



Concerned Residents Coalition

Media Release

Ontario Municipal Board Hearing on Proposed Hidden Quarry Adjourned

FOR IMMEDIATE RELEASE

The Ontario Municipal Board Hearing on the Hidden Quarry proposal by James Dick Construction Limited (JDCL) which began on Tuesday, September 27 has been adjourned by OMB Vice-Chair Steven Stefanko.

In his decision released this morning (attached), Mr. Stefanko states: "It is ordered that this Hearing be adjourned *sine die*, to be reconvened at a date to be determined following receipt by the Board of the requisite appeals related to the Subject Property...and those appeals will then be heard along with the Licence Application."

On the first day of the Hearing, which was scheduled to last 6 or 7 weeks, CRC lawyer Chris Barnett noticed and brought to the attention of the OMB Chair the fact that the Guelph Eramosa Township bylaw under which JDCL had applied for re-zoning in 2012 (57/1999) had been repealed and replaced in August 2016 by Zoning Bylaw (40-2016). The new comprehensive bylaw had been under Council and public review for a year and half. Because JDCL had not appealed the new bylaw by the September 1, 2016 deadline, the company's rezoning application and subsequent appeal to the OMB had no current legal context.

During the week that followed, lawyers for CRC, Halton Region/Halton Hills and Guelph Eramosa Township made submissions to the OMB describing the legal context and precedents which would preclude Mr. Stefanko's hearing the case. The lawyer for JDCL argued to the contrary. It was also clarified that GET Council had acted in accordance with Ontario's Planning Act regulations governing municipal authority and notice of bylaw changes.

The implication of this decision is that if JDCL wishes to pursue its aggregate application, the company will be required to re-apply to GET Council for re-zoning under the new bylaw. Further, the application will also now be subject to approval by Wellington County based on changes made in the Official Plan (OPA 81), passed in 2014.

Mr. Stefanko acknowledged that there are unintended consequences to this decision. If JDCL applies again for re-zoning, all Parties will face a longer and more costly process. The decision states: "Although it is arguable as to whether the passage of the New By-law and its repeal of the Former By-law have resulted in unintended consequences, such consequences...cannot, in law, override the express language of the Planning Act and the specific powers conferred therein."

The CRC will await notice of any new application by JDCL, and will continue to stand by its case objecting to the Hidden Quarry proposal.

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The OMB Case number is: **PL150494**. Official information regarding the case can be found at <https://www.omb.gov.on.ca/english/eStatus/eStatus.html>.

Background:

The Concerned Residents Coalition (CRC), a non-profit organization founded in 2013, is a citizens group of more than 1150 from all three affected municipalities – Guelph Eramosa Township (GET), Milton and Halton Hills. CRC has studied the proposal in detail, bringing 5 expert witnesses to the Hearing addressing blasting, hydrology, hydrogeology, aquatic habitat and planning.

The proposed quarry site is at Hwy. 7 and 6th Line Eramosa, just east of the town of Rockwood and west of the town of Halton Hills/Acton. Hwy. 7 marks the boundary between Guelph Eramosa Township and the Town of Milton, in the Regional Municipality of Halton. This area of Milton, known by its former township name, Nassagaweya, is in the Green Belt.

The proposal requires both re-zoning from agricultural to industrial/extractive by Guelph Eramosa Township and an aggregate licence from the Ontario Ministry of Natural Resources and Forestry.

JDCL proposes to mine 700,000 tonnes/year of dolomite rock over a projected 17 years. The open-pit mine will be blasted underwater up to 23 metres below the water table. To the best of CRC's knowledge, below water blasting for aggregate extraction has not been successfully carried out in Ontario, and quite possibly anywhere else in Canada. The site geology is dolomite characterized by karst weathering.

The quarry location is within 1000 metres of Rockwood, more than 250 residents, hundreds of private wells and one municipal well. It is immediately adjacent to Hwy. 7, in an agricultural area with horse, cattle, sheep and cash crop farms. There are also several 18th century heritage buildings in dangerous proximity to the site.

The quarry is also located in close proximity to sensitive environmental features, and upstream from the trout spawning grounds in Brydson Creek and the cold water Blue Springs corridor. A tributary of Brydson Creek crosses the quarry site between the two projected pits. Haul routes carrying up to 38 trucks an hour are destined for downtown Acton, Georgetown and Norval, Guelph Line and Brookville.

CRC has been unable to conceive of conditions that would adequately mitigate negative impacts from the proposed operation.

JDCL originally appealed the case to the OMB in June 2015 citing the large number of objectors and absence of a decision by Guelph Eramosa Township.

Media contact: Linda Sword 519-853-1896 lsword@crockwood.org

CRC website: www.hiddenquarry.ca

Attachments:

OMB Decision on Adjournment of proposed Hidden Quarry Hearing