

March 19th, 2015

**FL/A-15:40 (71 Innovation Drive, Flamborough)**

**PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT**

**Development Planning – Rural:**

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS), Policy 1.1.1 which speaks to healthy, liveable and safe communities. The application is generally consistent with these PPS policies.

Greenbelt Plan

The subject property is located within the Towns and Villages designation in the Greenbelt Plan. In accordance with Section 3.4.2 – Town/Village Policies, Towns and Villages continue to be governed by municipal official plans and related programs or initiatives and are not subject to the policies of the Greenbelt Plan, except for the external connections policies of Section 3.2.5, which are not applicable to the subject property.

Urban Hamilton Official Plan

The subject property is designated “Business Park” on Schedule “E-1” – Urban Land Use Designations, of the Urban Hamilton Official Plan.

Business Parks are planned for a broad range of employment uses compatible with the design policies for business parks. These areas are well served by roadway infrastructure and are generally more able to accommodate proper buffering from sensitive land uses.

With respect to the design policies for Business Parks, Chapter E, Policy 5.4.7 states:

“The following policies shall apply to the lands designated Employment Area – Business Park on Schedule E-1 – Urban Land Use Designations:

- a) New *development* and *redevelopment* of existing sites shall contribute to a quality image for the business park by incorporating quality building and landscaping designs in those areas adjacent to and visible from public roads, and by complementing the landscape qualities of adjacent sites.
- b) Outdoor storage and assembly areas, loading areas, and larger parking areas shall generally be located at the sides or rear of buildings, away from public roads, and shall be screened from view of the roads and adjacent properties, with appropriate landscaping or fencing.”

The applicant is proposing the outdoor storage of transport trucks and trailers and the placement of a modular office trailer on the site. The applicant has previously submitted a Minor Site Plan Application (File # MDA-14-073) to permit the above proposal. This variance application is to facilitate the Minor Site Plan Application.

Through this variance application, the applicant is proposing to provide no landscaped area abutting South Drive for a period of two (2) years, instead of the minimum required landscaped area of 6.0 m abutting a street. The applicant has requested relief for a period of two years as they have indicated that the owner will subsequently proceed with a full Site Plan Application to incorporate a larger building on site and to address landscaping requirements. The submitted Site Plan indicates that a chain link fence extends along the perimeter of the property, on the property line for the majority of the property, including along South Drive, except for the south portion of this property line, where the Site Plan indicates that a 1.8 m high visual barrier (fence and berm) is proposed to be constructed.

In evaluating the proposal against the design policies identified above, by not providing the required landscaped area nor appropriately screening the outdoor storage areas, it is staff’s opinion that the application does not meet the intent of the Urban Hamilton Official Plan.

#### City of Hamilton Zoning By-law No. 05-200

The subject property is zoned “M3” – Prestige Business Park, in Zoning By-law No. 05-200.

#### Variance 1

The general intent and purpose of the landscaped area provision in the By-law is to ensure that landscape buffering is achieved between uses e.g. between the street and buildings on a property and from adjacent properties, as well as to enhance the appearance of a site. The applicant is proposing to provide no landscaped area abutting South Drive for a period of two (2) years, whereas the City of Hamilton Zoning By-law No. 05-200 requires a minimum landscaped area of 6.0 m abutting a street. Staff are of the opinion that the variance does not meet the general intent and purpose of the Urban Hamilton Official Plan and the City of Hamilton Zoning By-law No. 05-200 for the reasons indicated previously and further, since providing no landscaped area and having a chain link fence along much of the property line is not in keeping with an enhanced and consistent site appearance within the Business Park, nor does it provide an adequate buffer between uses, particularly given the residential properties located

on the west side of South Drive. For these reasons, the proposed variance is not considered minor in nature. Staff note that through the Minor Site Plan Application process (MDA-14-073), staff will be requiring an appropriate visual barrier to adequately screen the outdoor storage in accordance with the Zoning By-law. Based on the foregoing, providing no landscaped area abutting South Drive for a period of two (2) years, instead of the required minimum landscaped area of 6.0 m abutting a street, is not deemed to be desirable for the appropriate use of the property. Accordingly, staff do not support the variance.

