

April 30, 2020

Steven Chew

Senior Planner
Planning Services
1211 John Counter Boulevard
Kingston, ON K7K 6C7

Via Email: schew@cityofkingston.ca

RE: Ongoing Activities at 1174 McAdoo's Lane – Zoning and Site Plan Compliance

Dear Mr. Chew,

We have been retained by a concerned citizens group to review zoning by-law amendment (D14-011-2019) at 1174 McAdoo's Lane. The purpose of this letter is to outline several areas of concern relating the proposed zoning by-law amendment and reiterate the magnitude of ongoing unauthorized activities and the immediate risk they impose to adjacent properties. While we believe the lands abutting McAdoo's Lane provide a viable opportunity for rural industrial development, measures need to be taken by the municipality to prevent the presence of unauthorized activities and to establish a unified approach toward industrial development in this area. Until the owners have undertaken the appropriate studies and approval process, it is appropriate to enforce a cease and desist on activity on this property to mitigate any further negative impacts.

The property located at 1174 McAdoo's Lane has been subject to a variety of planning applications over the years, including a Site Alteration Permit (SAP-003-2016), which expired on July 13, 2018, and most recently an application for zoning by-law amendment (D14-011-2019). We note that the City was previously made aware of the ongoing unauthorized activities taking place on the subject site in 2017, when they intervened to enforce a cease and desist order. Since 2017, activities on the subject site have resumed and, in some cases, expanded without proper approval. The site has been subject to a significant amount of unauthorized site alteration and filling activities resulting in an increased level of industrial creep. A review of aerial imagery identifies several matters of concern, including the following:

- / Areas of site alteration have extended beyond the limits of the site alteration permit or are grossly inaccurate. As a result, we don't know how the municipality could close the site alteration permit without extensive examination and determination of the totality of site alteration;
- / Expansion of non-conforming explosive storage on the northern portion of the site, which is an ongoing issue first identified in 2012;
- / Increased area of site alteration on the northern portion of the site, zoned General Agriculture 'A2', further contributing to the scale of industrial creep toward neighbouring residential uses and environmental protection areas;
- / Removal of significant woodlands with no indication that trees have been replaced elsewhere;
- / Significant increase in the area of scraping and filling;
- / The presence of several wells in the area, including monitoring wells, due to previous contaminated soil being brought to the property, raising concerns of contamination; and
- / The presence of sensitive uses in the area that will be subject to increased noise levels as a result of the proposed development, resulting in loss of enjoyment of residential properties.

The current zoning by-law amendment application seeks to rezone a southern portion of the subject site from Restricted Agriculture Zone 'A1' to site-specific Waste Disposal Industrial 'M4-X' Zone. As identified above, the area subject to the proposed zoning amendment is currently operating as if the zoning has been approved, without

the preparation of key supporting studies to identify the potential impacts and mitigation measures. The unauthorized activities taking place on the subject lands do not align with the municipality's goals for sustainability, or Council's climate change initiatives, through which Kingston has declared a climate emergency. Climate action requires a City-wide response, and the unauthorized activities taking place on the subject site directly counteract the initiatives being taken by the city. The subject site has seen vast amounts of unauthorized site alteration over the years, extending far beyond limits of the site alteration permit, presenting immediate impacts to neighbouring properties, sensitive land uses, and surrounding woodlands.

The current zoning by-law amendment application has been submitted without proper technical consideration to address the identified concerns. It is imperative that this application be reviewed in greater detail, and that additional supporting information be submitted in support of the proposed development. At a minimum, we strongly suggest that the following supporting studies be prepared by qualified individuals prior to proceeding with the proposed zoning amendment application:

- / Environmental Impact Study (EIS);
- / Species at Risk Assessment (SAR);
- / Noise Impact Study; .
- / Tree Inventory Study;
- / Tree Preservation Plan;
- / Archaeology Study;
- / Traffic Study; and
- / Hydrogeological Study.

