

COMMUNICATION C6.

ITEM NO. 4

COMMITTEE OF THE WHOLE (2)

May 10, 2022

May 9, 2022

Vaughan Council & Staff

Recommendation 1 in the staff report is inaccurate. I'm actually shocked that the City Manager and Deputy City Manager choose to present it in such misleading way to Council. It's intentionally deceptive or they are inept. It behooves me to understand how this became recommendation from the 27 pg. well informed staff report documenting the problematic history of the site and the discrepancies between what the operator presented in their initial development application versus actual current operations on the site. The manner in which the Report Highlights and Recommendations are presented dismiss the fact that:

- **crushing has never been a permitted land-use** on the subject lands but is and has been occurring on and off for the last four years;
- the operator has been deceptive in submission of applications to the City of Vaughan and MECP seeking land use permission and permits for to amend the existing air Environmental Compliance Approval
- the **operator intends to increase concrete production capacity by 5 x what is currently permitted** and quite possible is already conducting these activities.
- the operator intends to conduct crushing activities and recently the third-party permit approved by these activities for a mobile facility was amended to permit a more complex process with additional heavy equipment for crushing operations; and
- concrete, gravel and rock from demolitions sites have never been an acceptable material for outside storage either through the MECP or municipal land uses permitted.

Staff acknowledge in the report that there is a non-permitted use that has persisted for 4 years, probably longer, but don't actually say what the activity is; is it crushing, what else could the non-permitted use be?

If Vaughan staff are recommending to approve crushing at the site it should be a separate recommendation, clearly noted as a new permitted use that staff are seeking Council approval for.

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.

MECP Mobile Crushing Permit

TACC has a permit for a mobile facility that is not specific to the subject lands, it permits them to operate in various areas of Ontario¹. The information in the staff report reflects the permit as issued in Feb of 2018. Remarkably, TACC submitted a proposal to amend the permit 6 days after O. Reg 115/20² was approved by the province which exempted Part II of the Environmental Bill of Rights - Participation in Public Decision-Making approved Apr 1, 2020 in response to the COVID Declared Emergency. The timing that allows public consultation to be omitted boggles my mind. The proposal was approved March, 2021, which permitted additional heavy equipment in the mobile crushing process.

This does not appear to have been contemplated by staff or included in the staff report.

MECP Comments on Municipal Land Use Permissions

The MECP provided the following answer about the mobile facility operating on subject lands without approved land use permissions.

"Ministry approval and permitting requirements apply independently of municipal land use planning requirements. Regardless of whether the ministry issues an approval or permit, the

¹ 2018 Approval: <https://www.accessenvironment.ene.gov.on.ca/instruments/1593-A8LSFD-14.pdf>

2021 Approval: <https://prod-environmental-registry.s3.amazonaws.com/2021-03/ECA%20A-500-7082824178.PDF>

² <https://www.ontario.ca/laws/regulation/200115>

company is still obliged to comply with any other applicable legal requirements including those related to land use planning. The ministry does consider the facility and receptor zoning in the assessment of an application for an Environmental Compliance Approval (ECA), but issues of zoning and non-conformance rest with the municipalities who have jurisdiction. You will need to continue to raise these issues with the Town."

The Ministry has not provided a straight answer on if they are allowed to issue a permit for a specific site, the subject lands, that is not compliant with the existing municipal land uses? I have also asked the MECP if they proceed to approve crushing on the subject lands if the mobile permit would apply and still include specific conditions that limit crushing activities to 60 calendar days of the year or if the activities would be allowed under the new permit and possibly allow crushing to happen year-round?

This is significant and must be understood prior to Council approving crushing operations. Will Council unknowingly approving year-round crushing that would otherwise not be permitted by the MECP?

MECP Air ECA Compliance

I cannot get a straight answer on if the site is operating in compliance with the existing air ECA. As per the staff report the applicant is seeking to increase operations by 5x the existing capacity. *I am thankful staff are not supportive.* However, I believe that the site is already operating at increased capacity, has added the second concrete plant and extended their operating envelope in the absence of permissions from the City of Vaughan or the MECP. The ERO posting indicates the applicant is seeking **to amend the existing air ECA permit to reflect current operations** at the site. This suggests the site is already operating a second concrete plant. There is no scale on the site so it is unclear how the MECP verifies compliance with annual tonnage limits. [2109179 Ontario Inc. - Environmental Compliance Approval \(air\) | Environmental Registry of Ontario](#)

A Series of Fascinating Coincidences

At this point it is hard to believe that there is not undue influence. There are too many coincidences and unwillingness to know more by too many parties involved.

