

Committee of the Whole (2) Report

DATE: Tuesday, May 10, 2022

WARD(S): 1

TITLE: 2109179 ONTARIO INC.

ZONING BY-LAW AMENDMENT (TEMPORARY USE) FILE

Z.20.018

SITE DEVELOPMENT FILE DA.20.029

3501 KING-VAUGHAN ROAD

VICINITY OF KING-VAUGHAN ROAD AND HIGHWAY 400

FROM:

Haiqing Xu, Deputy City Manager, Planning and Growth Management

ACTION: DECISION

Purpose

To seek partial approval from the Committee of the Whole for Zoning By-law Amendment and Site Development Files Z.20.018 and DA.20.029 for the Subject Lands shown on Attachment 2. The Owner has applied to permit the continued use of one (1) existing portable dry batch concrete production plant, the introduction of a second portable concrete batching plant and the increased storage along with production and processing of recycled concrete, as shown on Attachments 3 to 7 for a temporary period of three (3) years. The Ministry of Transportation can only support the renewal until May 23, 2023, with the potential renewal for one (1) additional year subject to their approval.

Development Planning Staff supports a temporary zoning by-law for a period of 1-year to permit the existing portable dry batch concrete production plant with a maximum production capacity of 100,000 m³ per year and the processing of recycled concrete as approved by the Ministry of Environment, Conservation and Parks, until May 23, 2023. Development Planning Staff do not support the Applicant's proposed expansion which includes a second portable outdoor concrete batching plant, the increase in production, enlarged stockpiles of material nor the potential renewal for the entire temporary uses on the Subject Lands.

Report Highlights

- The Owner proposes to continue operating the existing portable dry batch concrete production plant and introduce a second portable concrete batching plant, increase storage along with the production and processing of recycled concrete as a temporary use for a maximum of 3 years
- The Ministry of Transportation for Highway 413 will only support a one-year renewal until May 23, 2023 with a recirculation and possible additional 1-year renewal after May 23, 2023
- Amendments to Zoning By-law 1-88 are required to create site-specific exceptions to permit the existing development on a temporary basis
- The Development Planning Department supports a renewal of the temporary zoning by-law to permit the continuance of the previously approved portable dry batch concrete production plant with a maximum production capacity of 100,000 m³ per year, as approved through Zoning By-law 082-2018 and the Ministry of Environment, Conservation and Parks, until May 23, 2023
- The Development Planning Department does not support the proposed expansion of an additional concrete batching plant, the increase in production nor the potential renewal of one (1) additional year beyond May 23, 2023

Recommendations

1. THAT Zoning By-law Amendment File Z.20.018 (2109179 Ontario Inc.) BE APPROVED AS AMENDED to permit the continued use of one (1) concrete batching plant and accessory buildings as previously approved through Zoning By-law 082-2018 and the August 17, 2011 Certificate of Air by the Ministry of Environment, Conservation and Parks with a previous production capacity of up to 100,000 m³ per year with additional accessory concrete crushing (Environmental Compliance Approval for TACC Construction Limited dated February 22, 2018), as temporary uses for one year (until May 23, 2023), together with the site-specific zoning exceptions as identified in Table 1;
2. THAT Zoning By-law Amendment File Z.20.018 (2109179 Ontario Inc.) BE REFUSED to amend Zoning By-law 1-88 to permit a second outdoor concrete batching plant and the increase in production capacity; and
3. THAT Site Development File DA.20.029 (2109179 Ontario Inc.) BE APPROVED AS REDLINED AND SUBJECT TO CONDITIONS as shown on Attachments 1 and 3, to only include the existing concrete batching plant, accessory buildings, and an outdoor storage area, as previously permitted through Zoning By-law 082-2018, as shown on Attachment 8 with the additional accessory concrete crushing.

Background

3501 King-Vaughan Road (the 'Subject Lands'), shown on Attachment 2, are located south of King-Vaughan Road and west of Highway 400 in the City of Vaughan. Access to the Subject Lands is obtained via an easement over a property to the north of the Subject Lands. The surrounding lands uses are shown on Attachment 1.

Zoning By-law Amendment and Site Development Applications have been submitted to permit temporary uses for a maximum of 3-years

The following applications (the 'Applications') have been submitted for the Subject Lands, shown on Attachment 2, to permit the following temporary uses for 3 years, as shown on Attachments 3 to 7:

1. Zoning By-law Amendment File Z.20.018 to amend Zoning By-law 1-88 to permit the continued use of an existing portable dry batch concrete production plant, to add an additional second outdoor portable concrete production plant, and the processing and storage of recycled concrete as temporary uses for 3-years on the Subject Lands, together with site-specific zoning exceptions identified on Table 1.
2. Site Development File DA.20.029 to recognize the continued use of the existing portable dry batch concrete production plant, a second outdoor portable concrete production plant, increased storage along with production and the processing and storage of recycled concrete with accessory office, truck repair and outside storage of materials and equipment for a temporary 3-year period, shown on Attachments 3 to 7.

The Subject Lands are located within the Focused Analysis Area of the Ministry of Transportation's Preliminary Design of the Highway 413 Corridor Study Area

The Subject Lands abut Highway 400 and are located within the Highway 413 Corridor Study Area, and almost entirely within the Focused Analysis Area ('FAA'). The Subject Lands will be directly impacted by the preferred route of the Highway 413 highway and transitway. The FAA is a zone that surrounds the preferred route and defines which properties continue to be within an area of interest as the study progresses. The Preliminary Design of Highway 413 is tentatively scheduled to be completed in 2022, culminating in the Environmental Assessment ('EA') Report submission to the Ministry of the Environment, Conservation and Parks ('MECP') for approval. The Subject Lands may therefore be directly impacted by the determined route for the Highway 413 corridor.

Subsections 39(2) and 39(3) of the *Planning Act* permits a temporary use by-law for a maximum period of 3 years, with permissions to extend the temporary use by-law

through further 3-year increments. The Owner has applied for a 3-year temporary use by-law to permit the following, as shown on Attachments 3 to 7:

- the continued use of one (1) existing portable dry batch concrete production plant with an application to the MECP for increased production capacity from 100,000m³ per year to 1,500 m³ per day;
- the introduction of a second outside portable concrete batching plant with an application to the MECP to have a production capacity of 250 m³ per day; and
- the increased storage along with crushing and processing of recycled concrete.