Without proper technical considerations, it is difficult to determine the potential impacts of the proposed development on neighbouring properties. We encourage staff to require the applicant to complete an Environmental Impact Study in support of the subject application. Both the authorized and unauthorized activities taking place on the subject site impose potential environmental concerns to the subject lands and the surrounding area. Increased filling on the subject lands has significantly altered the grading of the site, causing drainage to flow onto the adjacent properties to the north, east, and south. It is critical that the Environmental Impact Study be completed over 4-seasons, to determine the full extent of potential environmental impact. Additionally, we strongly suggest that a Species at Risk Assessment be included as part of the EIS, to determine and evaluate the habitat potential of the subject lands, as there are several identified areas of significant and contributory woodlands on the subject site and in the surrounding area.

While we are pleased to see that the current application contemplates that the treed areas will be maintain, we are concerned that activity immediately adjacent to the treeline will result in the degradation of the treeline over time (see images showing clearing for explosive storage immediately adjacent to the zoning application). There are no measures in the proposed zoning to protect the significant woodland within the area that is to be rezoned. The woodland should be placed in an Environmental Protection (EP) or Open Space (OS) zone and a buffer from this zone should be incorporated into the zoning amendment to provide the City with a mechanism of ensuring tree preservation through the site plan control process, above and beyond the tree by-law. Additionally, the completion of a tree inventory and preservation plan should be prepared by a qualified professional to establish a formal record of the current vegetation on the subject property, and to provide suitable mitigation measures to prevent the risk of gradually reducing the extent of the significant woodland. The aerial review demonstrates that substantial areas of woodland have been cleared from the subject site, a majority of which has proceeded without proper approvals or replanting. As such, we find it imperative that a tree preservation plan be prepared for the subject site to ensure that a holistic approach can be upheld for all future activities on the subject site.

Additionally, we note that the Planning Justification speaks to the presence of a "grave site towards the north west corner of the property". In this regard, we suggest that the applicant provide evidence to confirm the location of the grave site, to ensure it is situated outside of the area of proposed re-zoning. Admitting there is a grave site on the property suggests that an Archaeology Study be prepared and submitted in support of the proposed re-zoning.

Given the relatively large area (approximately 30 acres) subject to the proposed re-zoning, one can anticipate that traffic volumes will increase as a result of the increased area of operation. A Traffic Impact Study should be required to examine the potential effects of the proposed development on the existing road network. Safety concerns are well known due to the alignment of McAdoo's Lane with Montreal Street which presents potential safety concerns due to its geometrics, lack of traffic lights and proximity to the 401. These issues will be heightened when an additional 30 acre of land, an area the size of the Riocan centre, is being used by heavy trucks coming and going from the site.

We find it vital that the applicant demonstrate a sufficient quantity and quality of water on the subject site through the completion of a Hydrogeological Study. A hydrogeology study should be required to demonstrate there is water for domestic and fire purposes. The proposed use could also contaminate the wells on site as well as nearby wells. By not requiring a drinking well for the site as part of the zoning process, further industrial creep should be expected when a building is proposed and in the absence of any water testing may not be suitable for the site. When Manitoulin Transport could not provide a well due to contamination in the ground water in the area, they were required to find another solution for water and this had to be implemented through an official plan amendment. Without a hydrogeology study, it is unknown if an official plan amendment is necessary to address similar issues on this property.

It is recommended that the concept plan for the subject site be revised to show the surrounding lands to demonstrate the compatibility of the proposed land use in relation to the surrounding area. Doing so would provide a stronger visual indication of the presence of Environmental Protection Areas (EPA) and residential uses in the surrounding area, that are incompatible with the extent of alteration currently taking place on the subject site. We have included a map to assist with understanding this point as this location is the top of an escarpment and any contaminants will drain down hill either to the north or south.

