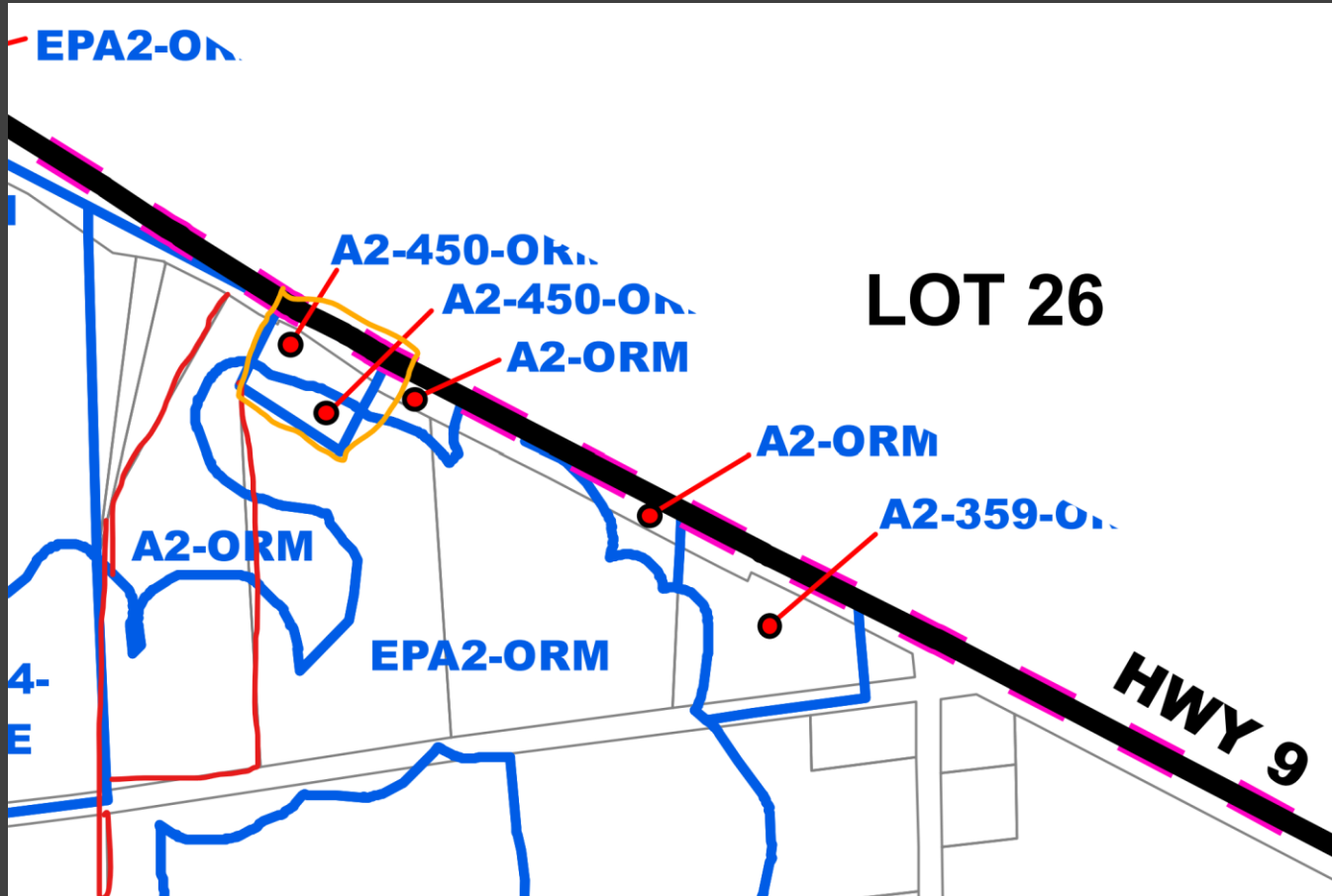


10795 & 10819 Highway 9
Confidential Session
Town of Caledon
Kathleen Wilson



Properties in
question

Red Property
10795 (Lions)
Orange property
10819 (Tiger)



COMMITTEE OF ADJUSTMENT

MINUTES

Wednesday, May 16, 2007

1:00 p.m.