As the Highway 413 project is in the Preliminary Design stage, the Ministry of Transportation ('MTO') can only consider approval of the Applications until May 23, 2023, and is agreeable to potentially renewing the enacting temporary zoning by-law for an additional 1-year after May 23, 2023, should unforeseen delays take place that impact the design and/or construction schedule of Highway 413. This date also includes a two-month decommissioning requirement once the temporary zoning by-law has expired, if approved.

However, the Development Planning Department cannot support this extension for the following reasons:

- the concrete batching plant has been in existence for over 12 years;
- the MECP has to date not yet made a decision on the request to approve an increase in production capacity and additional second outside portable concrete batching plant; and
- the current applications were submitted in 2020 and By-law 082-2018 expired May 23, 2021, making the May 2023 extension 3-years with no discontinued use of the concrete batching plant operation on the Subject Lands.

Environmental Compliance Approval ('ECA') from the MECP was previously granted on the Subject Lands

The MECP has granted the following approvals on the Subject Lands:

1. 2109179 Ontario Inc. (the 'Owner') on August 17, 2011, received an ECA for Air for a ready mix concrete manufacturing facility, consisting of the following processes and support units:
 - Ready mix concrete batching; and
 - Receiving, storage and handling of raw materials such as sand, aggregate and cementitious materials.

This approval includes the equipment and any other ancillary and support processes and activities operating at a facility production limit of up to 100,000 m³ of ready-mix concrete per year.

2. TACC Construction Ltd., a third-party operator on the Subject Lands, received MECP approval through an ECA dated February 22, 2018 for the following:
 - one portable jaw crusher for crushing concrete, equipped with water spray systems between the feeder and crushing unit and between the crushing unit and conveyor, operating at a maximum production rate of 300 tonnes per hour; and
 - one 271.5 kilowatt engine to power the crusher, fired by diesel fuel, discharging to the air at a volumetric flow rate of 0.64 m³ per second through a stack having an exit diameter of 0.15 m and extending 4.1 m above grade.

The MECP has confirmed that the above ECA's are still applicable for the Subject Lands.

The MECP has not provided their Environmental Compliance Approval ('ECA') for the Applications

The Applications were circulated to the MECP for review and comment as a Certificate of Approval for Air and Noise is required by the MECP. The MECP is currently reviewing a request to issue an amended ECA, to include the following:

1. the currently approved ready-mix plant having a maximum ready-mix concrete production rate of 1,500 m³ per day consisting of:
 - a. 1 cementitious material storage silo, having a storage capacity of 120 tonnes and storing Portland cement, equipped with a baghouse dust collector.
 - b. 1 cementitious material storage silo, having a storage capacity of 80 tonnes and storing slag, equipped with a baghouse dust collector complete with polyester material.
2. an additional ready-mix plant having a maximum production rate of 250 m³ per day, including the following equipment exhausting to the atmosphere:
 - a. One (1) baghouse dust collector, to control emissions from the cement weigh scale and the cementitious material storage silo, having a storage capacity of 55 tonnes and storing Portland cement, complete with polyester filter material and passively discharging to the atmosphere

through a vent having an exit diameter of 0.31 m and height of 13 m above grade.

- b. Fugitive emissions from the delivery, storage and transfer of materials associated with ready-mix concrete batching operations.
3. a portable crusher unit which has its own portable approval but will still be included in the future ECA.

To date, the MECP has not completed their review of the submission material and has not issued a revised approval for the above. The MECP will notify the City when the ECA is issued.

Previous Temporary Use Zoning By-law Amendment and Site Development Applications have been approved on the Subject Lands

1. Temporary Zoning By-law Amendment and Site Development Files Z.10.002 and DA.11.086

The Owner submitted Zoning By-law Amendment and Site Development applications to the City in January 2010 and September 2011, respectively, seeking permission to operate a dry batch concrete production plant. Development Planning Staff, in February 2012, recommended approval of the portable dry batch concrete plant after a full review by all internal and external departments and agencies. The review included an evaluation of all the reports and studies submitted in support of these applications.

In 2012, the Owner appealed the applications to the Ontario Municipal Board ('OMB'), now known as the Ontario Land Tribunal ('OLT'), citing Council's failure to make a decision on the applications within the time prescribed by the *Planning Act*. The OMB issued its Order in February 2013 to allow the appeal and directed the City to amend Zoning By-law 1-88 to rezone the Subject Lands to permit a temporary portable dry batch concrete production plant.

Vaughan Council, on April 23, 2013, enacted By-law 031-2013 to implement the OMB Approval, and included provisions identifying the By-law is in effect only for the earlier of either:

- i) A maximum temporary period of three (3) years from the date of enactment of By-law 031-2013; or,
- ii) Upon the date of approval by Vaughan Council of a Block Plan for the OPA 637 Amendment area as applicable to the Subject Lands, whichever occurs first.

The By-law also permitted Vaughan Council to grant extensions of the Temporary Use By-law for further periods of not more than 3 years.

2. Temporary Zoning By-law Amendment and Site Development Files Z.16.009 and DA.11.086

By-law 031-2013 expired on April 23, 2016. The Owner, on March 15, 2016 submitted Zoning By-law Amendment File Z.16.009 to extend the temporary use provisions identified in By-law 031-2013 for an additional 3-year period.

Vaughan Council, on May 23, 2018 approved the extension of the Temporary Use By-law as By-law 082-2018, shown on Attachment 8, as it was consistent with the previous temporary Zoning By-law 031-2013 approved through the OMB. By-law 082-2018 expired on May 23, 2021. The Owner has submitted the Applications to permit the uses identified in By-law 082-2018, along with the introduction of a second outdoor portable concrete batching plant, increased storage along with production and processing of recycled concrete for an additional 3 years prior to the expiry of the existing permissions.

The implementing Site Plan Agreement for Site Development File DA.11.086 was never finalized by the Owner for the temporary use on the Subject Lands. The Owner, on May 23, 2019, filed an appeal to the OLT based on the City's failure to execute a site plan agreement. The City entered into a Site Plan Agreement and settled the Appeal with the Owner. Similarly, York Region has executed a Site Plan Agreement with the Owner in relation to the conditions under their jurisdiction. As a result of the settlement, the Owner formally withdrew their appeal to the OLT on June 16, 2020.