1. York Region staff through the asset management plan have identified King-Vaughan Rd will have the asphalt torn out and replaced May-June 2022. York Region hasn't even collected development fees and they are paying to upgrade the road for not only this rogue land operation but also Strada at 3300 King Vaughan Rd & 3230 King Vaughan Rd who erected a pre-fabricated structure illegally. [King-Vaughan Road from Weston Road to Jane Street](#) More info on 3230: <https://pub-vaughan.escrimemeetings.com/filestream.ashx?DocumentId=79221>
2. York Region hired a consultant to address road safety but excluded addresses any of the illegal land uses that create the safety hazards on King Vaughan Road – operations requiring land-use permissions that were never approved by the City of Vaughan or at the capacity that is creating the current traffic volume.
3. Employment Conversions were approved in Oct, 2020 by Vaughan and York Region Councils converting over 200 Ha in this area. Conversions were not supported or

recommended by staff. It was a political Council decision refer to Agenda Item F.1, Recommendation 2 and Item V7 employment conversion request for almost 300Ha: <https://yorkpublishing.escribemeetings.com/Meeting.aspx?Id=a73f3102-3d5b-4191-8d9a-ed1b20fdf955&Agenda=PostMinutes&lang=English&Item=17&Tab=attachments>

4. In Jun, 2020 York Region Council approved the upfronting of development fees to advance waste water servicing for Block 27. <https://yorkpublishing.escribemeetings.com/Meeting.aspx?Id=c9ca8d5d-2c65-42d9-9dfa-0b937477e050&Agenda=Merged&lang=English&Item=65&Tab=attachments>
5. Blocks 35, 34 and 41 will all be benefiting landowners. Fascinating since Block 41 is subject of a MZO, there are two MZO's approved on Block 34E. <https://ero.ontario.ca/notice/019-2694>, [Ontario Regulation 156/22 - Zoning Order in the City of Vaughan | Environmental Registry of Ontario](#), [Ontario Regulation 173/20 - Zoning Order in the City of Vaughan | Environmental Registry of Ontario](#)
6. The lands are within the focused analysis area of highway 413, meaning they are frozen to development. MTO's insistence in the staff report that they will not extend the temporary by-law past May, 2023 (may allow one year extensions) is curious to me. We the public were told they have no idea what the schedule is at the public consultation sessions held at the end of last year. Is the MTO telling Vaughan staff something different than members of the public about the schedule for highway 413?

Highway 413 & MTO

I can't help but wonder if the MTO is planning to use this area for mobilizing and staging of the controversial Highway 413 or for the ongoing and planned expansion of Highway 400 and if York Region as well as the City of Vaughan are literally paving the way in a manner that lacks accountability and transparency; the exact opposite of what both governments say are important strategic goals and important to good governance. Has the MTO already been using this site and the services provided by these sites?

Will the asphalt removed be delivered to either 3501, 3230 or 3300 King Vaughan Rd or any other site operating along King Vaughan Rd operating illegally/question compliant creating heavy truck traffic? As well as required MECP approvals/permits? Or will it be sent to Strada's other site at Creditstone and Rutherford who bylaw recently investigated and issued orders to reduce pile height in accordance w/ the OMB decision? Interestingly, Strada applied to increase the pile height (not the quantity of material). If this is a land use decision it's unclear to me why Strada would submit a request to the MECP as opposed to a development application? This question has been asked but remains unanswered.

Conclusion

I don't even have words to explain how upsetting it is that staff either lack the knowledge and expertise or are intentionally hiding what Council is being asked to approve and the implications of this decision. I am thankful that planning staff have in the 27-page staff report been truthful and thorough but it is inexcusable to present the recommendation for crushing like this. It's hard to believe that it wasn't intentional by whomever signed off on the report. I cannot understand the

lack of political and staff will to do anything about such continued and persuasive disrespect for the rules and laws that govern Ontario. Is our government really that weak or is it something else?

