

Corporate Report

NO: L010

COUNCIL DATE: June 21, 2004



REGULAR COUNCIL – LAND USE

TO: Mayor & Council DATE: June 16, 2004

FROM: General Manager, Planning and Development FILE: 0340-01
7900-0305-00
7900-0305-01
7901-0313-00

SUBJECT: Policy for Service Station Site Demolition,
Decommissioning and Remediation

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information;
2. Adopt the policy attached as Appendix I, entitled "Policy for Service Station Site Demolition, Decommissioning and Remediation" (the "Policy"), that will act to ensure that service station sites that are in the process of being decommissioned and remediated remain attractive from the perspective of the surrounding lands and streets;
3. Add the following conditions of approval to the rezoning application (File No. 7900-0305-00) related to the site at 10376 – 152 Street, requiring Imperial Oil Ltd. to:
 - (a) register a Restrictive Covenant on the title of the site at 15196 – 104 Avenue (i.e., the site proposed to be decommissioned) that commits the owner to fully comply with the requirements of the new Policy in relation to that site,
 - (b) make application for a Development Permit for the site at 15196 – 104 Avenue in accordance with the Policy, and
 - (c) post an appropriate security in favour of the City to ensure that they proceed with due haste to complete (a) and (b) above and to obtain a Development Permit for the site at 15196 – 104 Avenue in accordance with the requirements of the Policy,

all of which must be completed prior to Council considering final adoption of the rezoning by-law related to the property at 10376 – 152 Street (File No. 7900 0305-00); and

4. Add a condition of approval to the rezoning application (File No. 7901-0313-00), related to the Petro-Canada site at 13643 - 80 Avenue, requiring Petro-Canada to obtain a Development Permit in accordance with the above Policy for the site at 13576 King George Highway, prior to Council considering final adoption of the rezoning by-law related to the property at 13643 – 80 Avenue (File No. 7901 0313-00).

INTENT

At its Regular Council - Land Use meeting on April 19, 2004, Council directed that staff formulate a policy to address

the landscaping and maintenance of service station sites that are being decommissioned and remediated. This report responds to that directive of Council.

BACKGROUND

At the April 19, 2004 Regular Council – Land Use meeting, Council considered two associated rezoning applications by Imperial Oil Ltd. for sites in the Guildford Town Centre. One of the applications (File No. 7900-0305-00) that relates to the property at the south-east corner of 152 Street and 104 Avenue, known as 10376 - 152 Street, proposes to rezone the site from CG-1 to CD to facilitate the redevelopment of the site to accommodate a gasoline service station, a convenience store with a drive-through restaurant and a car wash facility. The second application (File No. 7900-0305-01) that relates to the property at the southwest corner of this same intersection, proposes to rezone the site from CG-1 to C-15 to facilitate the decommissioning of an existing service station development (Appendix II). Following Council's consideration of the application related to the property on the southwest corner of the intersection of 152 Street and 104 Avenue (File No. 7900 0305 01), Council passed the following resolution:

"That staff develop a policy framework for decommissioning gas stations". (RES.R04- 953)

The Public Hearing for each of the two rezoning by-laws for these respective applications was held on May 3, 2004. At that time, the applicant, Mr. Tim Ankenman, proposed on behalf of his client, Imperial Oil Ltd., a four-step process to address Council's concerns regarding remediation and landscaping. The four-step process proposed is described in the following:

Step One:

Initial demolition, soil testing, test pits, soil and backfill removal, remediation system design (if required depending on the extent of environmental impact), final design and approvals of landscaping and installation of remediation equipment (if necessary). Step One typically takes six months, subject to environmental findings following demolition, soil sampling and finalized and approved system design by government agencies, including the City of Surrey.

Step Two:

Installation of landscaping, integrated with remediation equipment and on-going monitoring, if necessary. Installation of hard and soft landscaping may take no more than three to four weeks once Step One is completed.

Step Three:

On-going monitoring and soil remediation until a Certificate of Compliance is obtained from the Ministry of Water, Land and Air Protection (the "MWLAP"). Ongoing maintenance of landscaping shall be provided by the owner/applicant. Typically Step Three would take one to five years, but could go on longer.