Public Notice was provided in accordance with the Planning Act and Council's Notification Protocol. Deputations were received at the Public Hearing and written submissions were submitted to the Development Planning Department

The City on September 11, 2020, circulated a Notice of Public Meeting (the 'Notice') for the Applications to all property owners within 150 m of the Subject Lands and those individuals having requested notice and to anyone on file with the Office of the City Clerk having requested notice. A copy of the Notice was also posted on the City's website at www.vaughan.ca and Notice Sign were installed on the Subject Lands in accordance with the City's Notice Signs Procedures and Protocols.

A Committee of the Whole (Public Meeting) was held on October 6, 2020, to receive comments from the public and the Committee of the Whole. Vaughan Council on October 21, 2020, ratified the recommendations of the Committee of the Whole (Public Meeting) to receive the Public Meeting Report and to forward a comprehensive technical report to a future Committee of the Whole Meeting.

The Public Meeting report sought approval to permit the continued use of an existing portable dry batch concrete production plant and to add an accessory use consisting of the processing and storage of recycled concrete located in the “A Agricultural Zone” for an additional temporary period of 3 years. The additional second portable dry batch concrete production plant and the increase in production was not identified in the application or submission material at that time. The December 11, 2020 second submission identified the second portable dry batch concrete production plant in some of the Owner’s submitted documentation.

The following deputations and written communication items were received by the Committee of the Whole (Public Meeting) at the October 6, 2020 meeting and by the Development Planning Department after October 6, 2020:

Deputations:

- Mark McConville, Humphries Planning Group Inc., the agent for the Owner
- William Maria, GHD, the consultant for the Owner
- A. Ney, Woodbridge, written submission received on various dates

Written Submissions:

- P. Rivington, (no address provided), email dated August 27, 2020
- G. Conway, Weston Road, King City, email dated August 27, 2020
- S. Draisey, Weston Road, dated October 2, 2020
- B. Hayhoe, (no address provided), email dated August 27, 2020
- K. Moyle, Director of Corporate Services, Township Clerk, King Township, King Road, King City, dated October 6, 2020
- I. Ford, (no address provided), written submission received on various dates

The following is a summary of the comments provided in the deputations, written submissions submitted at the Public Meeting of October 6, 2020 and written submissions received by the Development Planning Department. The comments have been organized by theme as follows and are addressed throughout this report:

Environment

- trucks using the facility cause heavy diesel exhaust laden air full of carbon, black soot, noise, and dust. Trees are being burnt from truck exhaust pipes, and neighbouring resident yard smells of exhaust and the windows on the house are blackened
- the facility is environmentally destructive and endangers the health of residents (carcinogenic) and ruins the enjoyment of their home and property
- garbage is being thrown by truck drivers in front of neighbouring properties as a deliberate act of intimidation

- the neighbourhood is zoned for agriculture uses and includes residential properties
- non-compliance issues that contribute to the degradation of existing natural heritage features, the Subject Lands are surrounded by the Greenbelt, Humber River, wetlands, and crops and must be protected
- being exposed to toxic air quality and wastewater getting into the ground water table
- conduct two independent engineering peer reviews on the noise and dust studies. The studies state there is no effect on neighbours; however, echo, percussion, loss of trees, people living at lower elevations, wind direction and the speed of trucks have not been considered and have a great effect on neighbouring residents and properties

Truck Traffic and Road Damage

- all the resurfacing completed on King-Vaughan Road will be destroyed by the trucks using the plant
- trucks violate the load limit restriction and speed
- York Region has given the Owner heavy trucks and their associated supplies restrictions to enter and exit their location via Jane Street. They have not been compliant and are not following rules and regulations. Heavy loaded trucks cannot make it up Weston Road as it is steep
- the bridge over Highway 400 is finished and truck traffic continues all day
- truck traffic makes walking or biking in this area very dangerous
- significant traffic and safety risks impacting the Hamlet of Laskey in King Township and the intersection of King Vaughan Road and Weston Road

Noise

- the pounding, crushing, jack hammer sounds and other aggregate processing sounds can be heard all hours of the day and into the night
- crushing a mountain of aggregate on-site means more dust, noise, and trucks
- in a one-hour span, 53 trucks pass through the Weston Road intersection, idling at times waiting for the signals to change at the intersection of Weston Road and King-Vaughan Road and homeowners in the area cannot sleep
- the plant has grown and has approximately 85 concrete trucks, 3 bulk cement tankers, aggregate trucks and many contracted long aggregate haulers and heavy industrial truck suppliers. Hundreds of trucks a day at all hours travel past the residential dwellings, changing gears and making noise

Hours of Operation

- the batching of aggregate operates beyond the hours specified by the Owner
- there is truck traffic from the site at all hours of the night

Illegal Activity

- the operation is no longer temporary, it has expanded with the number of concrete trucks, aggregate trucks and bulk cement tankers using the plant
- the permission is for a temporary concrete batching plant, not an aggregate processing plant. There are two different operations going on in this location and the crushing of concrete is operating without permission
- their website claims they sell aggregate, and it can be seen being trucked out
- due to past temporary use approvals, other companies have started operating aggregate plants without a permit along King-Vaughan Road
- with every renewal of the temporary use by-law, the use may be regarded as permanent

The Vaughan Development Planning Department, on May 3, 2022, mailed and emailed a non-statutory courtesy notice of this Committee of the Whole meeting to those individuals requesting notice of further consideration of the Applications.