ATTENDANCE:

CHAIRPERSON: Anne Livingston

MEMBERS PRESENT: Julio Di Cresce
Susan Norberg
Robert Cannon
Lily French

STAFF: Sylvia Smith, Acting Manager of Development
Eric Conley, Senior Development Planner
Ruth Hammett, Intermediate Planner
Brian Lauder, Community Development Planner
Casey Blakely, Community Development Planner
Cindy Pillsworth – Secretary-Treasurer

Application "A" 018/07

Lot 16, Plan 585 (Alb)

[REDACTED] (Agent: [REDACTED]) appeared before the Committee of Adjustment to request the following variances: 1) To reduce the front yard (minimum) front wall of main building from 3.0 metres to 5.6 metres; 2) To reduce the main building (minimum) interior side yard on other side from 1.5 metres to 1.4 metres; and, 3) To increase the building area (maximum) from 25% to 25.24% in order to construct a porch on the subject property.

I am proposing to build a porch and I require an additional 18 inches. The proposed porch will be about 6 feet away from the tree.

Casey Blakely, Community Development Planner, stated that the applicant has requested three (3) variances in order to construct a porch on the subject property. When the application was reviewed it was determined that the applicant would require a variance for building area. Town staff reviewed the application based on the Town's GIS information to determine lot area, as well as including the existing 96 square feet shed, that an increase to 26.1% is required and the recommendation has been amended accordingly. Staff are of the opinion that the application meets the four tests set out in the Planning Act and are recommending approval.

Julio Di Cresce, Acting Chair, inquired the tree that is in the front will it be affected by the construction of this porch?

Susan Norbert, Committee Member, inquired could you please show me on the drawing where the tree is located?

Moved by Robert Cannon – Seconded by Susan Norberg

That application be APPROVED AS AMENDED, Variance 1 and 2 remain the same. Variance 3 is approved as to increase the Building Area (maximum) from 25% to 26.1%. - Carried

Application "A" 015/07

Nucon Property Development Inc. Part of Lot 26, Concession 10 (Alb)

Nucon Property Development Inc, owner (Agent: Lawrence Rutledge) appeared before the Committee of Adjustment to request the following variances: 1) To expand an existing legal non-conforming use (motor vehicle repair facility) Building A from 247.8m² (2,667.3 ft²) to 285.7 m² (3,075 ft²); and, 2) To expand an existing legal non-conforming use (motor vehicle repair facility) Building B from 649.8m² (6,994.6 ft²) to 674.4 m² (7,259 ft²) on the subject property.

My client is requesting variances in order to renovate the buildings as they are in very poor condition. Building A, my client has torn the building down and has reconstructed it with a minor increase of 37.9 square metre gross floor area. Building B has had an increase of 24.6 square metre gross floor area. This is demonstrated with cross hatching (new addition) and hatching as

Committee of Adjustment 2007

existing. Between these two buildings is the septic tank and system. Yes, we started construction all ready.

Anne Livingston, Chair inquired could you please point out the buildings and the increase as these sketches are very difficult to understand. Should the Committee add a condition that site plan must be completed before the minor variance is permitted?