### Variance 2

If the decision of the Committee is to deny Variance 1 thus requiring the owner to provide a minimum 6.0 m wide landscaped area abutting a street in accordance with the Zoning By-law, then the owner will require an additional variance to address:

- Permitting a transformer to be located within the required 6.0 m wide landscaped area and 3.0 m wide planting strip, whereas the Zoning By-law does not permit a transformer to be located within the required landscaped area or planting strip.

The general intent and purpose of the landscaped area and planting strip provisions in the By-law is to ensure that landscape buffering is achieved between uses e.g. between the street and buildings on a property and from adjacent properties, as well as to enhance the appearance of a site through the planting of suitable shrubs and/or trees. Should the owner require this additional variance, staff are of the opinion that the variance will meet the general intent and purpose of the Urban Hamilton Official Plan and City of Hamilton Zoning By-law No. 05-200 as staff are of the opinion that the intent of the landscaped area and planting strip will be able to be maintained, despite the location of the transformer, as the remainder of the landscaped area and planting strip along Innovation Drive and South Drive will be able to function as intended. For this reason, the variance is considered minor in nature. Based on the foregoing, permitting a transformer within the required 6.0 m wide landscaped area and 3.0 m wide planting strip is deemed to be desirable for the appropriate use of the property. Accordingly, staff support this variance.

In closing, for the reasons indicated above, staff do not support Variance 1. However, staff support Variance 2 should the variance be required due to Committee's denial of Variance 1.

**Building Division:**

1. The variance should be amended to include another variance. The variance should read as follows:  
  
To permit an existing transformer on a concrete pad to be located within the landscaped area and planting strip whereas the by-law does not permit transformers to be located in a required landscaped area or planting strips.
2. **ORDER to COMPLY (Folder # 14-135212 – 00 EN) dated December 11, 2014 is still outstanding. (See attached)**
3. Zoning Violation Notice (Folder # 15-103150-00 ZB) dated February 10, 2015 is still outstanding. (See attached)
4. This application is to facilitate MDA-14-073.

**Development Engineering – West:**

Engineering Approval's concerns have been dealt with through application MA-14-073.

**Hamilton Municipal Parking System (Parking Services):**

No Comment

**PUBLIC WORKS DEPARTMENT**

**Traffic, Engineering and Operations Division:**

No Comment

**See attached for additional comments.**

**Mignano, Martha**

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**From:** Julie\_Dalton@quadra.ca  
**Sent:** March-16-15 12:32 PM  
**To:** Mignano, Martha  
**Subject:** Reference Application No. FL/A-15:40, 71 Innovation Drive  
**Attachments:** IMG\_1642.JPG; IMG\_1641.JPG; IMG\_1635.JPG; IMG\_1636.JPG; IMG\_1637.JPG; IMG\_1638.JPG; IMG\_1639.JPG; IMG\_1640.JPG

I am unable to attend the hearing on Thursday March 19, 2015 at 2:15 for the application for minor variance at 71 Innovation Drive.

I live on South Drive and have many issues with this property. Since Foxway Transport has taken over the sight they have neglected to follow the bylaws and provisions set forth by the City.

On January 20, 2015 the attached correspondence took place between Judi Partridge's office with myself in cc : Good morning Alison – as a matter of continued update and information resulting from discussions with LDI Consulting (acting on behalf of this company), Mr. Di Ianni advises that the following steps are being taken:

1. The trucks will be moved to the other side of the compound, further away from the residences (discussing possibilities of attaching the trailers to the trucks the day before)
2. As soon as approvals are obtained, there will be a building constructed on the north west corner of the property further buffering noise from the neighbours.
3. Also, in the spring there will be a solid, perimeter barrier between the compound and the residences to address any visual issues between the two uses.

Hopefully the short term steps being taken will mitigate some of the resident's immediate concerns. Although continuing to monitor, let me know if you receive further complaint.