Previous Reports/Authority

First Temporary Use Application:

[February 28, 2012 Committee of the Whole Item 11, Report No. 4](#)
[Zoning By-law 031-2013](#)

Second Temporary Use Application:

[April 19, 2017 Council extract and Committee of the Whole Item 2, Report No. 13](#)
[Zoning By-law 082-2018](#)

Third Temporary Use Application (Current Applications):

[October 6, 2020 Public Hearing Item 3, Report No. 45](#)

Request for Comments: York Region Evaluation of Employment Land Conversions:

[May 27, 2020 Council extract and Committee of the Whole Item 10, Report No. 20](#)

City of Vaughan Noise By-law

https://www.vaughan.ca/cityhall/by_laws/Bylaws/121-2021.pdf

Analysis and Options

The Development Planning Department does not support the temporary zoning application as applied for by the Owner. However, the Development Planning Department supports a temporary zoning by-law for a period of 1-year to permit the existing MECP approved 1 portable dry batch concrete production plant with a maximum 100,000 m³ of per year production capacity, and additional concrete crushing

and storage, (the 'Development') for only one (1) year, until May 23, 2023, based on the following planning considerations:

Sections 34 and 39 of the Planning Act permit the passing of temporary use by-laws

The *Planning Act* is a provincial statute that sets the ground rules for land use planning in Ontario. Section 3(5) of the *Planning Act* requires that a decision of Council of a municipality in respect of the exercise of any authority that affects a planning matter:

- shall be consistent with the policy statements issued under subsection (1) that are in effect on the date of the decision
- shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be

Section 39 of the *Planning Act* provides authority to Council to pass a by-law under Section 34 (By-laws) authorizing the temporary use of land, buildings or structures for any purpose that the municipal zoning otherwise prohibits. The by-law shall define the area to which it applies and specify the time in which it will be in force, which shall not exceed 3 years from the day of passing the by-law. Council may grant further periods of not more than 3 years each during which the temporary use is authorized.

At the time when the original temporary use by-law was submitted through Zoning By-law Amendment File Z.10.002, the *Planning Act* limited the renewal of temporary uses to two, 3-year periods. The *Planning Act* has since been amended to allow Council to grant further periods of not more than three years each during which the temporary use is authorized, with no maximum number of renewals.

The Owner has submitted the Applications for a 3-year temporary use by-law; however, the MTO has advised that it can only consider an extension of one (1) year until May 23, 2023.

Section 24(1) of the *Planning Act* also states that a temporary use by-law must comply with the Official Plan, as discussed further in the Vaughan Official Plan 2010 ('VOP 2010') section of this report.

The Development is consistent with the Provincial Policy Statement, 2020

In accordance with Section 3 of the *Planning Act*, all land use decisions in Ontario "shall be consistent with" the Provincial Policy Statement, 2020 (the 'PPS'). The PPS provides policy direction on matters of provincial interest related to land use planning and development. The PPS is applied province-wide and provides direction to support strong communities, a strong economy, and a clean and healthy environment.

The Applications are generally consistent with the Employment Areas policies of the PPS as the temporary nature of the Development protects and preserves the Subject Lands for future employment uses (Policy 1.3.2.1) and provides opportunities for a

diversified economic base (Policy 1.3.1). The Subject Lands are in proximity to major goods movement facility being Highway 400 for the employment use to use that infrastructure (Policy 1.3.2.6).

The PPS defines Employment Areas and Major Goods Movement Facilities, and Corridors as follows:

- “Employment area: means those areas designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities.
- “Major goods movement facilities and corridors: means transportation facilities and corridors associated with the inter-and intra- provincial movement of goods. Examples include: inter-modal facilities, ports, airports, rail facilities, truck terminals, freight corridors, freight facilities, and haul routes and primary transportation corridors used for the movement of goods. Approaches that are freight-supportive may be recommended in guidelines developed by the Province or based on municipal approaches that achieve the same objectives.

The Development is consistent with the Employment Area policies of the PPS and VOP 2010 as the temporary uses are designated for “Prestige Employment – Business/Office Campus” promoting economic development, a range of employment uses and protecting employment uses in proximity to major goods movement facilities.

The Development conforms to A Places to Grow: Growth Plan for the Greater Golden Horseshoe 2019, as amended

A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019, as amended (‘Growth Plan’), guides decision making on a wide range of issues, including economic development, land-use planning, urban form, and housing. Council’s planning decisions are required by the *Planning Act* to conform, or not conflict with, the Growth Plan.

The Growth Plan provides policies related to the protection and development of Employment Areas in municipalities under Section 2.2.5, including:

- “1. Economic development and competitiveness in the Growth Plan will be promoted by:
 - a) making more efficient use of existing employment areas and vacant and underutilized employment lands and increasing employment densities;

- b) ensuring availability of sufficient land, in appropriate locations for a variety of employment to accommodate forecasted employment growth to the horizon of this Plan;
5. Municipalities should designate and preserve lands within settlement areas located adjacent to or near major goods movement facilities and corridors, including major highway interchanges, as areas for manufacturing, warehousing and logistics, and appropriate associated uses and ancillary facilities.”

The Subject Lands are located within a settlement area and an employment area identified in VOP 2010 that are adjacent to a Major Goods Movement Facility and Corridor and the lands are being utilized for employment purposes.

A portion of the Subject Lands are located within the Greenbelt Plan, 2017

The Greenbelt Plan, 2017 contains policies that permanently protect the agricultural land base in Ontario, as well as the associated ecological and hydrological features, areas and functions occurring on such lands. It identifies the protected areas and provides policy direction for development and environmental protection.

The Subject Lands have an overall land area of 17.9 ha. The developable portion of the Subject Lands are 9.16 ha, of which the proposed temporary uses encompass 3.65 ha of the total developable area. The balance of the Subject Lands (8.74 ha) are located within the “Greenbelt Natural Heritage System” within the Protected Countryside of the Greenbelt Plan, as shown on Attachment 2, and are not developable.

The Greenbelt identifies that any development or site alteration within 120 m of Key Natural Features (‘KNHF’) within the Natural Heritage System or a Key Hydrologic Feature (‘KHF’) anywhere within the Protected Countryside requires a Natural Heritage Evaluation. A Greenbelt Conformity Report was prepared by River Stone Environmental Solutions Inc. on March 15, 2016, updated December 2020 (‘Conformity Report’). The Conformity Report concludes that no negative impacts to KNHFs and KHF’s have occurred or will occur on the Subject Lands. The material storage area does not expand into any Key Natural Heritage Features in the Greenbelt and is beyond the required 30 m Vegetation Protection Zone as a buffer around these features.

The Development conforms to the York Region Official Plan 2010

The York Region Official Plan 2010 (‘YROP 2010’) guides economic, environmental and community building decisions across York Region. The Subject Lands are designated “Urban Area” on Map 1 - “Regional Structure”. The “Urban Area” designation permits a range of residential, commercial, institutional, industrial and employment uses. YROP

2010 also encourages maintaining the economic viability of employment lands, which are contingent upon its long-term protection, effective planning and design, and a shift toward increasingly sustainable and innovative industrial processes.