Council should be asking and directing staff to come forward with a staff report to understand why there has been an inability of the City to act on behalf of residents, to coordinate with the MECP to ensure both land use and permit compliance instead of putting residents through hell and forcing them to become subject matter experts and devote hours to bring about transparency and accountability; to compel and shame governments into action by demonstrating a lack of due diligence and a legal obligation to act.

Thank you,
Irene Ford

Nov 26, 2021

Environmental Permissions Branch
RE: Concerns regarding 019-4463

To Whom it May Concern:

These comments are with regard to the ready-mix concrete facility located at 3501 King Vaughan Rd that has been operating 'temporarily' for 15 years and the current air ECA permit request ERO# 019-4463. I strongly object to this applicant continuing to operate they have shown complete and utter disrespect for the local community, City of Vaughan by-law and Ontario environmental and planning legislative regime. There is no transparency as to the extent of operations, what is actual approved, what materials are entering and existing the site. It is completely unclear if the operator has been compliant or non-compliant with the conditions of the ECA or what is actually being proposed to be approved; are they adding a second plant, is there second plant or was their initially two plants approved. I appreciate that it is a complex process but the information between documents and applications is inconsistent, it is either poorly done or intentionally misleading.

I recognize that some of the below issues are not within the authority or jurisdiction of the Ministry of Environment Conservation and Parks (MECP). However, they are relevant because the approval will only serve to amply and compound the existing problems with non-compliance issues at this site, the surrounding area and further contribute to the erosion of the natural heritage system in this area that is under extreme and relentless development pressure. Approval of activities can not be considered in isolation at this point due to the extent of illegal land use in the area that has resulted in even more heavy traffic and in my humble opinion is becoming a matter of public safety.

At this point the community has no confidence that the City of Vaughan, York Region or the MECP even knows what being in compliance means for this site because at no time have, they been able to communicate it to the public in a manner they would understand. Local MOE officers have been unwilling or unable to address non-compliance or nuisance impacts attributed to this operator and failed to inform residents that there is an existing air ECA that sets out a complaint's procedure and requirements for the operator to have Best Management Practices in place to mitigate impacts upon nearby residents (if they have it has not been understood by the local community, Vaughan staff or councillors). Local residents are pushed between various levels of government/ jurisdictions seeking accountability, transparency yet nothing changes or improves and they feel abandoned. York Region and York Region Police have been unable to obtain compliance with the weight restrictions and/or the approved York Region Traffic Permit that requires heavy vehicles to use Jane Street when entering and existing the operator's site (Truck traffic is significant from this and other local operators with an average of 800 vehicles passing through the intersection of King Vaughan Rd and Weston Rd daily). Residents complained repeatedly when a portable crusher was in use at the site which resulted in excessive off-site noise and dust impacts, this activity is noncompliant with Vaughan's approved temporary zoning by-law but appears to have been approved by the MECP starting February, 2018. It is unclear if the public was consulted or required to be consulted due to these changes in operations. A sign was posted that was all.

There is nothing temporary about this site it appears to have slowly and deliberately increased operating capacity and operations without seeking approval or clarification of what activities they are or are not allowed to complete. This is only compounded by illegal sites operating in the area¹. I am not confident in the MECP's District Office's ability to enforce anything in the City of Vaughan at this point in time nor City of Vaughan by-law. It remains unclear to me if they just do not have the resources and tools or if it is willful blindness.

Many of these sites fall within [GTA West FAA](#) and can only be approved for temporary zoning uses. In October, 2020² the public meeting for the development application to extend the temporary zoning by law came before Council. In May of 2021 I asked for an update on the development application after several follow up emails and an extensive email cc'd to multiple individual and media on October 26, 2020, I received a response November 15, 2020 informing me the application is in process and was offered a phone call from the local district officer. The current temporary use by-law expired May, 2021 (if Council has approved this by some means I have not been able to locate anything to document this decision). At times it seem everyone chooses to ignore this site and the impact because they anticipate it will be an interchange and basketweave of Highway 413 one day. Regardless people live there now and they are people trampled upon.