Step Four:

Land sale and ultimate development of a new building.

With the proposed decommissioning steps and processes, staff is concerned with the timing of the installation of landscaping and screening. Since the design of the site landscaping is proposed to be part of, not prior to Step One, there could be a period of six months or longer during which the site may be left in an unsightly state.

At its Regular Council - Land Use meeting on May 3, 2004, Council considered an application by Petro-Canada to rezone (File No. 7901-0313-00) the existing service station site at the northeast corner of King George Highway and 80 Avenue to allow for that site to be redeveloped, including a new service station. Council tabled the application due to a serious concern about the unsightly condition of two other Petro Canada owned sites, located at 13576 King George Highway (108 Avenue) and 13977 Fraser Highway, respectively. At its Regular Council - Land Use meeting on June 7, 2004, Council was advised that Petro-Canada had committed to complying with the City's yet to be approved service station decommissioning policy for the Petro Canada-owned site on King George Highway at 108 Avenue and that Petro-Canada had submitted a rezoning application for the site on Fraser Highway at 140 Street (File No. 7904-0178-00) with a view to proceeding expediently to develop a new service station on that site. As a result, Council approved the rezoning by-law for the site at 80 Avenue and King George Highway to proceed to Public

Hearing on June 21, 2004 (Appendix III).

DISCUSSION

In almost all circumstances when a service station is closed and demolished, the site must undergo a remediation process in compliance with the *Waste Management Act*, R.S.B.C. 1996, c. 482, prior to its redevelopment. The remediation process involves removing contamination from the site and requires the approval of a remediation process and issuance of a Certificate of Compliance by the MWLAP. The process is quite lengthy, depending on the extent of on- and off-site contamination. As such, closed gasoline service station sites, in many circumstances, remain vacant and idle for a number of years.

In general, service station sites in the City of Surrey, which have been closed and are being remediated, are quite unsightly. While the structures on these sites, such as canopies, gas pumps and kiosks have been demolished, the sites have been left with little or no landscaping. In some cases, a chain link fence is installed around the site. However, the fence does not deter the dumping of garbage on the site. In most circumstances, the owner undertakes very little maintenance. The present appearance and condition of these sites is a major concern, especially in consideration of the fact that they are usually located at prominent street corners and along major arterial streets. They are having a significant impact on the image of the City.

At the Public Hearing for the Imperial Oil sites at 152 Street and 104 Avenue, the applicant stated that the timing for the installation of landscaping on the site that they are proposing to close and decommission is quite uncertain and may only occur six months after demolition. He further advised that remediation design and approval, as well as soil testing are required and will take six months to complete. They contended that landscaping could not be finalized until they are aware of the extent and scope of the remediation process.

Current Procedures for Closing Service Station Sites

Existing service station sites are closed and decommissioned under two scenarios. These two scenarios are:

1. At the initiative of the owner; or
2. In conjunction with a development application on the same site or for a separate site (such as is occurring with Imperial Oil on 152 Street at 104 Avenue).

In most cases, the sites are closed under scenario 1, due to economic reasons (i.e., the site has become non-competitive in the market).

Currently, when a service station site is closed, the owner simply closes the business and applies for permits to decommission the site, including a demolition permit from the City to remove the buildings, structures and tanks from the site. The site demolition and decommissioning process usually involves the following:

- Installation of chain link fence for security purposes;
- Demolition of existing structures;
- Removal of soil and backfill;
- Soil testing; and
- Installation of remediation equipment.

The City becomes aware of the closure only when the owners apply for a demolition permit. The conditions for the issuance of the demolition permit do not include any requirement in relation to the aesthetic condition of the site. Disposal of debris and materials from the demolished buildings and structures is addressed by requiring the owners to post a demolition bond. The ultimate appearance and condition of the site are left to the property owners and, to some extent, can be controlled by the City after the fact through the administration of the Community Improvement and Unsightly Property By-law.