Section 4.0 of the YROP includes policies related to economic vitality. These are applicable to and encourage the protection of employment lands within the Region. The Development conforms to the “Planning for Employment Lands” policies (Section 4.3) of YROP 2010 as the Development incorporates employment uses on a temporary basis which maintains the long-term viability of the Subject Lands for employment uses. An objective of YROP 2010 is to ensure the long-term supply and effective planning and design of employment lands as follows:

- to recognize employment lands are strategic and vital to the regional economy and are major drivers of economic activity in the Region
- to require local municipalities to designate and protect employment lands in local municipal official plans

The Applications would contribute to these regional objectives as the Subject Lands would be used to increase employment opportunities. The Applications for the Subject Lands are consistent with the policy framework of YROP 2010 provided the uses will be temporary in nature.

The Development of the Subject Lands as an Employment Use is designated as such in VOP 2010, the extension of the temporary use zoning by-law will be discussed in the VOP 2010 section.

An Employment Land Conversion through the York Region Municipal Comprehensive Review (‘MCR’) was approved for the Subject Lands

Vaughan Council, on May 27, 2020 approved an Employment Land Conversion for a portion of the Subject Lands. York Region is in the process of updating the York Region Official Plan through an MCR that is ongoing. The lands adjacent to Highway 400 are proposed to remain for employment uses as part of this process. The Subject Lands in the Draft MCR Appendix 1 “Employment Area Zones and Densities” appear to be partially designated within the Highway 400 North Employment Area Zone and partially designated “Community Area”. All MCR materials, including mapping, are draft, and will be finalized by Regional Staff as the MCR progresses.

The Highway 400 North Employment Lands Secondary Plan in Volume 2 of VOP 2010 permits Temporary Uses

The Subject Lands have an overall land area of 17.9 ha. The developable portion of the

Subject Lands (9.16 ha) are designated “Prestige Area – Office/Business Campus” and “GTA West Corridor Protection Area” and are within the “Interchange Study Area” on Schedule ‘I’ within VOP 2010 Volume 2, Policy 11.4 - Highway 400 North Employment Lands Secondary Plan. The proposed temporary uses encompass 3.65 ha of the total developable area.

The balance of the Subject Lands (8.74 ha) are within the “Greenbelt Natural Heritage System” within the Protected Countryside of the Greenbelt Plan and are not developable.

The *Planning Act* allows municipal Councils to establish the temporary use of land, buildings or structures for any purpose otherwise not permitted by the zoning by-law. A temporary use by-law must define the area to which it applies and specify the time in which it would be in force, which shall not exceed 3 years from the day of the passing of the By-law. VOP 2010 does not permit a portable dry batch concrete production plant, however, Volume 2, Section 11.4 includes Policy 2.3.3.1v. which permits the temporary use of land, buildings or structures provided the temporary use meets the following requirements:

- a. Is consistent with the general intent of this plan
- b. Is compatible with adjacent land-uses
- c. Is temporary in nature and can be easily terminated when the temporary zoning by-law expires
- d. Does not require new buildings or significant structures
- e. Does not require significant grading of land
- f. Sufficient servicing and transportation capacity exist for the temporary use
- g. Maintains the long-term viability of the lands for the uses permitted in this Plan, and
- h. The duration of use and proposed interim use are to the satisfaction of the Province

The Applications do not conform to all of the Temporary Use Provisions of VOP 2010

The Applications do not meet the policy requirements of VOP 2010 for temporary uses based on the evaluation of Policy 2.3.3.1v., as follows:

- a) a) Is consistent with the general intent of this plan and c) Is temporary in nature and can be easily terminated when the temporary zoning by-law expires
The Subject Lands are designated “Prestige Area – Office/Business Campus”, and are located adjacent to lands in the Natural System of the Greenbelt Plan

and to Highway 400. The purpose of the “Prestige Area – Office/Business Campus designation” is as follows:

- “2.2.3.1 1. “To provide opportunities for high quality business and office employment uses and activities, including campus style development, which require good accessibility in an urban environment which is enhanced by a location adjacent to significant natural areas such as lands in the Natural System of the Provincial Greenbelt Plan. To provide opportunities for high quality business and office employment uses and activities, including campus style development, which require good accessibility in an urban environment which is enhanced by a location adjacent to significant natural areas such as lands in the Natural System of the Provincial Greenbelt Plan.”

The Applications are not consistent with the general intent of VOP 2010 for the following reasons:

- Since the original approval in 2012, the concrete batching operation on the Subject Lands has increased in size and concrete production, including an additional concrete batching plant along with additional production capacity. A new third-party (TACC Construction Inc.) concrete crushing and processing operation has also been added to the Subject Lands
- The Applications represent the third temporary use renewal for an operation that has been in existence for over 12 years, which is not considered “temporary”
- The operation is visible from Highway 400 with material storage being 10.66 m in height and the material storage area and concrete stockpile being over 134 m in length and 165.9 m in width
- The MTO cannot support the Applications beyond May 23, 2023

b) b) Is compatible with adjacent land-uses g) Maintains the long-term viability of the lands for the uses permitted in this Plan and h) The duration of use and proposed interim use are to the satisfaction of the Province

According to the Owner’s Planning Justification Report dated May 2021 “the current Applications were submitted in July 2020 with the premise that the Applications propose to extend the existing site-specific provision through this temporary use zoning by-law amendment to continue recognizing the existing portable plant as an additional permitted temporary use”, as follows:

- “The proposed extension is in line with the original Temporary Use Zoning By-law, and adheres to the prior approval, which limits renewal to every three years. The extension continues recognition of the portable concrete production plant as an additional permitted use within the Agricultural zone on the Property.”
- “The Applications also address the currently existing expanded portion of the outdoor storage area on the Property. This area has increased due to the introduction of the concrete waste recycling process as part of on-site business operations. The Site Plan Amendment re-defines the developed area of the Property, as it has changed from the prior Site Plan application.”

The Owner did not identify the proposed second outdoor portable concrete batching plant, nor the increase in production identified through their request to the MECP through their initial submission of the Applications.

