

**ENVIRONMENTAL AND LANDS TRIBUNAL ONTARIO
LOCAL PLANNING APPEAL TRIBUNAL**

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	Colacem Canada Inc.
Subject:	Application to amend Zoning By-law No. 2000-75 – Refusal of Application by Township of Champlain
Existing Zoning:	Rural Zone (RU)
Proposed Zoning:	Industrial Heavy – Special Zone (MG-3) and Industrial Heavy – Special Exemption Zone (MG-4)
Purpose:	To permit a cement plant and accessory structure
Property Address/Description:	Lot 217, Plan M-100, County Road No. 17
Municipality:	Township of Champlain
Municipal File No.:	Z-7-2016
LPAT Case No.:	PL170192
LPAT File No.:	PL170192
LPAT Case Name:	Colacem Canada Inc. v. Champlain (Township)

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant :	Action Champlain
Subject:	Proposed Official Plan Amendment No. 30
Property Address/Description :	Lot 217, Plan M-100, County Road No. 17
Municipality:	Township of Champlain
LPAT Case No. :	PL170756
LPAT File No. :	PL170756
LPAT Case Name :	Action Champlain v. Prescott and Russell (United Counties)

REPLY WITNESS STATEMENT OF JAMES PARKIN

JUNE 29, 2018

1. I have reviewed the Witness Statement of George McKibbon, Participant Statement for Township of Champlain and the report of Mark Dorfman. Based on my review, I wish to provide the following additional comments in response to opinions expressed in these documents, which are supplementary to my opinions as set out in my Witness Statement.
2. **Reply to Witness Statement of George McKibbon Regarding Visual Impact**
 - a) At paragraph 40 of Mr. McKibbon's witness statement it is acknowledged that distance mitigates the visual impact of building bulk and height but it is asserted that the distance in this case is

insufficient. It should be noted that Figures 7A and 7B provided by Mr. McKibbin do not account for any distance mitigation.

- b) In reply, it is my opinion that the proposed location of the Colacem plant is well setback from County Road 17 to the south and Bay Road to the north. MHBC prepared a simple case study that demonstrates the significance of distance as a mitigating factor for visual impact. (See attachment)
- c) For viewpoints closest to the proposed cement plant, where distance mitigation is less effective, landscaped berms and vegetation tree screens can provide effective screening and visual buffering of the cement plant buildings. Berms and landscaping will be addressed through the municipal site plan control process.

3. Reply to Township of Champlain Regarding Form of Proposed Zoning Bylaw Amendment

- a) I have reviewed the comments provided by Township of Champlain regarding alleged deficiencies in the proposed zoning bylaw. Following this review I do not see the need to revise the zoning by-law amendment that was attached to my May 31st 2018 witness statement.
- b) My response to the Township comments on the zoning are:
 - i. With respect to maximum height, my understanding is that the height provisions of the zoning bylaw do apply to a chimney that is accessory to an industrial building. (See Definition 2.135 and Section 3.14 Township of Champlain Zoning By-law No. 2000-75). There are a number of other buildings proposed that will be higher than the standard 18 metre maximum. The proposed maximum height of 125 meters is necessary and appropriate. The actual height of each building will be regulated under municipal site plan control.
 - ii. A maximum lot coverage of 25% is permitted in the MG zone and no exemption is required. Lot coverage is the area covered by buildings and structures (Definition 2.161) which is approximately 30,000 square meters for the Colacem proposal. The lot is defined as the whole property (Definition 2.159) and a lot divided into more than one zone is to be considered as one lot for the purposes of determining coverage (Section 3.19 Township of Champlain Zoning By-law No. 2000-75). The Colacem "lot" is about 55 hectares and the proposed coverage is well under the 25% maximum.
 - iii. The standard MG zone yard setbacks applicable to the Colacem lot are:
 - Front yard – 21 m
 - Rear yard - 21m
 - Interior side yards (east and west) – 15m

There are no exterior side yards (no side yard abutting a street).

The proposed zoning bylaw attached to my May 31st witness statement proposes an exception that would allow a minimum west interior side yard of zero (0) meters. This is justified because the adjacent use is a quarry and the proposed use will involve movement

of materials and equipment between the two uses. The other side yard requirements will be adhered to and this will be confirmed at the site plan stage.

- iv. I do not think that a holding zone is appropriate or required for this case. While it is true that a site plan agreement and MOECC approvals are required before the development can proceed, those requirements have to be met regardless and a hold zone is not required in order to ensure those agreements and approvals are in place.

