



**City of Kingston
Report to Council
Report Number 24-053**

To: Mayor and Members of Council

From: Paige Agnew, Commissioner, Growth & Development Services

Resource Staff: Tim Park, Director, Planning Services

Date of Meeting: January 23, 2024

Subject: Proposed Revocation of the Minister's Zoning Order for the Clogg's Road Business Park

Council Strategic Plan Alignment:

Theme: Regulatory & compliance

Goal: See above

Executive Summary:

On December 13, 2023, the Ministry of Municipal Affairs and Housing posted a notice on the Environmental Registry of Ontario (ERO) to revoke the Minister's Zoning Order (MZO) for the Clogg's Road Business Park ([ERO number 019-7979](#)). The Ministry has cited "lack of downstream implementation" as the reason for the proposed revocation.

The MZO, filed as [Ontario Regulation 159/22](#), facilitates industrial, commercial and open space uses in the Clogg's Road Business Park and was intended to assist the City in retaining a company in the green technology sector.

The purpose of this report is to provide an overview of the MZO that is currently in effect for the Clogg's Road Business Park and a discussion of the implications should the MZO be revoked by the province. Staff are seeking Council's direction to forward this report to the province as the City of Kingston comments on ERO Number 019-7979.

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Recommendation:

That Report Number 24-053 regarding the proposed revocation of the Minister's Zoning Order from the Clogg's Road Business Park be received by Council and the comments endorsed; and

That Council support the proposed revocation of the Minister's Zoning Order (Ontario Regulation 159/22) from the Clogg's Road Business Park; and

That Council direct the City Clerk to submit Council's resolution and Report Number 24-053 to the Ministry of Municipal Affairs and Housing as the City of Kingston comments on Environmental Registry of Ontario Number 019-7979 before January 27, 2024.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

**Paige Agnew, Commissioner,
Growth & Development Services**

ORIGINAL SIGNED BY CHIEF

ADMINISTRATIVE OFFICER

**Lanie Hurdle, Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

Jennifer Campbell, Commissioner, Community Services	Not required
Neil Carbone, Commissioner, Corporate Services	Not required
David Fell, President & CEO, Utilities Kingston	Not required
Peter Huigenbos, Commissioner, Major Projects & Strategic Initiatives	Not required
Brad Joyce, Commissioner, Infrastructure, Transportation & Emergency Services	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required

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Options/Discussion:**Background**

Section 47 of the *Planning Act* gives the Minister of Municipal Affairs and Housing the authority to control the use of any land in the province by issuing a zoning order. A Minister's Zoning Order (MZO) has typically been used to protect a provincial interest or to help overcome potential barriers or delays to critical projects.

At the request of the City, the Minister of Municipal Affairs and Housing filed an MZO on March 4, 2022 as [Ontario Regulation 159/22](#) for the [Clogg's Road Business Park](#) to facilitate industrial, commercial and open space uses. The MZO was intended to assist the City in retaining a company in the green technology sector. The Clogg's Road Business Park is located north of Creekford Road, west of Gardiners Road and south of Highway 401. The lands are approximately 80 acres in area and are bisected by Clogg's Road. The MZO allows for Business Park Industrial uses, open space uses, as well as some commercial uses limited to the southeast portion of the business park lands. The commercial uses are limited to a total lot area of 5 acres (2.02 hectares).

Following the filing of the MZO, Li-Cycle Americas Corp. (Li-Cycle) submitted a Site Plan Control application (File Number D11-011-2022) for a large portion of the eastern parcel of the Clogg's Road Business Park. The applicants completed the technical review process, however, have recently made it known to the City that they are scaling back in Kingston and have indefinitely deferred their development within the Clogg's Road Business Park.

The Clogg's Road Business Park is an important component of the City's future employment lands supply. The City will now be working to sell the Clogg's Road Business Park lands to other strategic businesses. Municipal water and wastewater services were extended to the eastern portion of the lands in 2023 (between Clogg's Road and Gardiners Road), making full municipal services available for half of the business park.

On December 13, 2023, the Ministry of Municipal Affairs and Housing posted a notice on the Environmental Registry of Ontario (ERO) to revoke the MZO for the Clogg's Road Business Park ([ERO number 019-7979](#)). The Ministry has cited "lack of downstream implementation" as the reason for the proposed revocation.

Analysis and Comments

Since the time of the original request from the City for the MZO and its approval by the Minister, the new Kingston Zoning By-Law Number 2022-62 has come into full force and effect. The Clogg's Road Business Park lands are zoned Business Park Zone (M1) in Zoning By-Law Number 2022-62, with an Exception Overlay (E78). The Exception Overlay notes that while Ontario Regulation 159/22 is in effect, the lands are not subject to Zoning By-Law Number 2022-62.

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Should the MZO (i.e., Ontario Regulation 159/22) be revoked, the regulations of Zoning By-Law Number 2022-62 will automatically apply to the Clogg's Road Business Park. The M1 Zone allows for the same business park industrial uses as-of-right (with some changes in terminology) that are permitted by the MZO, except for the commercial uses. Should the MZO be revoked, future complementary uses will require a minor variance or a zoning by-law amendment application, as appropriate, as per Section 3.6.12 of the City's Official Plan. The complementary uses could be located on any parcel of land within the Clogg's Road Business Park, subject to the approval of a minor variance or zoning by-law amendment application and would not be limited to the southeast portion of the business park lands as noted in the MZO. This would allow for flexibility in the location of such uses.

The area identified as an Open Space Zone in the MZO allows for parks and public uses and was intended to reflect the existing ridgeline within the lands. Kingston Zoning By-Law Number 2022-62 allows for parks and public uses in the M1 Zone. A draft plan of subdivision application for the Clogg's Road Business Park is currently under review (File Number D35-005-2019). Open space blocks are proposed through the draft plan of subdivision that apply to the valley lands slope of the Collins Creek Wetland on the western parcel, and a natural heritage block on the eastern parcel.

Once an MZO is in place, municipalities do not have the authority to amend the zoning of the lands subject to the MZO. Any amendments or minor variances to an MZO are at the discretion of the Minister of Municipal Affairs and Housing. Should the MZO for the Clogg's Road Business Park be revoked, future planning decisions would fall back under the City's jurisdiction (Council or the Committee of Adjustment, depending on the application).

Given the analysis above, staff are supportive of the proposed revocation and are seeking Council's direction to forward this report to the province as the City of Kingston comments on ERO Number 019-7979.

Existing Policy/By-Law:

Ontario Regulation 159/22: Zoning Order – City of Kingston

City of Kingston Official Plan

Kingston Zoning By-Law Number 2022-62

Notice Provisions:

None

Financial Considerations:

None

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Other City of Kingston Staff Consulted:

Brandon Forrest, Director, Business, Real Estate & Environment

Exhibits Attached:

None