Regards,

Pat Tompkins  
Coordinator, Municipal Law Enforcement  
Parking and By-Law Services  
Planning & Economic Development  
(905) 546-2424 x 4788

At the time, the business was operating without proper permits and approvals. Attached is an e-mail from Judi Partridge to by law enforcement:

Julie, thank you for the email below detailing the business operations at 71 Innovation Drive Clappison Corners, Flamborough. It is unacceptable that this company is being allowed to operate vehicles at all hours of the night.

I will ask staff to please follow-up to ensure the operations cease. This is a new business at this location that has set up shop without proper permits or approvals from the city planning department. When I visited the property last week, there were approximately 10 or more transport trucks as well as a facility operating. Please let me know how this will be resolved.

Regards,

Councillor Judi Partridge  
Ward 15 East Flamborough  
Waterdown, Carlisle, Millgrove  
West to Sydenham Rd ~ North to Conc. 14

City of Hamilton 905-546-2713  
Admin Alison Morrison 905-546-3944  
[www.hamilton.ca](http://www.hamilton.ca) [www.judipartridge.ca](http://www.judipartridge.ca)

We continue to have issues on a daily basis with this operation operating at all hours through the night, they have no occupancy permits that have been provided when asked, there are no washroom facilities on site, the waste water is a concern of ours and has not been addressed, Below is an e-mail from March 3rd from Judi Partridge :

Julia

Thank you for keeping us updated on the trucking operation at 71 Innovation Drive at Clappison Business Park. Staff in the planning department are cc'd on this email. Last week we did a site visit to this business for planning staff to see that the trucking business was up and operating, we also discussed the issues residents such as yourself have been dealing with overnight trucking operations. To all on this email, can we please issue stop work orders, operating without proper planning approval and whatever else to stop this operation until they follow the proper process. This business has been building on site, operating transport trucks all night long for several months now.

I don't care what outside consultants have to say about this operation, this isn't right they are allowed to continue this way

Jason et al, please advise

regards

Councillor Judi Partridge

Ward 15 East Flamborough

and the response:

Good afternoon Councillor. A Zoning Violation Notice was issued on February 11 requiring that the property owner obtain the proper zoning for this address that would allow the use of the property as a transport terminal, transportation depot and/or warehouse. Although the use is permitted, the property is not currently zoned to allow same. A compliance date of April 9, 2015 was given this matter.

Hope this helps.

Regards,

Pat Tompkins

So, you can see that as a long term resident of South Drive I do not believe this company has acted, or will act in good faith if they are permitted to obtain zoning to operate in my neighborhood. They flaunt the laws of our City and proceed with operating in a manner unto themselves.

If you do decide to grant them the zoning to be in my neighborhood, I vehemently disagree with allowing them a 2 year exception for landscaping. Every other light industrial in our neighborhood is landscaped and I do not want to look at their mess from the front of my house for a 2 year period of time.

I will continue to move forward with every means available to me to stop them from operating through the night. My family has been woken up on a regular basis (at least 5 nights out of 7) since they arrived in August of last year and it is affecting all aspects of our lives.

I am asking you to deny the zoning allowing this company to operate at 71 Innovation Drive , and if that is not possible - the 2 year extension on landscaping is a ridiculous request..

-----> The view from the front of my home

--> some of the mess you can see from South Drive

--> The other 2 businesses that line South Drive

If you have any questions regarding this submission please call my cell phone (905) 691-5606

