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Distribution List

FILE # D35-003-2019

**OFFICIAL PLAN AND ZONING BY-LAW AMENDMENT APPLICATIONS
2285 BATTERSEA ROAD, KINGSTON
PROPOSED UNITY FARM, INN & SPA**

Mayor Paterson and Members of Kingston City Council,

You will be making an important decision at your upcoming Council meeting. I would like to take this opportunity to raise a few issues that I believe are important and that should be factored into your decision making.

Climate Change Review. I very much appreciate the fact that Council approved a deferral so that the potential climate change impact of this development could be reviewed. As previously stated, I applaud the sustainability initiatives that are part of this proposal. I am pleased to see that both Switch and Sustainable Kingston also see the potential of, and support the applicant's sustainability initiatives. Regrettably, their respective reviews were not set within a planning context. Kingston Climate Hub's (KCH) review, on the other hand, was conducted within a planning context; hence, in my view, it is more relevant to this application.

I note that it was KCH that identified the issue of 35 boreholes to a depth of 500 feet to support the proposed geothermal system and noted that an examination of the impact of these had not been considered by the hydrogeological study, nor the peer review. In my view, this is a critical omission. This issue should be examined in more detail prior to approval of this application. Staff comment indicate that the details of a geothermal system have not been fully proposed or evaluated.

It is difficult for me to understand how this application could be approved when an issue that will potentially effect the local water supply has not been fully examined. The applicant is fond of saying that he "trusts the science"; however, by proposing this geothermal concept after the hydrogeological study and the peer review have been completed, in my view, he has invalidated those studies by introducing a significant new variable. In my view, further consideration of this application should either be deferred until these studies have been further reviewed to incorporate consideration of this new variable, or this application should be denied.

Given this uncertainty, if this application is to be approved, then I believe that is very reasonable that the City make a request to the Ministry of the Environment Conservation and Parks (MECP) to have the applicants obtain a Permit to Take Water. The fact that it hasn't been done in the past thirty + years is irrelevant. In this instance I believe that there are "extraordinary circumstances", particularly given the unknowns with respect to the potential impact of the geothermal system. The City of Kingston is supposed to be a Climate Change Leader. I encourage you to step up and lead to ensure that the water supply of rural residents is protected.

I fully agree with the KCU concerns with respect to Land Use and Future Expansion and support their view that certain sections of the Provincial Policy Statement (PPS) have not been addressed. They should be.

The current version of the PPS was only published this year. It is understandable that the City of Kingston may not have updated policies to specifically address the new climate change aspects contained in the PPS, but that does not mean that these sections of the PPS can be overlooked. They have not been considered in the Comprehensive Report or any other study. Asserting in the Executive Summary of this report that this application is, "...consistent with the Provincial Policy Statement" when these sections of the PPS have not been considered is, in my view, incorrect and misleading. In my view, further consideration of this proposal should be further deferred until such time that these sections have been thoroughly considered or the application should be denied.

Rural Commercial Designation. The neighbourhood context for this area has been described in one section of the Comprehensive Report as, "The character of this rural area is defined by a mix of land uses with agricultural uses interspersed between residential uses. Residential uses are clustered together and located near the existing institutional uses. While the uses are clustered, there are generous separations between most uses that allow for increased greenspace between developments." In another section it is described as, "A cluster of residential, agricultural, and non-agricultural uses already exists around the intersection of Unity Road and Battersea Road. Adding additional commercial and tourism related uses expands the uses within the rural **node** in a compatible format." In my view, these are both misleading descriptions. I do not believe that they correctly describe the physical characteristics of the neighbourhood and they certainly do not describe the social nature of what, in my view, is more succinctly and accurately described as a "quiet, rural, residential neighbourhood."

I have highlighted the term "node". This term is only used three times in the PPS, with the most relevant being in Section 1.8 - Energy Conservation, Air Quality and Climate Change. This is the section that has received the least consideration in the Comprehensive Report as noted in the KCH report. It is important to note that these sub-sections would impose certain obligations on the City, (providing transit to the area for example), should this application be approved. If the City is not prepared to meet those obligations then this application should be denied.

There are currently 11 Rural Commercial designated areas in the City (see attached files). Of these, only four are tourist in nature or have a hospitality aspect to them. Of these four, Rideau Acres Campground is the closest comparison to this proposed development. Rideau Acres Campground is located on a significantly larger piece of property, and on a peninsula. While it is primarily a campground it does have a large banquet and conference facility, but no overnight accommodation beyond the camping facilities.

What these four properties do have in common, and in contrast to the proposed Unity Event Centre, Farm, Inn and Spa, is their relative isolation from surrounding residential properties. The proposed development would be set within what is now a rural residential neighbourhood. It remains my view that the scope and scale of this large commercial enterprise is not compatible with the surrounding land use.

Skirting the Planning Process. To date the City has issued two building permits on this site while it has been the subject of an active development application. The first permit was for a 25,500 square foot

alteration and addition to an existing single family. The second was for a temporary greenhouse structure as an accessory to a single family dwelling. You will all be aware that the intent of the first permit was to facilitate the basement level construction of what has now been identified as the “Hickey” House addition. The “temporary” greenhouse has established the foundation for proposed greenhouse that is part of this application.

By issuing these permits, the City has enabled the applicant to begin building out aspects this development before it has been approved, without the oversight that site-plan control would provide and in the absence of a development agreement. City staff have indicated that they cannot deny a properly completed building permit application that is based on current zoning. Frankly, I do not accept that. The tool that should prevent developers from gaming the system, as has been done in this instance, is By-law No. 2008-128 (Site Alteration). In my view, issuing building permits for purposes that are known, or should have been known, to be false is either a wilful act, or act of negligence that has, in this instance, enabled the developer to begin construction for a proposed development that remains in the planning approval process. This should not be so. I believe that the City should tighten up its regulatory framework to prevent future potential developments from shortcutting the City’s Development Review Process as has blatantly happened in this instance.

Conclusion. In my opinion, the Climate Change Review has highlighted that key sections of the PPS that relate to Climate Change have not been adequately addressed; hence, this application is not consistent with the PPS. I also believe that the proposed location for this large commercial enterprise is not suitable for a Rural Commercial designation. This proposed development has a host of positive aspects to it, but it is simply in the wrong location. In my opinion, this application should be denied.

//Original Signed By//

David Pentney

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