submissions to the Tribunal could be done within staff resources.

If the zoning amendment is refused, reasons must be provided. For an appeal of a refusal of a zoning application to succeed, the appellant must first show that the existing zoning is inconsistent with the Provincial Policy Statement and/or does not conform to the Official Plan. Due to the limited timeframes now associated with Local Planning Appeal Tribunal matters, the City Clerk and Solicitor Department would seek to retain an external planner to provide an affidavit in support of the refusal for the initial Tribunal review of the item should an appeal of the refusal be forthcoming.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report.

ASSET MANAGEMENT IMPLICATIONS

There are no 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

Design considerations with respect to accessibility are generally addressed through the Site Plan Control review process and are not a key consideration related to a Zoning By-law amendment.

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 the complexity of issues associated with engineering and negotiations regarding setbacks.

SUPPORTING DOCUMENTATION

Document 1 Location Map

Document 2 Details of Recommended Zoning

Document 3 Consultation Details

Document 4 Concept Plan

CONCLUSION

The proposed development is located in an area designated as General Urban Area in the Official Plan and this land use designation permits retail and automobile-oriented uses and, more specifically, gas bar uses. The proposed retail development and

associated gas bar and car wash complies with the Official Plan policies and, as such, the Department is recommending the Zoning By-law amendment be approved.

DISPOSITION

Legislative Services, Office of the City Clerk and Solicitor to notify the owner; applicant; Ottawa Scene Canada Signs, 1565 Chatelain Avenue, Ottawa, ON K1Z 8B5; Krista O'Brien, Tax Billing, Accounting and Policy Unit, Revenue Service, Corporate Services (Mail Code: 26-76) of City Council's decision.

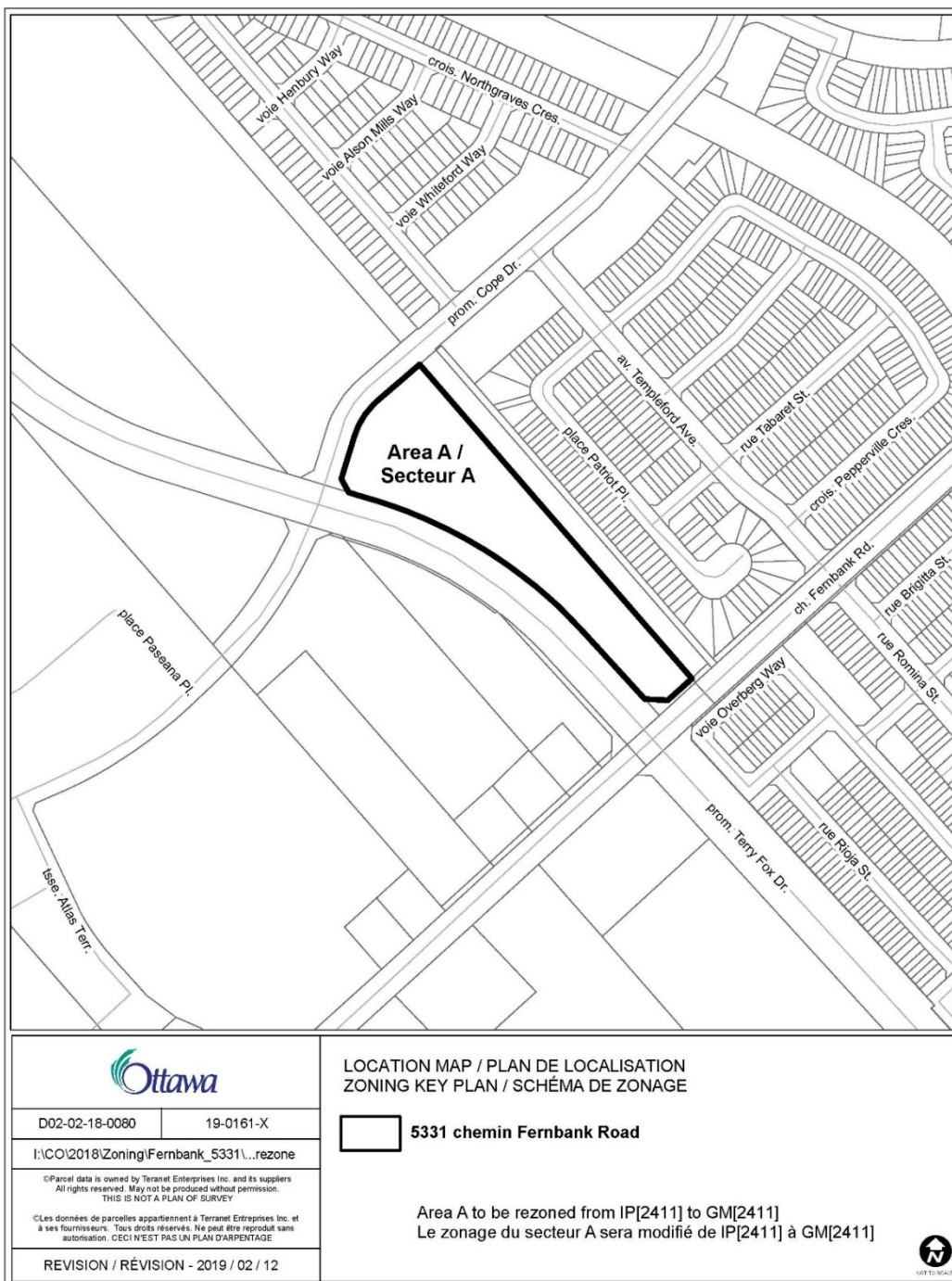
Zoning and Interpretations Unit, Policy Planning Branch, Economic Development and Long Range Planning Services to prepare the implementing by-law and forward to Legal Services.