Comments Specific to the Application

Initial Approval & OMB 2012 Decision

- It is clear the site pre-dates the 2012 OMB decision and there appears to be no record of how this site was initially approved to operate. It appears due to the lack of information quite likely that the operator could have established operations illegally and there has never been any consequence for this from the City of Vaughan, York Region or various provincial ministries.
- Setting up illegally in Vaughan is a long-standing problem and 'bringing them into compliance' and giving approvals after the fact, after operations have started only rewards bad behavior and compounds the excessive amount of unregulated land use, truck traffic and movement of material in the northern part of Vaughan and other areas.

¹ 3230 King Vaughan Rd, is blatantly illegal, has trucks running seven days a week and it is completely unclear if the material entering and existing this site would be considered designated waste under O. Reg. 347 or exempt. It's abundantly evident that chunks of asphalt are going somewhere between these three sites but I cannot get a clear answer from the district office if the sites meet the conditions for waste asphalt be considered an exempt? This site also has a waste system certificate issued that is non-compliant with local municipal zoning. Crushing also occurs at one or both sites. It is unclear if the cumulative impacts on the local community have or were ever a consideration. Some go west along King Vaughan Rd to another illegal site that is storing 'material' outside on prime farmland. I was approached by another resident recently about illegal activity impacting their right to the enjoyment of their property¹. The City of Vaughan says that they are taking illegal operators to court, that the cases are delayed due to Covid. The local district office say they have no role because the materials being managed are not 'designated'.

² See Item 3: <https://pub-vaughan.escrimemeetings.com/Meeting.aspx?Id=a03ad411-dec8-4687-a34d-c1fa175c6d34&Agenda=Agenda&lang=English>

- In the initial OMB decision³ water is described as part of the process. To my knowledge there is no servicing on the site.

Phase 1 and Phase 2 ESA and Employment Land Conversion Requests

- The letter in the City of Vaughan’s PlanIt website dated July, 2020 from the Municipal Infrastructure Group states that: Phase 1 and Phase 2 ESA, Functional Servicing Report and Geotechnical / Soil Studies are not required because the site is not permanent nor is the land use changing. Given that the site has been operating for over ten years that there is a significant truck traffic entering the site and material being managed at the site is this a valid rationale?
- There is nothing temporary about this site other than the ad-hoc approval process applied.
- The crushing equipment, washing basins and concrete mixing operations all require water. What is the source of water? How much water is being used? Does the site have or need a permit to take water?

Crushing Permit

- The initial OMB approval very clearly states “*open storage of sand, gravel and equipment and machinery accessory to the Mixing Plant use in the areas shown....only. The open storage of all other materials in not permitted.*” Does the MECP have the authority to allow the crushing activity on the site if it was never contemplated in the initial OMB decision⁴?
- It is unclear if cumulative affects from both operations noise, dust, air pollution, truck traffic have been considered?
- The crushing permit is not consistent with the temporary zoning approved by the City of Vaughan in 2018⁵. Did the operator have approval to extend the storage area from the City of Vaughan or the MECP? If not will there be any consequence?
- Did the MECP check with the City of Vaughan that crushing was an approved activity prior to approval and issuances of the crushing permit?
- What happens to the crushed concrete? Is it removed from the site or a feed product that is part of the ready-mix concrete operations?
- Did the 2018 or any other submitted annual reports identify the crushing operations were occurring and that the storage for the concrete expanded the operating envelope approved in the 2011 Air ECA?

Impact on Surrounding Residents

³ <https://www.omb.gov.on.ca/e-decisions/pl120406-Oct-24-2012.pdf>

⁴ See pg. 5, 6 of pdf:

https://www.vaughan.ca/services/business/zoning_by_law_and_opas/188/Approved%20Zoning%20By-laws/2013/By-law%20031-2013.pdf