After the structures are demolished, the owners can proceed to obtain approval of a remediation plan from the MWLAP to allow them to undertake an independent remediation. In cases where off-site (such as adjacent City roads) contamination has occurred, the owners are also obligated to undertake off-site remediation. Applications for the requisite permits, such as City Road and Right-of-Way and Traffic Obstruction Permits to allow off-site

remediation works, are forwarded to the City. The off-site remediation process does not, at the present time, provide an avenue for City staff to impose conditions for the improvement of the closed service station site.

The City has an opportunity to ensure that the site of closed service station is left in an aesthetically pleasing condition when the closure of the service station site is linked with a proposed development on the same site or on a separate site. In these cases, the City can impose specific conditions to ensure that the closed service station site does not end up being unsightly. For instance, final approval on the site seeking a rezoning or a Development Permit is held until a Restrictive Covenant is registered on the site being decommissioned, which sets requirements such as landscaping and related security deposits.

However, currently there is no established process by which the owners would present their decommissioning and landscape plans to Council and under which implementation of the approved plans may be undertaken with force and effect. Although the Restrictive Covenant approach may provide a commitment on the part of the owner to perform certain obligations, a Restrictive Covenant alone would not provide sufficient means to achieve Council's objectives.

Proposed Development Permit Process

To ensure that a plan is designed and documented and the appropriate landscaping and screening are secured, installed and maintained, it is recommended that the owner of a service station site that is being closed be required to apply for and obtain a Development Permit prior to receiving a demolition permit from the City. In the case where decommissioning of a service station site is associated with a new development on the same site, or on a separate site owned by the same owner, it is recommended that the owner be required to apply for and obtain a Development Permit for the decommissioned site before final approval of the associated rezoning by-law or Development Permit for the proposed new development.

For each Development Permit application, staff will prepare a Planning Report to Council, documenting the proposed decommissioning plan and present the proposed landscaping and screening plans, complete with conditions for approval of the Development Permit, including, among other things, security deposits to ensure the maintenance of the Development Permit conditions for the entire decommissioning and remediation process.

As an added security, to ensure performance on the part of the owners and due to the fact that the decommissioning and remediation process may take a number of years to complete, it is recommended that a Restrictive Covenant be registered on the title of the site that is subject to decommissioning and remediation. The Restrictive Covenant will document the owner's responsibility to install and maintain the landscaping and screening on site in accordance with the Development Permit, will document the security requirements and will allow the City to enter the site to install and/or maintain the landscaping works in accordance with the Development Permit at the owner's cost if the owner fails to perform satisfactorily.

The recommended Policy for service station demolition, decommissioning and remediation is presented in Appendix I.

On June 14, 2004, City staff met with representatives of the major oil companies to discuss the objective and contents of the proposed Policy. The meeting participants generally supported the objective of ensuring that service station sites that have been closed and are undergoing remediation be maintained in an aesthetically pleasing condition. The meeting participants made several suggestions to fine-tune the wording of the Policy, which have been incorporated. However, the oil company representatives expressed concern that they had insufficient time to review the proposed Policy. Staff advised that further fine-tuning of the Policy, after it is adopted by Council, would be possible either as a result of further comments from the oil companies and/or based on experience gained through the implementation of the Policy.

Implementation of the New Policy with respect to In-stream Development Applications

Petro-Canada Application for the Site at 13643 – 80 Avenue

The rezoning application by Petro-Canada, related to the property at 13643 – 80 Avenue (File No. 7901-0313-00) is still at an early stage of the approval process. It is recommended that Council add a condition that a Development Permit be issued for the site at 13576 King George Highway prior to final adoption of the rezoning by-law for the property at 13643 – 80 Avenue. This condition can be added during Council consideration of that application on June 21, 2004. Petro-Canada has agreed, in writing, to comply with the requirements of the new Policy with respect to the

site at 13576 King George Highway.