The Subject Lands are adjacent to Highway 400, are partially designated “GTA West Corridor Protection Area” and are within the “Interchange Study Area” within Volume 2 of VOP 2010. The MTO Highway 413 project team was circulated the Applications and cannot support the extension beyond May 23, 2023 which also includes a 2-month decommissioning requirement post-extension expiry. The Subject Lands are of high importance to the Highway 413 project as they will likely be directly impacted by the corridor.

Therefore, the tests of compatibility with adjacent land-uses, maintaining the long-term viability of the lands for the uses permitted in the Highway 400 North Employment Secondary Plan, and the duration of use and proposed interim use are not to the satisfaction of the Province.

- c) d) Does not require new buildings or significant structures, e) Does not require significant grading of land and f) Sufficient servicing and transportation capacity exist for the temporary use

According to the Owner, no new buildings or significant structures are proposed, and no significant grading of the Development is sought as provided in the supporting material submitted with the Applications. The Subject Lands are not being regraded; however, the materials that are stockpiled are increasing in height to approximately 7 m to over 10 m abutting Highway 400, with new machinery and third-party operators increasing the temporary uses on the Subject Lands. Servicing and transportation capacity are sufficient for the

existing and additional concrete crushing and processing use on the Subject Lands, as per the updated Stormwater Management Brief prepared by TMIG dated April 8, 2020 and the Updated Traffic Impact Study prepared by GHD and stamped on March 5, 2021.

The Development Planning Department can support the previous temporary use approval for an additional 1-year as it meets the temporary use policies in Section 11.4 of VOP 2010

The previous one portable dry batch concrete temporary production plant is consistent with the above VOP 2010 policies (2.3.3.1v A-G). The facility is temporary in nature, compatible with surrounding land uses, do not require the extension or construction of any municipal services, can utilize the existing transportation network, and maintains the long-term viability of the lands for uses permitted in the temporary use policies of Volume 2 – Highway 400 North Employment Lands Secondary Plan.

In accordance with comments from the MTO and Policy 2.3.3.1v h) in Section 11.4 of VOP 2010, which states that “the duration of use and proposed interim use are to the satisfaction of the Province”, the use can only operate until May 23, 2023. The Development Planning Department can only support the Development until May 23, 2023.

Temporary Use By-law 082-2018 for the Subject Lands expired on May 23, 2021 and the Owner submitted a Zoning By-law Amendment application to permit the proposed uses for an additional 3-year period along with further amendments to Zoning By-law 1-88

The Subject Lands are zoned “A Agricultural Zone” by Zoning By-law 1-88, and subject to temporary use By-law 082-2018 identified in Attachment 8. By-law 082-2018 expired on May 23, 2021, making the existing portable dry batch concrete production plant no longer permitted on the Subject Lands.

The Owner seeks permission to maintain the same provisions included in Zoning By-law 082-2018, together with additional permissions for an additional second outdoor portable dry batch concrete production plant and increased storage along with production, and the processing, crushing and storage of recycled concrete.

The Development Planning Department recommends that only the existing previously approved one portable dry batch concrete production plant with a maximum production capacity of 100,000 m³ per year, and the processing of recycled concrete, as approved by the MECP until May 23, 2023, be approved. Should Council concur with this recommendation, the implementing Zoning By-law will be substantially similar to

Attachment 8 and will clearly define a maximum of one concrete batching plant with a total production capacity of 100,000 m³, accessory operations (truck repair and office), previously approved outside storage areas with dimensions, and the additional crushing operation as identified in Table 1:

Table 1:

	Zoning By-law 1-88 Standard	A Agriculture Zone Requirements	Proposed Exceptions to the A Agriculture Zone Requirements
a.	Permitted Uses	A Mixing Plant and a crushing plant are not permitted in the “A Agricultural Zone” and are prohibited uses in Zoning By-law 1-88	<p>Permit a mixing plant which means: a temporary building/structure where only concrete is mixed or batched, weighed and measured for mixing off-site to a maximum production capacity of 100,000 m³ per year.</p> <p>The following accessory uses shall only be permitted provided such uses are operated accessory to the mixing plant, as shown on Attachment 3:</p> <ul style="list-style-type: none"> i) Truck repair located in the existing building labelled “Vehicle Maintenance/Repair Building” having a maximum gross floor area of 465 m² ii) Office use located in existing buildings shown as “Plant Office Trailer” and “Office Trailer” only each having a maximum gross floor area of 60m² iii) The open storage of sand, gravel, left-over concrete from the mixing plant on the Subject Lands (Attachment 3) for the

			purposes of processing and crushing and equipment and machinery accessory as listed in the MECP approval. No outdoor storage of other materials shall be permitted on the Subject Lands
b.	Required Driveway Material	Shall be constructed of hard surface, asphalt or concrete	A driveway and parking area may be constructed of gravel except for the portion of the driveway extending a minimum of 30 m from the King-Vaughan Road right-of-way, which must be paved with hot-mix asphalt or concrete

Council enacted By-law 001-2021 as the new Vaughan Comprehensive Zoning By-law

On October 20, 2021, Council enacted By-law 001-2021 as the new Vaughan Comprehensive Zoning By-law. A notice of the passing of By-law 001-2021 was circulated on October 25, 2021, in accordance with the Planning Act. The last date for filing an appeal to the OLT in respect of By-law 001-2021 was November 15, 2021. Bylaw 001-2021 is currently under appeal and, when in force, will replace Zoning By-law 1- 88, as amended. Until such time as By-law 001-2021 is in force, the Owner will be required to demonstrate conformity with both By-law 001-2021 and Zoning By-law 1-88, as amended, unless a transition provision under By-law 001-2021 applies.

The Development Planning Department can support previous temporary use operations on the Subject Lands with the additional concrete crushing, subject to conditions of approval

The Development Planning Department has no objection to the Development subject to the conditions in Attachment 1, and has provided the following comments:

Description of Business

The portable dry batch concrete production plant is operated by Maple Ready Mix and includes the storage of cementitious material and the mixing of concrete to be delivered to clients at various sites in the Greater Toronto Area. The Owner recently added the storage of any left-over concrete from deliveries in a stockpile area for the purposes of crushing and recycling. The crushing and recycling of the unused concrete is done on an annual basis on-site by a third party (TACC Construction Inc. as approved by the MECP).

The portable dry batch concrete production plant currently employs approximately 10 individuals during off-peak season (winter) and 35 individuals during peak season (summer).