Brian Lauder, Community Development Planner, stated that the subject property is zoned Rural (A2) by By-law 87-250. The A2 zone does not permit a motor vehicle repair facility. The motor vehicle repair facility was legally established prior to the effective Zoning By-law date October 17, 1988. The subject property is designated Policy Area 4 under the Palgrave Estate Residential Community Plan in the Town of Caledon's Official Plan. The Official Plan permits legally existing uses. The existing motor vehicle repair facility was legally established prior to the date of the Official Plan. The existing use policies allow the expansion of a use that is not in conformity with the Official Plan or Zoning By-law subject to certain criteria. The proposed building expansion is currently under review for parking, access, landscaping and the Town's Industrial/Commercial Design Guidelines through Site Plan. Staff has reviewed this application with regards to this criteria and is of the opinion that the variances meet the intent and purpose of the Official Plan and Zoning By-law. The subject property falls within the Oak Ridges Moraine Conservation Plan and is Zoned Rural-Oak Ridges Moraine (A2-ORM) and Environmental Policy Area 2 by By-law 2003-183. The expansion to the buildings is located inside the A2-ORM zone. The motor vehicle repair facility is considered to be a legal non-conforming use. The site plan review only pertains to the addition on the site. The site plan will not be permitted until the minor variance has been granted and the appeal period has been completed. It is staff's opinion that it meets the general intent and purpose of the Official Plan and Zoning By-law and is recommending approval.

Susan Norberg, Committee Member, inquired what is between Building A and Building B?

Lily French, Committee Member inquired have you started construction already? Are you doing a site plan on all of this property? Could you explain legal non-conforming? In Zoning By-law 87-250 if you were to expand an existing use you were required to apply for a rezoning, is this not the same?

David Ostler, Town Solicitor, explained that legal non-conforming must be established lawfully in the first place in order for it to be considered that it was lawfully established. If there was no zoning in place for that parcel or if it complied at that time then it would be permitted. If the use did not continue then the use would not be permitted to start again. If a property is in the process of being sold, there could be a period of time that the operation would not continue until the new owners have taken possession then it would still be permitted. The Committee of Adjustment is permitted to grant an expansion of a legal non-conforming use.

Moved by Julio Di Cresce – Seconded by Lily French

That application be APPROVED - Carried

Timeline of a bad neighbour

- 10795 in 2007 COA walk on motion to expand 2 buildings on property
- Stated that they were legal non conforming auto repair, this is not true 10819 has a motor repair
- No site plan agreement
- They did not have a site plan agreement, but a \$2 payment submitted with some hard to read drawings
- 2008 MOE was called in due to neighbour complaints



April 2016 Complaints
about filling Reported
to Bylaw



2017 Lions is a Waste Facility

- Smell of fuel is evident from the trail, loads of derelict machinery, hazardous materials are seen and waste byproducts from Lions Abatement activities. Reported to bylaw and Councillor's DeBoer and Innis

- Numerous calls, emails to bylaw and the Manager of Regulatory Services, who never answered our questions.

August 28/17 a Hearing Tribunal found Lions guilty of property standards issues and improper waste disposal of hazardous items and were ordered to clean it up.

- Reported fuel smells to the MOE Spill Line on May 7th and the reference number is 2825-AM62CW
- **Did Lions ever clean up the fill and items?**





Adjacent to an open pit where our groundwater comes from.

Temporary Rezoning Application

PIM September 2020

— Zoning by-law amendment

Glen Schnarr and Associates Inc. on behalf of Nucon Property Development Inc. has made an application to amend the Zoning By-law for the subject lands located at 10795 Highway 9 from Rural - Oak Ridges Moraine (A2-ORM) and Environmental Policy Area 2 - Oak Ridges Moraine (EPA2-ORM) to Rural - Oak Ridges Moraine - Temporary Use XX (A2-ORM-TXX) and Environmental Policy Area 2 - Oak Ridges Moraine - Temporary Use XX (EPA2-ORM-TXX) to permit a business office, contractor's facility, open storage, and other site works for a temporary duration of three (3) years.