Imperial Oil Application for the Site at 10376 – 152 Street

The rezoning by-law related to the property at 10376 – 152 Street (File No. 7900 0305 00) was granted Third Reading on May 3, 2004. The rezoning by-law for the site at 15196 – 104 Avenue, that is proposed to be decommissioned (File No. 7900 0305 01), also received Third Reading on the same day. It is recommended that Council add the following conditions to the rezoning application (File No. 7900-0305-00) related to the site at 10376 – 152 Street requiring, Imperial Oil Ltd. to:

- (a) register a Restrictive Covenant on the title of the site at 15196 – 104 Avenue (i.e., the site proposed to be decommissioned) that commits the owner to fully comply with the requirements of the new Policy in relation to that site;
- (b) make application for a Development Permit for the site at 15196 – 104 Avenue in accordance with the Policy; and
- (c) post an appropriate security in favour of the City to ensure that they proceed with due haste to complete (a) and (b) above and to obtain a Development Permit for the site at 15196 – 104 Avenue in accordance with the requirements of the Policy,

all of which must be completed prior to Council considering final adoption of the rezoning by-law related to the property at 10376 – 152 Street (File No. 7900-0305-00).

Other Sites that are Undergoing Remediation

At the Regular Council – Land Use meeting of June 7, 2004, Council requested an inventory of former gas station sites that are in the process of being decommissioned and remediated. This information is being collected and will be forwarded to Council in due course.

CONCLUSION

Based on the information in this report, it is recommended that Council adopt the policy attached as Appendix I entitled "Policy for Service Station Site Demolition, Decommissioning and Remediation" that will act to ensure that service station sites that are in the process of being decommissioned and remediated remain attractive from the perspective of the surrounding lands and streets. It is also recommended that Council add the following conditions of approval to the rezoning application (File No. 7900-0305-00) related to the site at 10376 – 152 Street requiring Imperial Oil Ltd. to:

- (a) register a Restrictive Covenant on the title of the site at 15196 – 104 Avenue (i.e., the site proposed to be decommissioned) that commits the owner to fully comply with the requirements of the new Policy in relation to that site;
- (b) make application for a Development Permit for the site at 15196 – 104 Avenue in accordance with the Policy; and
- (c) post an appropriate security in favour of the City to ensure that they proceed with due haste to complete (a) and (b) above and to obtain a Development Permit for the site at 15196 – 104 Avenue in accordance with the requirements of the Policy,

all of which must be completed prior to Council considering final adoption of the rezoning by-law related to the property at 10376 – 152 Street (File No. 7900-0305-00).

It is further recommended that Council add a condition of approval to the rezoning application (File No. 7901-0313-00) related to the Petro-Canada site at 13643 80 Avenue, requiring Petro-Canada to obtain a Development Permit in accordance with the new Policy for the site at 13576 King George Highway, prior to Council considering final adoption of the rezoning by-law related to the site at 13643 80 Avenue (File No. 7901-0313-00).

Murray Dinwoodie
General Manager
Planning and Development

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Attachments:

- Appendix I Proposed Gasoline Service Station Site Decommissioning Policy
- Appendix II Location of Imperial Oil Ltd.'s Development Proposals
- Appendix III Location of Petro-Canada's Development Proposal 7901-0313-00

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Appendix I

**POLICY FOR SERVICE STATION SITE DEMOLITION,
DECOMMISSIONING AND REMEDIATION**

Objective:

This Policy is focused on ensuring that service station sites that are in the process of being demolished, decommissioned and/or remediated remain attractive from the perspective of the surrounding lands and streets during these processes.

Application of Policy:

1. This Policy applies to any existing service station site that is proposed to be or is in the process of being demolished, decommissioned and/or remediated either:
 - (a) through the owner's initiative and not associated with any redevelopment of the site or any other site; or
 - (b) in association with a development proposal on the same site or on a separate site owned by the same owner.
2. This Policy will be implemented in conjunction with and in compliance with the requirements and procedures of the *Waste Management Act*, R.S.B.C. 1996, c. 482 and Regulations and with the requirements of the By-laws, regulations and other policies of the City of Surrey.