The Owner's Planning Justification Report prepared by Humphries Planning Group Inc. dated May 2021 states that "the hours of operation are generally Monday to Friday between 6:00 am and 6:00 pm, Saturday from 6:00 am to 3:00 pm; the business is closed on Sundays." The MECP issued their ECA based on terms and conditions including that the concrete crushing operation be restricted to operate between 7:00 am and 7:00 pm. The Owner must comply to all terms and conditions of the ECA for the Subject Lands, and to the City's Noise By-law 121-2021. Should Council approve the Applications, a clause to this effect is included in the Attachment 1.

According to the Owner, no aggregates are being sold from the Subject Lands. The business website does advise that Maple Ready Mix sells aggregates, but this is directly from their Ramara quarry. Aggregate deliveries are made from the Ramara property directly to the delivery location and not through the Subject Lands.

Organization of the Site

According to the Owner under the MECP, a "plant" is considered the storage area of aggregate materials, the storage of cementitious material, the silos, conveyor, and the mixing truck. The Owner has submitted an Emission Summary and Dispersion Modelling ('ESDM') report prepared by BCX Environmental Consulting dated July 2020 which was submitted to the MECP. The ESDM report states that there are two "plants" on the Subject Lands as there are two sets of equipment/materials associated with the production of concrete on the Subject Lands. One of the "plants" features two silos and another features one silo. The two silos which were never identified in the previous approvals are within the enclosure and the other one is outside.

According to the ESDM report, "the facility typically operates 12 hours per day but may operate up to 24 hours per day, 7 days per week, and all year round." The Owner is requesting to amend their ECA for the following:

- a) To include an additional "plant", being one ready-mix concrete batching plant having a maximum production rate of 250 m³ per day, including the equipment exhausting to the atmosphere

- b) to include the following approved equipment and operations: one ready-mix concrete batching plant, having a maximum ready-mix concrete production rate of 1,500 m³ per day, consisting of the equipment and emission sources

If in operation 6 to 7 days a week, the plant can potentially produce 546,000 m³ to 638,750 m³ per year, which is an increase in production of concrete over 5 times the original approved MECP ECA approval, resulting in a use that is increasing in size with an additional plant, production capacity and is not considered temporary. The increase in the operation is shown on Attachment 3 compared to the previously approved By-law 082-2018 Schedule 'E-1589' shown on Attachment 8. Based on the findings, the Applications, as proposed, do not meet the intent of a temporary use.

Access/ Driveway and Traffic Considerations

Vehicular access to the Subject Lands is from King-Vaughan Road via a permanent easement through the lands to the immediate north. The easement was approved by the Committee of Adjustment on January 28, 1999 through Minor Variance File A45/99 and Consent Application B11/99.

The Traffic Impact Study prepared by GHD dated March 2021 identifies that “the site currently generates approximately 140 truck trips per day with most of the traffic entering and existing between the hours of 7:00 am to 5:00 pm.”

The Development Engineering ('DE') Department has no objections to the Applications

Sanitary Servicing

Sanitary servicing is existing for the Subject Lands via a private septic system to service the Development.

Water Distribution

Water servicing is existing for the Subject Lands via a private domestic well to service the Development.

Storm Drainage

The Development is tributary to the Humber River Watershed via an existing creek within the Subject Lands. The DE Department notes that other than a proposed spreader swale along the southern property limit to address comments provided by Policy Planning and Special Programs ('PPSP') Department, the site drainage patterns remain relatively unchanged as a result of the Development. The Subject Lands drains in multiple directions through meadows and grassed areas allowing for infiltration and erosion and sediment control prior to discharge to the creek.

Erosion and Sediment Control

The *Erosion & Sediment Control Guidelines for Urban Construction (December 2006)* guideline was created as a consolidated document that best suits jurisdictions within the Greater Golden Horseshoe Area Conservation Authorities for common usage in land development, construction and water management.

Erosion and sediment control mitigation measures are to be implemented during construction to minimize silt laden runoff discharge from the Subject Lands in accordance with the aforementioned document.

Transportation Engineering

A Traffic Impact Study was submitted in support of the Applications, prepared by GHD, dated May 2020. The Subject Lands currently generate approximately 140 total truck trips per day (in-bound & out-bound truck traffic), most of the truck traffic is generated between 6 am to 6 pm. Truck represents the predominant site related traffic, as other vehicular traffic is minimal.

The Subject Lands are expected to generate an additional 4 two-way truck traffic for storage and processing of recycled concrete. Currently heavy truck traffic to the Subject Lands is comprised of approximately 80% Maple Ready Mix ('MRM') concrete trucks and 20% independent operators for the concrete trucks. The Owner has direct control over the MRM operators and can enforce the truck routing however has no direct control over the routing used by the independent operators. Currently instructions are posted at the site displaying that truck operator to utilize Jane Street to enter and exit the Subject Lands.

The Transportation Engineering Division of the DE Department concurs with the findings of the study and agrees that the Applications will introduce an acceptable traffic impact that can be accommodated by the existing road network.

The study was also reviewed by the York Region ('YR') as the Application impacts Regional Road/intersections. Comments from YR have been included further in the report.

Acoustic Assessment Report

The DE Department acknowledges that the MECP review the supplied Acoustic Assessment Report in accordance with provincial standards and policies and will provide their formal approval of the Air and Noise Study submitted as part of the MECP ECA application. The DE Department cannot support the increased proposed concrete production of the daily maximums for the existing and second concrete batching plant as MECP has not approved the revised ECA. On this basis, the DE Department can only support the maximum production capacity of 100,000 m³ per year.

The By-law and Compliance, Licensing and Permit Services has charged the Owner with non-compliance as Zoning By-law 082-2018 expired on May 23, 2021
Zoning By-Law 082-2018 was enacted by Council on May 23, 2018, for the Temporary Use By-Law of three (3) years which expired on May 23, 2021. Since then, the Subject Lands were under investigation for continued non-compliance with Zoning By-Law 1-88 for a non-permitted use. A recent follow-up inspection conducted on March 17, 2022, confirmed the use of a dry batching plant along with the processing and storage of recycled concrete is active. There are previous charges and concurrent charges before the courts known as investigation file CTS# 832096.