Julie Dalton

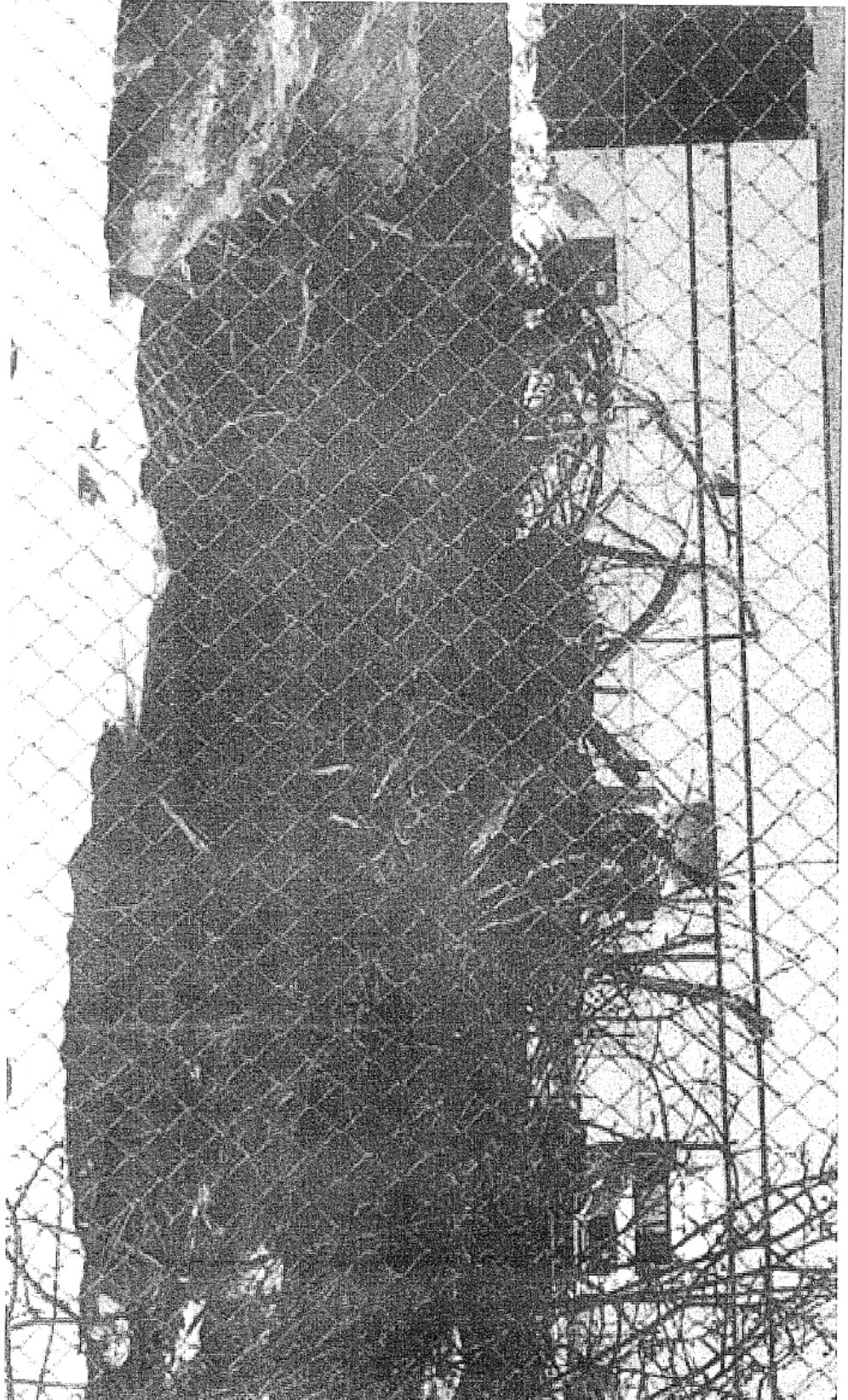
Product Coordinator, Team Lead

Phone: (905) 592-3567