— Zoning by-law amendment

The Town of Caledon has received a Zoning By-law Amendment (Temporary-Use) application to amend the Town of Caledon Comprehensive Zoning By-law 2006-50, as amended. The purpose of the application is to amend the Zoning By-law for the subject lands from Rural - Oak Ridges Moraine - Exemption 450 (A2-ORM-450) and Rural - Oak Ridges Moraine - Exemption 450 - Environmental Policy Area (A2-ORM-450-E) to Rural - Oak Ridges Moraine - Temporary XXX (A2-ORM-TXX) and Rural - Oak Ridges Moraine - Temporary XXX - Environmental Policy Area (A2-ORM-TXX-E) to permit a motor vehicle gas bar, accessory retail store and restaurant for a period of three (3) years.

- [Zoning by-law amendment \(draft\)](#)

10795 Highway 9 is clearly marked and defined as a A2 – EPA2-ORM

Natural Linkage area

High aquifer vulnerability

Oak Ridges Moraine Conservation Area

Palgrave Estate Residential Community

How is this temporary use compatible with the sensitivity of our neighbourhood?

Currently an abatement company stores derelict vehicles, excessive amounts of PCBs, Crankcase oil and used truck oil, batteries, tanks and drums in our neighbourhood?

Contractor's Facility means *a yard and building in which the shop or assembly work of a contractor or tradesperson is performed.*

Not a Compatible Use



Current and planned Temporary activities are not Compatible

Abatement companies don't belong in rural residential communities on the Oak Ridges Moraine as the mere operations and activity of Lions Demolition and abatement will not protect our water. In the past dumping and storing of hazardous waste as well as non native soil, tires, broken trailers have been photographed and complain. Lions is operating their abatement company illegally on the property since they purchased it and changing the zoning temporarily is not the answer

NATURAL LINKAGE AREA OF ORM

Temporary storage and approval has irreversible damage. Lions has been filling and storing hazardous and unlabeled substances for years on the property. In Aug 2017 there was a hearing tribunal and Lions was asked to clean the property up. We as residents asked for the information on these and were not provided an update of whether or not the Hearing Tribunal findings were followed up.

Why did Nucon report that there were no environmental investigations on the property in the ESA #1?

Fuel tank circled in blue batteries circled in red

According to Mr. Jay Hemming, no additional environmental investigations were known to have been completed at the Site.