We have concerns regarding the intention of the proposed zone to permit all of the M4 uses (an automotive wrecking yard, a public use in accordance with the provisions of Section 5 (18), a salvage yard, a sanitary landfill site, a telecommunication tower, a transportation depot and warehouse). Some of these uses require additional and significant studies to warrant their acceptance on the site. Therefore, we recommend that the proposed zoning be revised to limit the permitted uses to the proposed uses as opposed to combining them the parent uses of the M4 Zone. The proposed zoning also includes vague language, such as "the following or similar uses" and lists "asphalt and concrete recycling, processing and separating of aggregates and soils from construction sites". This language is too subjective, and the zoning should either specify the 'other' or 'similar' uses or remove this entirely. For further clarity, the proposed uses should be explicitly defined in the draft bylaw.

It is noted that the location of the subject site fronts on both McAdoo's Lane and McKendry Road. Public notice signage was installed on McAdoo's Lane however no notice was posted on McKendry Road. The City's signage by-laws indicated that "For through lots having frontage on more than one street, a sign shall be placed as noted above for each frontage of the subject site, at approximately the halfway point along each frontage." Thus, signage was required to be posted on both road frontages to meet the City's location and installation of signage requirements.

Overall, it is imperative that a holistic view be applied to the McAdoo's Lane area to better align the needs of economic development, neighbouring property owners and taxpayers, which are currently conflicted. We believe the lands abutting McAdoo's Lane provide a great opportunity for rural industrial development, such as the Manitoulin Transport development and other similar type uses in the area that contain a smaller building area and a larger land component. Measures need to be taken by the City to address unauthorized activities in this area and action should be considered to consider a unified vision and consistent approach for industrial development in this area.

Given the history of use on the subject site, consideration should be given to rezone the remaining agricultural lands to the north to open space to prevent future industrial creep toward adjacent residential uses. It may also be reasonable to consider re-designating the 'Waste Management' lands as 'Rural Industrial', as a way to control the expanding industrial creep currently present on the subject lands and to reverse a designation that has not been appropriately tested for waste management purposes.

While the proposed re-zoning applies to a portion of the subject site, our review emphasizes the 'bigger picture' of the subject site and surrounding area and encourages that a holistic approach be applied by the City. As identified in the attached graphics, it is evident that the current operations on the site have continued to expand beyond the limits of the site alteration permit, along with other activities of concern, which further contribute to the industrial creep exhibited by the subject property. Moving forward, we encourage the City to take a holistic approach to the subject site, to examine the long-term impacts of the proposed development on the subject site and the surrounding area. We believe that the completion of the additional supporting studies highlighted above is a critical component to ensuring the longevity of the subject site and the surrounding area and compliance with the municipality's goals for sustainability and climate change. Since this matter was brought to the attention of the City in 2017, activities on the property have restarted and the area of operation has expanded. To mitigate any further negative impacts, it would be appropriate for the City to intervene until the owners have undertaken the appropriate studies and approval process. In the absence of addressing these matters immediately we expect the industrial creep and waste disposal to continue per the attached photos.

We trust the City will take appropriate actions and look forward to reviewing the technical information when it is available. We also look forward to speaking with staff regarding this application and broader challenges for the McAdoo's Lane area. Should you have any questions or concerns, please feel free to contact me at 613.542.5454 x 221 or keene@fotenn.com.

Respectfully,



Mike Keene, MCIP RPP
Principal, Planning + Development
Fotenn Consultants Inc.

Cc: Concerned Citizen's Group
Councillor Oosterhof
Commissioner Agnew
CAO Hurdle

Enclosures: Image showing site alteration permit and aerial image from 2019
Aerial Map and Drone Photos 2019 showing site alteration
2019 Zoning Area and site alteration
Drainage plan included with zoning application showing existing conditions
Official Plan Maps 2020 and 2018
2020 natural heritage context map
2020 official plan context map
Existing Well Record Information (separate package)
Site Alteration Sketch (SAP-003-2016)