Fax: (905) 336 9263

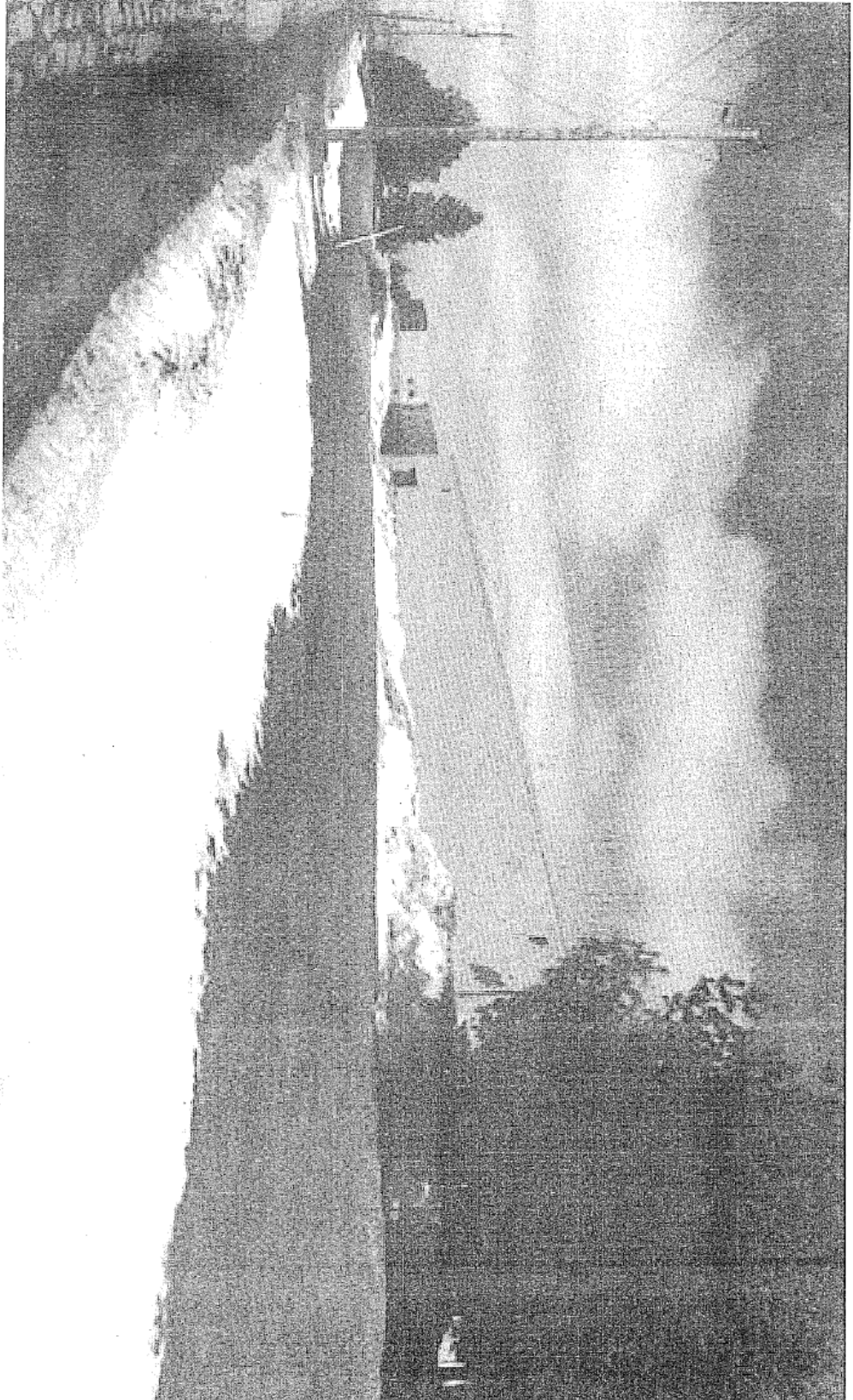
Email: [Julie\\_Dalton@quadra.ca](mailto:Julie_Dalton@quadra.ca)