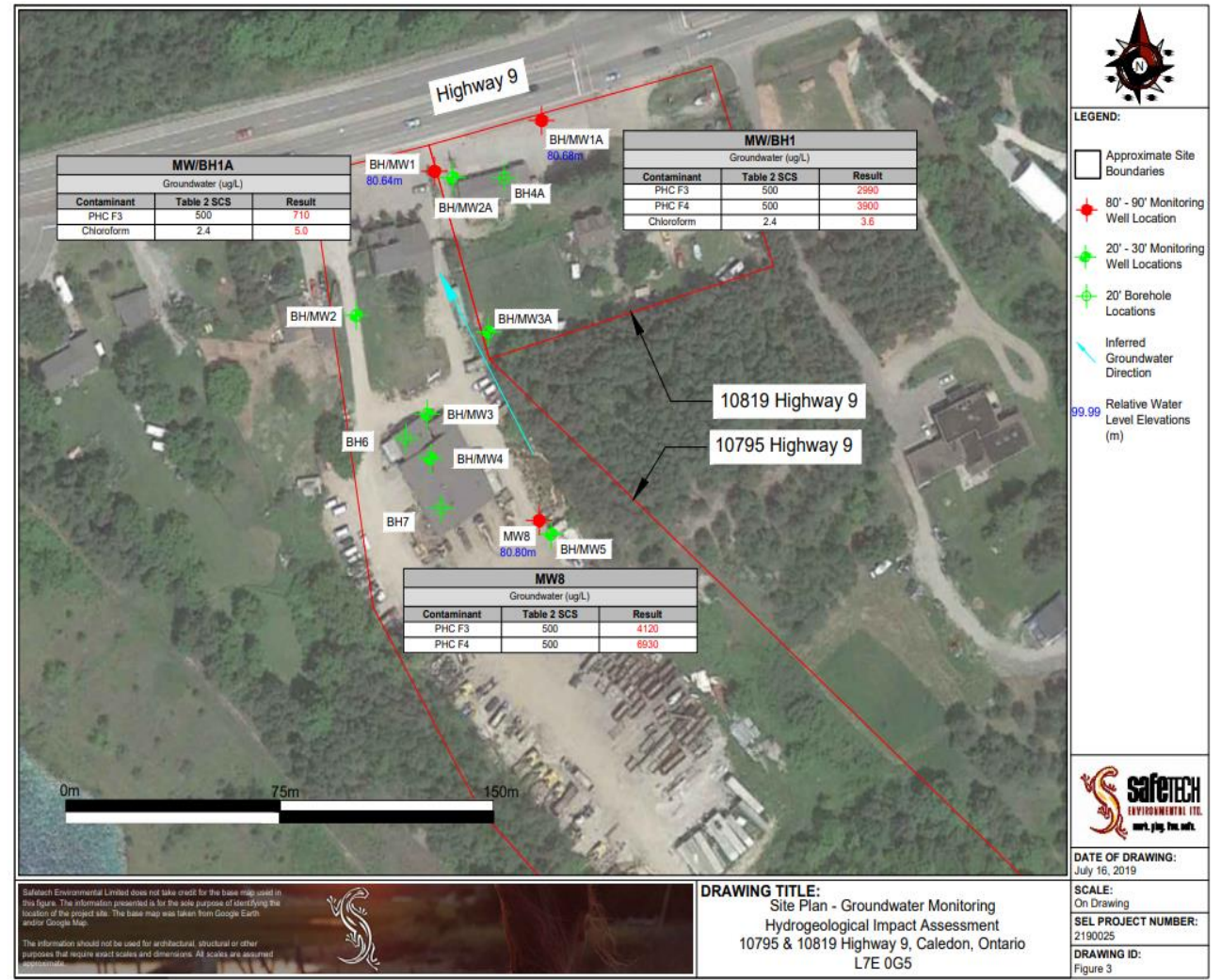
The environmental reports listed above identified the following:

- ASTs, used vehicles, equipment and miscellaneous scrap metals have been reportedly scattered outside in the yard of the Site since 2006;
- Site Buildings were redeveloped/renovated in 2006;
- Imported material of unknown quality was located on-Site in 2015;
- Heating oil tank and stains in basement of Site Building 1 suggest the building may have historically heated by an oil burning furnace (no vent pipes alongside of Site Building 1 were confirmed upon Site reconnaissance);
- PHCs F2-F4 and PAH concentrations exceeding Table 2 SCS have been identified within the top 0.5m of visibly stained soil in the vicinity of Site Building 2 in 2005 (exact location is unknown due to absence of appendix).




Ground Water is Contaminated

- In the Town of Caledon, Section 6.2.13 Temporary Use By-Laws provides specific policies for the short term uses of land, buildings or structures that apply to the proposed temporary use Amendments. Section 6.2.13.2 of the Official Plan contains the criteria that the Town shall consider when evaluating and enacting a Temporary Use Zoning By-law.
- 6.2.13.2 a. That it is compatible with neighbouring land use activities; 6.2.13.2 e. That the use cannot become permanent and difficult to terminate; and, 6.2.13.2 f. That adverse environmental impacts will be avoided, minimized or mitigated.
- the hydrogeological Impact assessment states that there were excessive hydrocarbons found in the area of the Fuel pumping station which is 14 times the allowable limit for Table 2.
- What is the Town of Caledon going to do to protect the neighbouring homes from the PHC F3 and F4 found in the water as well as the Chloroforms found on the property? There were 2 locations only on the property with viable wells to test water
- Staff report states the soil is contaminated but the hydrogeological survey was well water testing and borehole testing, why is this incorrect in the staff report?
- With the contamination found, how will the Town mitigate and ensure that contamination is cleaned up, contained and neighbouring properties tested for exceedances? Bylaw was contacted, no one has replied? MOE Fuel Spill was also logged, this should have been done by Nucon to ensure the safety of our groundwater?