The Urban Design Section of the Development Planning Department and the Forestry Operations Division of Transportation Services Parks and Forestry Operations has no objections to the Development, subject to conditions

The Owner submitted a Scoped Environmental Impact Study ('EIS') Greenbelt Conformity Statement dated July 2020, and updated December 2020, prepared by RiverStone Environmental Solutions Inc. The south end of the Subject Lands contains approximately 29 trees that were determined to be in very poor health or were considered dead within the hedgerow adjacent to the concrete stockpile and recycling use.

A 10 m buffer from the dripline of the existing hedgerow is required, as red-lined on Attachment 3. The Owner is required to remove the concrete stockpile and provide for an appropriate 10 m buffer from the initial dripline to the satisfaction of the Development Planning Department in conjunction with the Forestry Operations Division of Transportation Services Parks and Forestry Operation.

The Owner will be replacing approximately 50 trees of similar native species. A landscape plan, landscape cost estimate and arborist report in support of the Development is required.

The Owner shall enter into a Tree Protection Agreement in accordance with the Tree Protection Protocol By-law 052-2018 and submit a final planting plan to the satisfaction of the Development Planning Department and the Forestry Operations Division of Transportation Services Parks and Forestry Operations.

Conditions to this effect are included in Attachment 1.

The PPSP Department has no objections to the Development, subject to conditions

The Owner shall implement the plantings identified on Figure 5 (Re-vegetation Planting Plan) of the EIS on the landscape plan, to the satisfaction of the City.

The Owner shall provide a certification letter from a qualified environmental consultant confirming that the plantings have been implemented in accordance with Figure 5 of the

EIS, to the satisfaction of the PPSP Department. A condition to this effect is included in Attachment 1.

The Toronto and Region Conservation Authority ('TRCA') has no objection to the approval of the Development

The Subject Lands are located within the TRCA's Regulated Area pursuant to Ontario Regulation 166/06; however, the area subject to this Application is outside of the TRCA's Regulated Area.

TRCA staff are satisfied that the proposed temporary uses and expanded material storage area are sufficiently setback from the Key Natural Heritage Features ('KNHF') and Key Hydrologic Features ('KHF') located on the Subject Lands.

TRCA staff are satisfied that the change to impervious area resulting from the expansion of the material storage area is relatively minimal and the strategy of draining stormwater to the grassed and vegetated areas is adequate to allow for a suitable level of attenuation, infiltration and treatment. As such, TRCA is satisfied that the stormwater management is not impacted, and the intent of the source water protection plan has been met.

Financial Impact

There are no requirements for new funding associated with this report.

Broader Regional Impacts/Considerations

The Applications have been circulated to the YR Community Planning and Development Services Department. The Community Planning Department considers the Applications a local matter and do not have any comments.

King-Vaughan Road is a York Regional Road designed and constructed for use of all vehicle types, including trucks, unless the road structure is incapable for handling heavy loads. King-Vaughan Road is currently weight restricted (5 tonnes) and can only be enforced by Police in accordance with the *Highway Traffic Act*. York Region and the City cannot enforce moving violations.

York Regional Police has been enforcing truck activity when their resources permit. Residents can report a community concern at the following link:

<https://www.yrp.ca/en/online-reporting/Report-a-Community-Concern.asp>

York Region has no objection to the Applications subject to the following conditions, which became effective by the Owner on March 24, 2021, through a signed acknowledgement:

1. King-Vaughan Road between Pine Valley Drive and Bathurst Street is a year-round 5 tonnes load restricted road. The Owner is required to comply with all conditions set forth in the load exemption permit which stipulates that trucks are not permitted to use King-Vaughan Road to/from Weston Road.
2. All businesses operating on and surrounding King Vaughan Road, including 2109179 Ontario Inc., will be notified by letter that non-compliance of load exemption permits will result in permits being revoked. The Owner is advised to consider additional measures to ensure compliance of the load exemption permit.
3. The Owner agrees that this section of King-Vaughan Road is noise restricted and the Owner is responsible for obeying the noise restrictions and applying for and obtaining a noise exemption from the local municipality.
4. The Owner agrees to indemnify and hold harmless York Region, its elected and appointed officials, employees, contractors and agents against any and all actions, causes of action, suits, orders, proceedings, claims, demands and damages whatsoever which may arise either directly or indirectly by reason of any of the work undertaken by or on behalf of the Owner with respect to this development proposal, including without limitation, any work undertaken within the Regional right-of-way.
5. The Owner shall be responsible for compliance with all applicable statutes and regulations, including without limitation, the *Construction Act*, the *Occupational Health and Safety Act*, the *Fisheries Act (Canada)*, the *Environmental Protection Act*, and the *Ontario Water Resources Act*. The Owner, for the purposes of the *Occupational Health and Safety Act*, shall be designated as a Constructor and shall assume all of the responsibilities of the Constructor, as set out in that Act and its regulations. The Owner shall carry out or cause to be carried out all construction work in accordance with the requirements of the Act and regulations for construction projects.

Conclusion

The Development Planning Department has reviewed the temporary Zoning By-law Amendment and Site Development Files Z.20.018 and DA.20.029 and can support the continued use of 1 portable dry batch concrete production plant with up to a maximum 100,000 m³ per year production capacity and the processing of recycled concrete as previously approved through By-law 082-2018 and the MECP for 1-year (until May 23, 2023), together with the site-specific zoning exceptions identified in Table 1. The Development Planning Department does not support the expansion of an additional portable concrete batching plant, the increase in production nor the potential renewal of one (1) additional year beyond May 23, 2023, as described in this Report.

The Development Planning Department is of the opinion that the Development is consistent with the PPS, conform to the Growth Plan as amended, the YROP 2010, the area specific temporary use policies VOP 2010, and are compatible with the surrounding area context. Accordingly, the Development Planning Department supports the approval of the Development for 1-year until May 23, 2023. Should Council approve the Applications, the Owner shall satisfy the conditions of approval that are included in Attachment 1 to this report.

For more information, please contact: Margaret Holyday, Senior Planner, Development Planning Department, ext. 8216

Attachments

1. Conditions of Site Plan Approval
2. Context and Location Map
3. Proposed Site Plan as Red-Lined
4. Concrete Batching Plant Enclosure Elevations
5. Silo Mixing Structure Elevations within the Enclosure
6. Elevations – Existing Office Trailers
7. Existing Vehicle Repair Shop Elevations
8. Previously Approved Zoning By-law 082-2018

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