4. **Reply to Township of Champlain – Dorfman Report**

Separation Distance Comparison

- a) Mr. Dorfman has filed a report that intends to provide context in the form of an overview of the Cement Industry in Canada. In Part Four, Section 3 of that report he provides a table of separation distances between 18 Canadian cement plants and the nearest “cluster” of residential dwellings (as defined by Mr. Dorfman in his report). In relation to the provided information Mr. Dorfman makes the statement that the proposed cement operation uniquely may create impacts compared to experience in the rest of Canada, based on an average distance from the cement operation to a residential cluster of 1000 metres.
- b) I conducted a review of the distances provided by Mr. Dorfman and was unable to replicate his measurement results. My review identified that half the sites have residential clusters that are closer to the cement plant than reported by Mr. Dorfman.
- c) Furthermore, half of the sites do have other sensitive receptors (mostly residences) closer to the cement plants than the so called “residential clusters”.
- d) It should also be noted that in many cases the intervening land uses that occur inside the reported distances between the plant and the residential use includes other industrial land uses, quarry extraction, open storage/stockpiling or major highways. So, it should be recognized that the reported distances do not necessarily represent separation between residential and other industrial uses.
- e) In my opinion, the exercise of comparing distance measurements with other sites is not a good way to compare and judge land use acceptability because there are so many other variables and considerations that would apply. However, it is clear that a correct comparison of separation distance does not support any conclusion that the Colacem proposal is somehow “unique” compared to the rest of Canada. My review of the other plants found several examples where the separation distances are similar to or less than what is proposed in the Colacem applications.

Municipal Climate Change

- f) In Part Four, Section 5 (b)(iv) of the report it is stated that cement plants are an example cited in a proposed guideline for municipalities related to municipal Greenhouse Gas inventory.

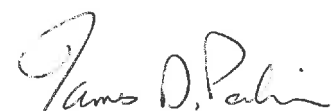
- g) The Ontario guideline was finalized in April 2018 and is entitled Community Emissions Reduction Planning: A Guide for Municipalities. The only mention of cement plants is in Table 27 where it is listed as an example of a trigger that is not significant enough to cause a recalculation of municipal emissions.

Table 27. Inventory recalculation triggers (adapted from GPC).

Change	Example	Recalculation needed? (significance)
Change in inventory boundary	A community is included in or set aside from a city's administrative boundary.	Yes.
	Change in goal boundary from BASIC to BASIC+, or from 6 GHGs to 7 GHGs.	Yes.
	Shutdown of a power plant.	No.
	Build of a new cement factory.	No.
Change in calculation methods	Change in calculation method for landfilled solid waste.	Yes.
	Adoption of a more accurate activity data instead of a scaled-down national figure.	Yes.
	Change in global warming potential factors used.	No.
	Change in electricity emissions factors.	Yes.
Discovery of significant errors	Discovery of significant mistakes in calculations.	Yes.

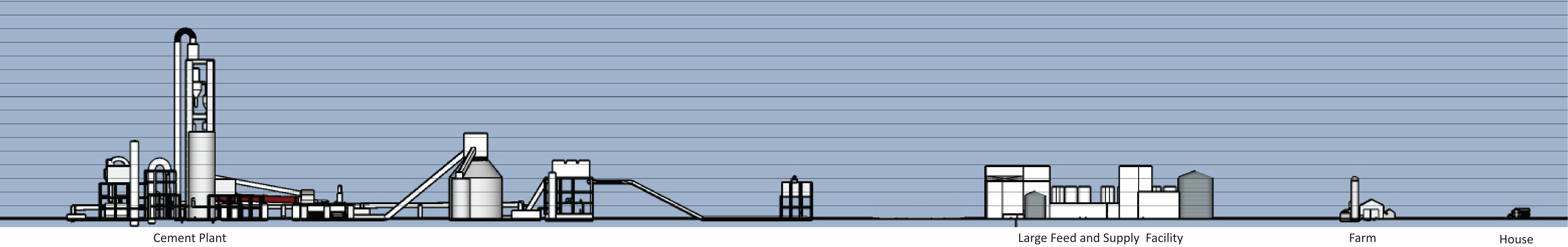
- h) I confirmed that the earlier draft of the guideline (that may have been the document referenced by Mr. Dorfman) contained the same table information. While the relevance of this information to the Colacem proposal is unclear, I do think it would have been appropriate to include the information on what this was an example of in his report.

June 29, 2018

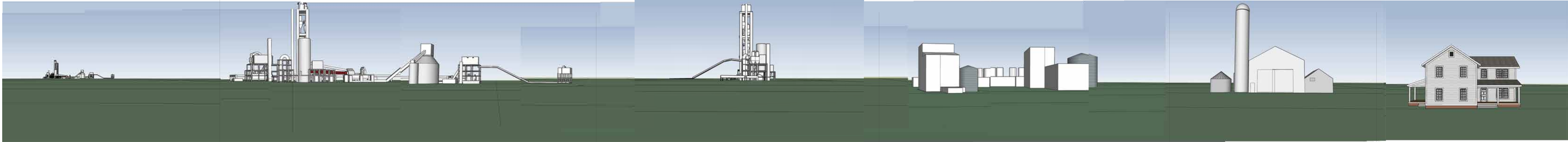

James Parkin

Case Study Showing Relative Effect of Distance Mitigation

RELATIVE SIZES AT CONSTANT DISTANCES (NO DISTANCE MITIGATION)



COMPARSION WITH DISTANCE MITIGATION



Cement Plant
Distance from Viewer: 1500m

Cement Plant - Sideview
Distance from Viewer: 300m

Cement Plant - Front View
Distance from Viewer: 300m

Large Feed and Supply Facility
Distance from Viewer: 100m

Farm
Distance from Viewer: 60m

Two Story House
Distance from Viewer: 20m

PLANVIEW