The Lab results!

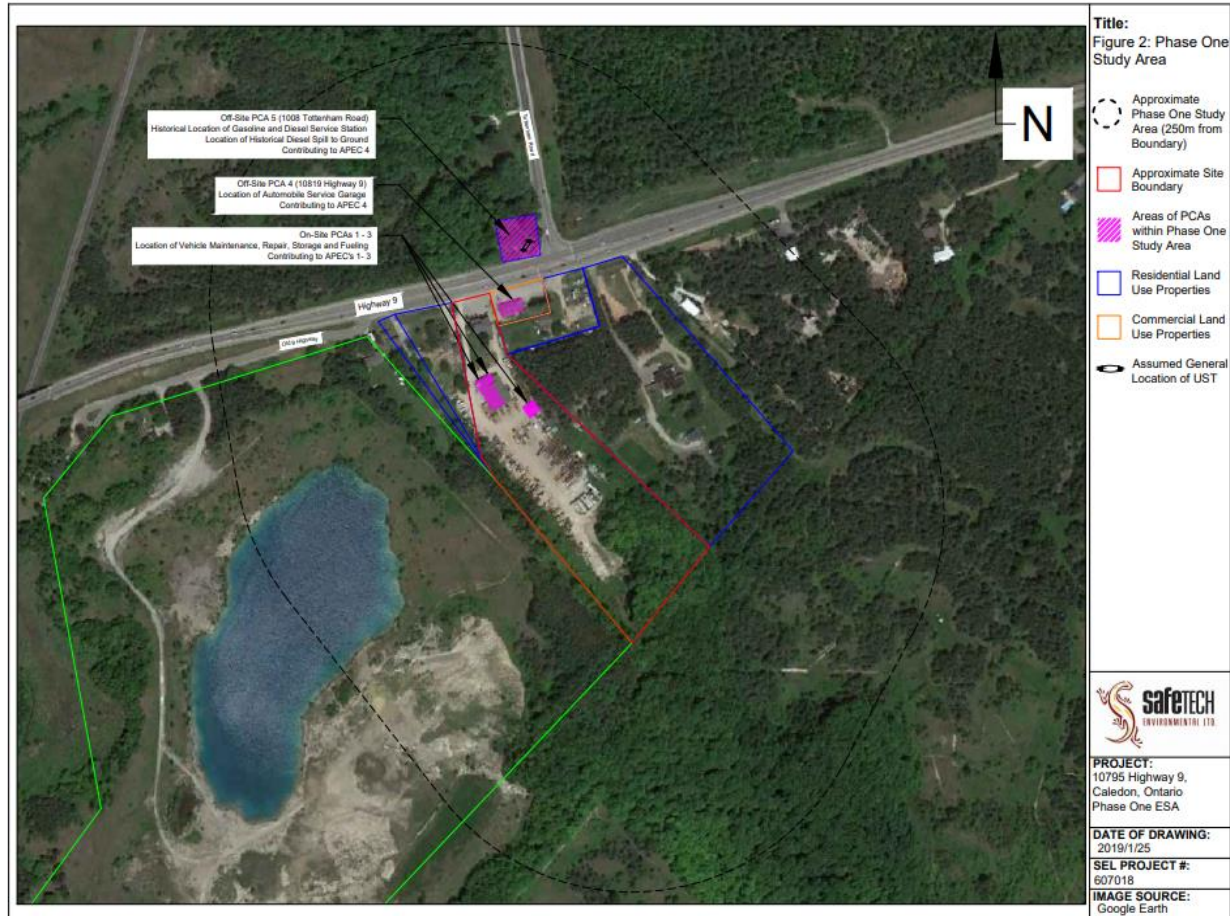
	Certificate of Analysis
Environment Testing	
Client: Safetech Environmental Limited 14 - 3045 Southcreek Rd. Mississauga, ON L4X 2X7 Attention: Mr. Derrick Trim PO#: Invoice to: Safetech Environmental Limited	Report Number: 1907789 Date Submitted: 2019-05-17 Date Reported: 2019-05-29 Project: 606918/607018 COC #: 203176