⁵ https://www.vaughan.ca/council/minutes_agendas/AgendaItems/CW0404_17_2.pdf

- As documented in Vaughan's October 2020⁶ staff report the impacts on surrounding residents are significant. The addition of the crushing operations has compounded these impacts. While the operator contends these noises were due to the ongoing construction of highway 400 it is unclear if the operator or MTO investigated to verify the source and origin of the noise. The ECA has a condition for complaints but local residents have never been told that it exists.
- Truck traffic enters and leaves the site beyond the specified hours of operation creating noise, dust, traffic and changing gears/braking noises. They ignore weight limit signs that are posted and there is no enforcement by any level of government.
- York Region approved a site traffic permit that to my understanding requires trucks to enter and exit from the west using Jane St. The applicant states that is unsafe to make right hand turns at this intersection and advocates to enter and exit the site also from the east. Regardless the roads in their current conditions are inadequate to handle the volume of traffic and it is becoming a matter of public safety.
- The local MOE District office says they can not do anything about the truck traffic because it is not within their jurisdiction. Local residents are told that site hours of operations cannot be enforced because it is not within the approved by-law. Yet while preparing this letter today I found it clearly stated in a 2017 staff report.
- Residents have complained for years and there has been no consequence they are at the mercy of the plant operator.
- Pg. 3 of this staff reports documents that truck traffic can start as early as 4:30am, more commonly from 6:00am to 9:00pm and occasionally to 1am. Should the MOE approve this ECA please ensure the approved hours of operation are documented and include enforcement provisions and consequences for operating outside of those hours⁷.

Compliance with Existing Air ECA & Discrepancies in Postings

- Has the site expanded and been modified without permission/approval of MECP and/or the City of Vaughan?
 - ERO #019-1019⁸ posted Dec, 2019 then withdrawn November, 2021 sought to amend the Air ECA and specifically stated it included an *additional* ready-mix concrete batching plant. Shortly after I inquired why two permits were posted for the same site this application was withdrawn.
 - ERO #019-4463⁹ posted November, 2021 seeks to remove the limited operational flexibility and reflect current operations at the site and *states two ready-mix concrete plants and a 3rd party portable crushing plant.*
 - Why did the applicant submit different applications at different times and how did these applications differ?
 - As indicated above crushing activities have clearly commenced without updates to the Air ECA and assuming they started in 2018 this was long

⁶ <https://pub-vaughan.escrimemeetings.com/filestream.ashx?DocumentId=80608>

⁷ https://www.vaughan.ca/council/minutes_agendas/AgendaItems/CW0404_17_2.pdf

⁸ <https://ero.ontario.ca/index.php/notice/019-1019>

⁹ <https://ero.ontario.ca/index.php/notice/019-4463>

after five-year expiry identified under condition 2.8 of the existing air ECA.

- How many silos what size and capacity were they initially approved in the 2011 application? My understanding is that the 2011 application consisted of 2 silos. When was the third silo added and did this increase capacity at the site? The most recent planning justification report identifies 3 silos (2 within the enclosed structure and 1 not enclosed located outside)¹⁰.
- In 2017 a Vaughan staff report documents a crane operating which is not a permitted use. This ceased at that time.
- Has MECP completed any audits to verify if the operator was compliant with the requirements of the existing air ECA; specifically, the production limit of 100,000 tonnes of ready-mix concrete annually and how was this documented since there is no scale at the site? Did the operator notify the MOE of any complaints w/in 2 days as required in Section 9? Have 'written summaries' been submitted annually as required in Section 5.1? Have any facility modification occurred after the expiry of Condition 2.1 or new inputs that require detailed and documented reports updating air modelling?
- If the MECP chooses to approve the permit, will it clearly document: annual tonnage, types of materials permitted on site to be managed, activities permitted, a complaints procedure, set limits on the amount of daily truck traffic in and out of the site, hours of operation?
- Given the history of this site how will the MECP ensure compliance and communicate compliance with assurance to the local community going forward?
- What assurances and monitoring will local residents be provided about air quality and well water contamination that could, or possibly already is, adversely impacting local residents?
- How will the MECP/City of Vaughan verify the initial record of site condition to the existing conditions? Site contamination especially since Vaughan Council and York Region Council appear to have endorsed rezoning a portion of the site from prestige employment to residential¹¹ (Given what the City of Vaughan has learned from [5550 Langstaff Road](#) it would be negligent to ignore this as a distinct and real possibility).

¹⁰ Refer to the Planning Justification submitted to the City of Vaughan, May 2021.

¹¹ See Map 1A.