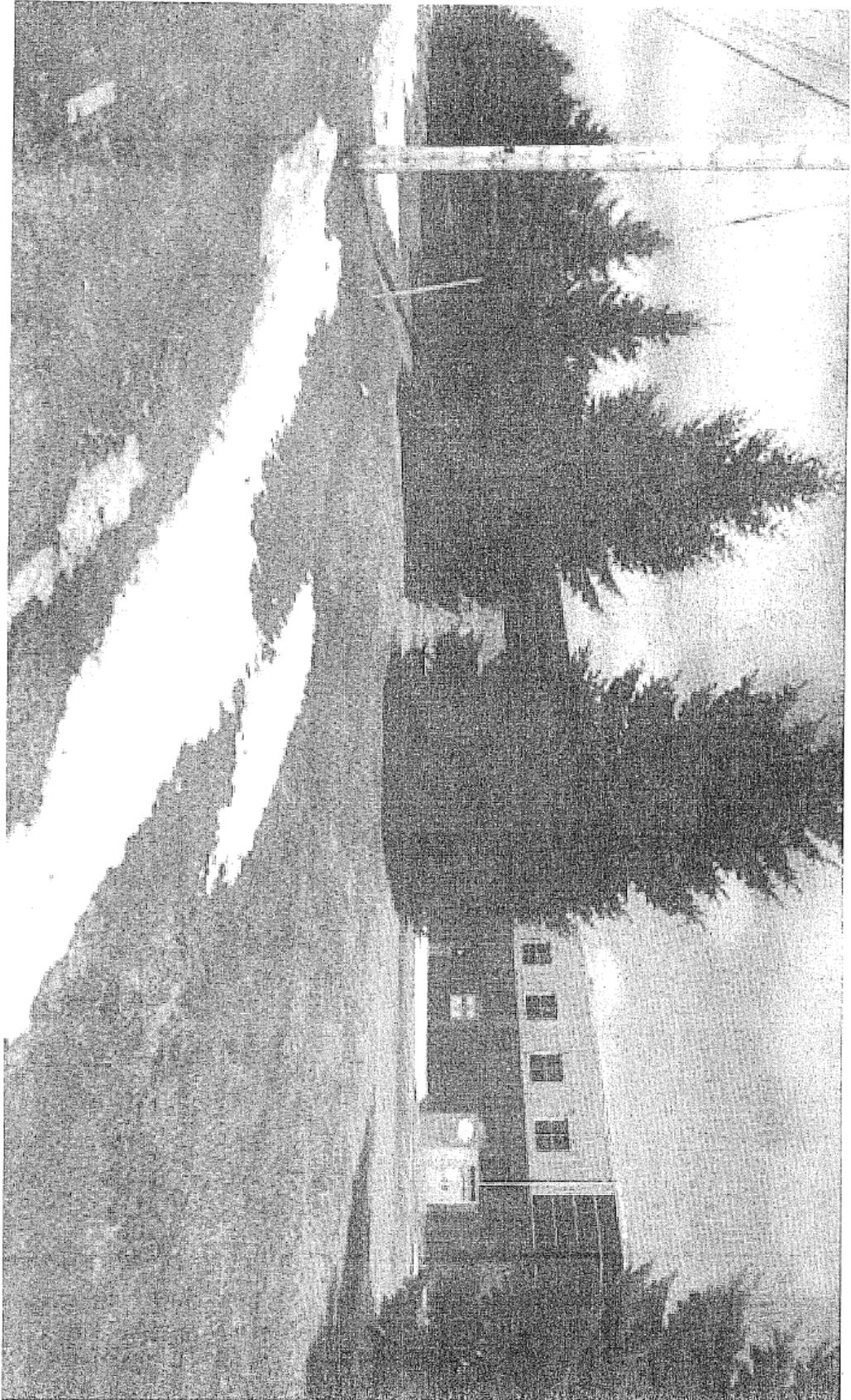
P.S. Visit our website at <http://www.quadrachemicals.com>