O.Reg 153-T2-Groundwater-Coarse

Exceedence Summary

Sample I.D.	Analyte	Result	Units	Criteria
Hydrocarbons				
BH/MW1	Petroleum Hydrocarbons F3	710	ug/L	STD 500
BH/MW1A	Petroleum Hydrocarbons F3	2990	ug/L	STD 500
BH/MW1A	Petroleum Hydrocarbons F4	3900	ug/L	STD 500
MW8	Petroleum Hydrocarbons F3	4120	ug/L	STD 500
MW8	Petroleum Hydrocarbons F4	6930	ug/L	STD 500
Volatiles				
BH/MW1	Chloroform	5.0	ug/L	STD 2.4
BH/MW1A	Chloroform	3.6	ug/L	STD 2.4

4 Areas of Potential Environmental Concern



It is the professional opinion of **Safetech Environmental Limited** that there exists APECs on the Site which could represent an environmental liability to the property owner. A Phase Two ESA is recommended. The following Areas of Potential Environmental Concern (APECs) were identified on the Site as a result of this assessment.

APEC #	Location of Area of Potential Environmental Concern on Site	Potentially Contaminating Activity	Location of PCA	Parameters of Potential Concern and Media Potentially Impacted
APEC 1 (Associated with on Site PCA 1)	Northeastern portion of Site Building 2 exterior surrounding AST 4	28 – Gasoline and Associated Products Storage in Fixed Tanks	Northeastern portion of Site Building 2 exterior	Evaluate soil and groundwater quality for potential Petroleum Hydrocarbon Compounds (PHCs) Fractions F1 – F4, Volatile Organic Compounds (VOCs)
APEC 2 (Associated with on Site PCA 2)	Eastern boundary of Site surrounding AST 5 and AST 6	28 – Gasoline and Associated Products Storage in Fixed Tanks	Outside along eastern boundary of Site east of Site Building 2	Evaluate soil and groundwater quality for potential PHCs F1 – F4 and VOCs
APEC 3 (Associated with on Site PCA 3)	Western portion of Site Building 2 (first and second floor) as well as area of septic bed beneath grassed area between Site Building 1 and Site Building 2	52 – Storage, maintenance, fuelling and repair of equipment, vehicles and material used to maintain transportation systems	Western portion of Site Building 2 (first and second floor)	Evaluate soil and groundwater quality for potential PHCs F1 – F4, VOCs and Polycyclic Aromatic Hydrocarbons (PAHs)
APEC 4 (Associated with off Site PCAs 4 & 5)	Northeastern corner of Site	28 – Gasoline and Associated Products Storage in Fixed Tanks	Adjacent to the northeast of the Site (northwest corner of Highway 9 and Tottenham Road intersection)	Evaluate soil and groundwater quality for potential PHCs F1 – F4 and VOCs
		10 – Commercial Autobody Shops	Adjacent to the east of the Site at 10819 Highway 9	

What is the Town going to do to clean up all this issues?

Why would we allow this polluting to continue?

PCBs, Oils being stored and brought onto the property

- Why are PCBs being imported into the Lions site from job sites and being stored on an environmentally sensitive area with residential houses on both sides of the property? Where are the manifests for the safe removal of these toxic substances? Why are PCBs being stored on a highly vulnerable aquifer on the ORM?
- There are manifests stating that GFL is removed over 22,000L of used motor oil in a 18 month period, if this is a contractors yard, why so much oil is stored and then eventually removed from the site? Oil and chemical storage is not a permitted use on the Oak Ridges Moraine?
- Will waste disposal activities still continue illegally on this site as per the temporary use for a contractor's yard? Why are Waste Disposal activities happening on this site? This is not a permitted use on the ORM.