Process:

1. Where an owner of a service station desires to demolish, decommission and/or remediate an existing service station development, the owner shall apply for a Development Permit to the City. The application must outline the general activities involved in the various stages of the demolition, decommissioning and remediation process and include a detailed plan(s) for site screening and landscaping to ensure that the site remains in an aesthetically pleasing condition from the perspective of the fronting streets and the surrounding lands during the entire demolition, decommissioning and remediation process.
2. In the case of 1(a) under the "Application of Policy" section, an application for and issuance of the Development Permit must be completed before a demolition permit will be issued for the subject service station site.
3. In the case of 1(b) under the "Application of Policy" section, an application for and issuance of the Development Permit is to be completed before Council considers final approval for the proposed development on the same site or on a separate site.

Components of the Development Permit:

The Development Permit required under this Policy shall include the following components:

1. A statement or plan to outline the various stages of the decommissioning and remediation process for the subject site and, wherever possible, the approximate timing for structure demolition and tank removal, site clearing, soil testing and remediation, and site restoration.
2. A landscaping and screening plan(s) appropriate for the location context of the subject site and the decommissioning and remediation activities contemplated. Without limiting the generality of the intent of this Policy to ensuring that the site is maintained in an aesthetically pleasing condition at all times during site decommissioning and remediation process, the landscape and screening plans will include:
 - A planting strip of not less than 1.5 metres in width along the site boundary;
 - The planting strip must include appropriate planting materials with sufficient height and depth to cause effective screening of all demolition, soil testing and other decommissioning and remediation activities and equipment within the site at all times during the year and is to be designed to provide colours in different seasons, without compromising the effect of the landscape design including the application of CPTED principles;
 - Perimeter fencing may be installed for security and safety reasons, provided however that such fence is installed in a way that the visual impact of the fence is minimized by planting materials or other means to screen the fence;
 - Within the perimeter planting strip, the remainder of the site must be improved with a combination of landscaped ground treatments that will remain in an aesthetically pleasing condition without requiring significant on-going maintenance;
 - Minor modifications to the landscape and screening plan(s) to accommodate the activities associated with the various stages of the decommissioning and remediation process will be considered and are subject to approval of the General Manager, Planning and Development.
3. The owner will be required to satisfy any other requirement or condition necessary to achieve the aesthetic objective of this Policy for the specific site, as required by Council in association with the Development Permit approval.
4. The owner will be required to post a security in advance of the Development Permit approval in the form of cash or a letter of credit in an amount equal to 150% of the costs of implementing the conditions of the Development Permit including, but not limited to, the installation of all necessary landscaping and fencing and to ensure reasonable on-going maintenance of the site during the decommissioning and remediation processes. The City will retain this security until the decommissioning and remediation processes for the site are complete.

Implementation:

1. Applications for Development Permit, as required under this Policy, shall be reviewed and processed in accordance with the Development Permit requirements and procedures established and varied by the City from time to time. The base Development Permit fee will apply.
2. Due to the fact that service station decommissioning and remediation is a lengthy process, in most circumstances taking a number of years to complete, a Restrictive Covenant under Section 219 of the *Land Title Act*, R.S.B.C. 1996, c. 250 must be registered against the title of the property to bind the owner of the site to satisfying the requirements of the approved Development Permit in a satisfactory manner over time. The Restrictive Covenant will include:
 - A clause that requires the owner to complete, to the satisfaction of the General Manager, Planning and Development, all the necessary landscaping and fencing works as stipulated in the approved Development Permit within a specified period of time and to require the owner to keep and maintain the landscaping and fencing works in good and healthy condition for the full term of the site decommissioning and remediation process; and
 - A clause that allows the City, using its employees or contractors, to enter the subject site, after serving the owner with written notice regarding any deficiency with respect to the completion of or the condition of the site landscaping, screening and fencing, to complete or to correct the condition of the landscaping, screening and fencing works and/or to maintain the landscaping, screening and fencing works due to non compliance by the owner with the requirements of the approved Development Permit and to charge the owner for the costs incurred

plus an appropriate administration cost or to recover the costs incurred by the City from the security that is posted with the City in support of the Development Permit or to recover the costs as an additional charge against the property on the annual property tax assessment.

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