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 5331 Fernbank Road:

1. Rezone the lands as shown in Document 1.
2. Amend Section 239, Urban Exception 2411, as follows:
 - a. In Column III add 'car wash' and 'gas bar' as additional permitted uses;
 - b. In Column IV remove 'car wash' and 'gas bar' from the list of prohibited uses;
 - c. In Column V delete its contents in its entirety and replace it with the following provisions:
 - i. Any building accessory to a car wash and/or gas bar and all ancillary uses must be located a minimum of 15 metres from any lot line abutting a residential zone.
 - ii. Minimum interior side yard of 7.5 metres.

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 November 27, 2018 at the Eva James Community Centre. Approximately 25 comments were submitted during the application review process. Few comments were submitted in support, with the majority in opposition based on the request to add a gas bar and car wash as permitted uses, the request to rezone to GM from the current IP zone to permit a retail development, and specific concerns regarding site layout.

Public Comments and Responses

One property owner provided comments in support of the proposed Zoning By-law amendment as follows:

Supportive of the proposal. Project is beneficial to the ward and neighbourhood. Looking forward to having a gas station in closer proximity, as well as additional retail and restaurants.

Comment

The proposed development will diminish property values.

Response

There is no evidence that this type of development causes property values to decrease.

Comment

This is quite a negative, invasive, and volatile change that will greatly impact our neighbourhood and the families who take pride in ownership and enjoy the non-intrusive surroundings. The current designation of General Urban Area which would serve the community by prohibiting obnoxious or hazardous impacts and allowing for a variety of recreational, health, and fitness uses to service the community is a much better, family-oriented, and welcomed zone. Keeping the General Urban Area is much more suited to the families surrounding this area, including my own, and could still provide a healthy economic impact while beautifying our neighbourhood and keeping families safely and comfortably in their homes.

Response

The current designation of General Urban Area is not changing and this designation permits the use of gas bar and car wash.

Comment

Odours and emissions from the gas station, the car wash and any commercial kitchens are incompatible with the homes backing on to the property. Emissions will prevent nearby homeowners from enjoying their properties.

Response

Emissions from the proposed gas bar and mitigation strategies will be reviewed through the Site Plan Control process.

Comment

The proposed gas station/car wash/restaurant will eliminate privacy in yards backing on to the subject site and severely impact quiet neighbourhood.

Response

The requested relief for a reduced interior side yard setback, which abuts the existing residential community, has been removed and the current requirement of 7.5 metres will be adhered to. The pathway between the subject site and existing homes also serves as a secondary separation measure in order to ensure privacy. Furthermore, details regarding fencing and landscaping will be further reviewed during the Site Plan Control process to protect resident's privacy.

Comment

Commercial patios would suggest that there might be licensed establishments at this development, which would mean disruption in the form of noise until late evening or early morning, which again is incompatible with the adjacent homeowners.

The patio proposed for a restaurant will produce noise and reduce privacy for those with backyards backing this development.

Response

Any noise activity will be subject to the City's noise by-law.

The applicant has revised the location of the patio and relocated it internally to the site, thereby having less of an impact on neighbouring properties.

Comment

The reduction of the side yard from 7.5 metres to 6 metres is too close to the residents' properties. The setback should be maintained as per the bylaw. There is no requirement for special treatment at the impact of so many homes in terms of greenspace and vantage points/sunlight/privacy.

Response

The applicant has agreed to remove this request and abide by the current requirement of 7.5 metres.

Comment

The Urban Design Guidelines for Gas Stations are not being upheld through the proposed development. The character of the neighbourhood is not being enhanced. The development is not contributing to a high quality public space. There are many children in the area that would be put in danger due to the unsafe and busy environment created through the proposed development. Lighting and car wash fans would cause impact on adjacent land uses.

Response

Staff believe that the Urban Design Guidelines for Gas Stations are being met with this application, however, further consideration for the Guidelines will be given through the Site Plan Control process.

Comment

We purchased here due to the quiet location and the openness of the surrounding area. Since we have moved in, additional residential houses have been constructed to the South of us, limiting our open view concept. Currently, the only open concept is towards Terry Fox / Fernbank CIBC. If this rezoning occurs, we will lose what is left of our openness.

Response

This land in question is not dedicated as open space or a natural area. The designation of General Urban Area permits development opportunities such as the one proposed.

Comment

Development will cause increased traffic.

Response

The applicant submitted a Transportation Impact Assessment in support of the application that staff have deemed satisfactory for the zoning by-law amendment application. Further requirements for transportation studies will be required through the Site Plan Control process. A detailed review of the access and egress to the site will be undertaken during the Site Plan Control process.

Comment

Do not want a station or car wash in view from our back yard. The light from the existing Walmart sign already shines in windows at night.

Response

Lighting will be reviewed through the Site Plan Control process and a Site Lighting Letter will be required to ensure the development's lighting meets city standards.

Comment

Homeowners in Trailwest are subject to covenants, which prohibit swimming pools due to soil dynamics. Each home is built on a rafted foundation due to the same issue. The same consideration should hold true for underground gasoline tanks.

Response

During the Site Plan Control process the applicant will be required to submit a geotechnical investigation that will determine if the soil is capable of supporting underground gasoline tanks.

Document 4 – Concept Plan