Review of the Ecolog ERIS database search identified records of waste oils and lubricants as well as **PCBs** being disposed of from the Site. The waste oils were reportedly collected on Site in AST 4 (see section 5.2.2 for AST identification) and were assumed to be a result of maintenance and repairs of the vehicles and equipment on the Site. The PCB waste generated was reported by Mr. Jay Hemming (Lions Demolition) to have been from materials collected from demolition projects which were brought to the Site for proper disposal. Examples of material brought to the Site as well as copies of the waste manifest documents were not provided. Manifests of the waste oils were provided to SEL from the Client and are described in section 3.4 of this report. Copies of the waste manifests are also included in Reference 9 in the Appendix.

5.2.7 Drains, Pits, Sumps

Site Building 1 appeared to have two drains/sumps; one drain in the basement utility room and one sump in a storage room accessed from the garage. Site Building 2 appeared to have 3 associated drains/sumps; one drain in the shower in the bathroom of the second floor office space, one sump bucket in the basement furnace room and one large drain outside of the garage doors on the south end of the building.

Contents entering the drains were reportedly transported into the septic bed located below the ground surface south of Site Building 1.

5.2.8 Unidentified substances

Inside of Site Building 2 there appeared to be various unsealed pales/buckets which were not labelled, however was assumed to be one of the fluids listed in Section 5.1.2 and likely residual/leftover/waste from its respective use.

5.2.9 Spills and Stains

There were several spills and stains observed in the western sections of the first and second floors of Site Building 2. The main function of these areas was the maintenance and repairs of vehicles. There were several barrels, buckets, pails and miscellaneous open containers containing a variety of mechanical fluids throughout the area. Most areas of evident staining on the floors were observed to have 'Qualisorb' scattered overtop as an attempt to mitigate the spill. There was a pit beneath one of the trucks inside the building (assumed to be used for working underneath the vehicle) where pooled fluid was observed with no 'Qualisorb'.

Directly west of Site Building 2, there was pooled surface water from the rainfall which occurred during and before the Site reconnaissance. This pooled water was observed to have a visible sheen throughout and was slowly draining off the Site into the property adjacent to the west.

5.2.10 Water Bodies

At the time of Site reconnaissance, there had been consistent rainfall throughout the morning which led to pooled water observed in the directly west of Site Building 2 which appeared to drain off the Site to the west. No sign of a water body was reported or assumed to be present without any recent rainfall on the Site.

Other Questionable Items identified in the ESA #1

- Why are Derelict Vehicles allowed on this facility? Many smashed up trucks, trailers, excavators gas tanks, engines and tires stored on this facility. This contradicts the Town of Caledon Clean yards bylaw BY-LAW NO. BL-2016-063
- Why are propane and gas tanks stored on the facility? This contradicts the Town of Caledon Clean yards bylaw BY-LAW NO. BL-2016-063
- Why are the 8 above ground storage tanks for fuel permitted on the property? Through an FOI request in the ESA it was found that no safety documentation or registration of these tanks with the TSSA. Why does the Town permit this unsafe use of this property?
- The current use and temporary use are forbidden activities in a highly vulnerable aquifer. With the 8 ASTs, the ESA also mentioned that there is extensive spills and stains throughout the property and no secondary containment on 3 of the tanks. With AST 8 being the location of the contamination. Why allow this?

OLT Hearing 2023

- Both properties are being heard together
- Nucon Property Development Inc. for 10795 (Lions)
- 2203315 Ontario Corp for 10819 (Tiger Automotive)
- Case Management conference has occurred 3 times
- Town did not notify the parties at the PIM about the OLT and the CMC
- Lawyers for these 2 cases didn't notify parties and participants correctly
- Region of Peel and Town of Caledon have a solicitor