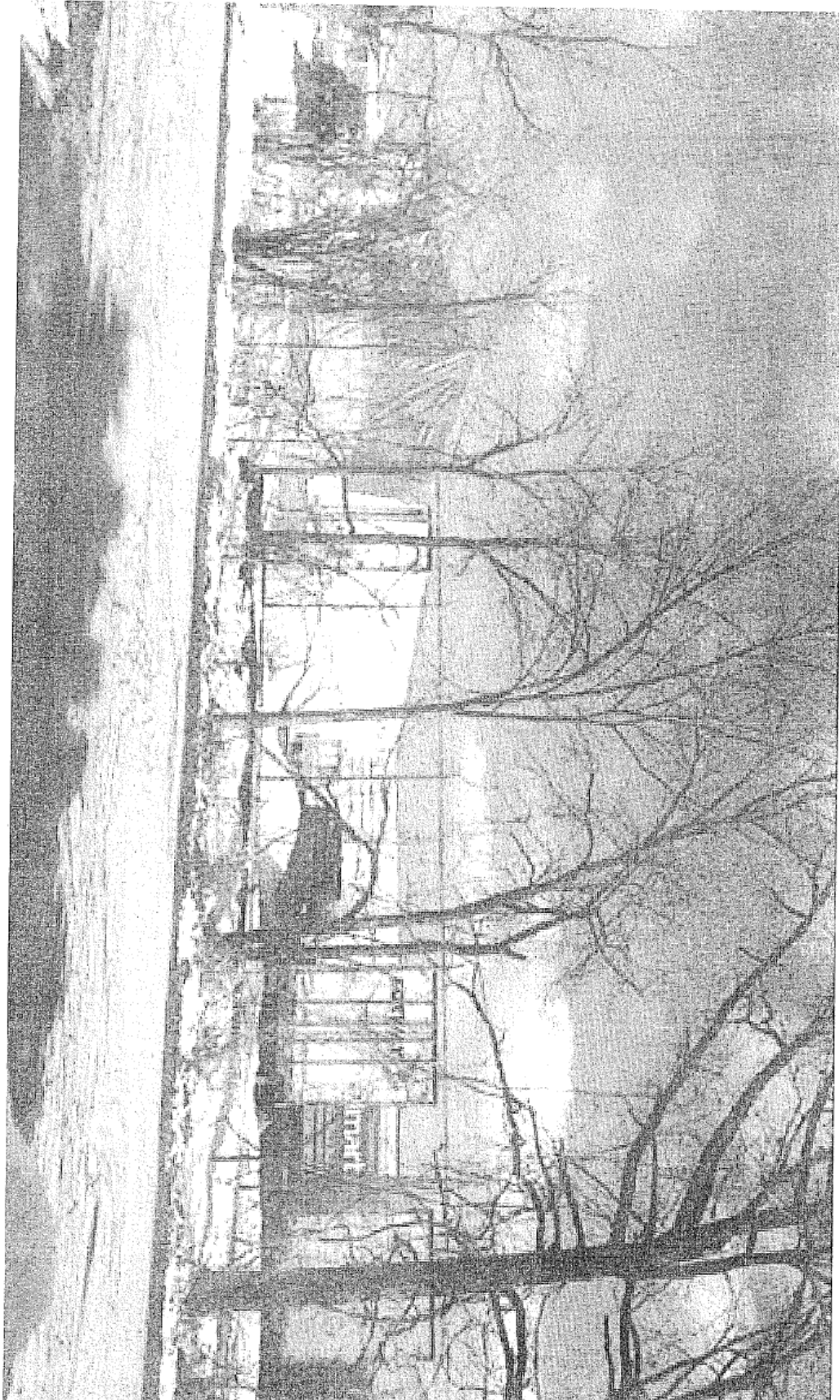














**Mignano, Martha**

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**From:** Julie\_Dalton@quadra.ca  
**Sent:** March-18-15 1:59 PM  
**To:** Mignano, Martha  
**Subject:** Application No. FL/A-15:40 (Addendum)  
**Attachments:** D-6 Separation Distances.pdf; D6&Procedures\_1.pdf

Good Afternoon Martha,

I have been able to secure some additional information regarding 71 Innovation Drive prior to tomorrows hearing, that I would like to have submitted.

Currently the property at 71 Innovation drive is being used as a 24 hour Trucking Terminal. Transport Trucks move in and out of this property 24 hours a day. The trucks start up, idle, and connect to trailers throughout the night. We believe that these activities constitute an industrial land use as defined by MOECC Guideline D-6 (attached). The current and proposed uses are defined in Guideline D-6 as a Class 2 Industrial Facility as there is 24 hour movement of trucks in and out of the property. In addition, we have concerns about the materials being moved in and out of the property, and of potential storage of these materials. Guideline D-6 Separation Distances states that the minimum separation distance for a Class 2 Industrial Facility should be 70m from property line to property line. MOECC Guideline D-6 has been compiled using scientific study and is designed to guide municipalities in planning decisions of this nature.

Creating an industrial zoning property envelope in a residential zoning is inconsistent with good planning practices and is inconsistent with the Planning Act.

Thank you Martha.

Julie Dalton  
Product Coordinator, Team Lead  
Phone: (905) 592-3567  
Fax: (905) 336 9263  
Email: [Julie\\_Dalton@quadra.ca](mailto:Julie_Dalton@quadra.ca)  
P.S. Visit our website at <http://www.quadrachemicals.com>



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