



TOWNSHIP OF CHATSWORTH

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December 15, 2017

Township of Chatsworth
R.R. 1
CHATSWORTH, Ontario
N0H 1G0

Dear Mayor Pringle and Members of Council

**Re: Application for Zoning By-law Amendment
Part Lot 27, Concession 7, Geographic Township of Holland
Township of Chatsworth
Owner: Brian and Pearl Bumstead**

Please consider the following comments with regard to the above-noted application for Zoning By-law Amendment.

Background:

An application to amend the Township's Zoning By-law to allow for a licensed sand and gravel pit on the subject property was submitted to the Township in 2013.

At the same time, an application to amend the County of Grey Official Plan was filed with the County, for the same reason.

Furthermore, at that time, the applicant's Aggregate Consultant began processing the proposed pit license in accordance with the *Aggregate Resources Act* (ARA).

In 2015, a joint Public Meeting was held by the County and Township to discuss the Official Plan Amendment (OPA) and the Zoning By-law Amendment (ZBA), as per the requirements of *The Planning Act*. Neither County staff nor Township staff, however, has since brought a draft OPA or ZBA to their respective Councils for consideration because of outstanding matters pertaining to the haulage route. Before having the amendments considered, Township staff felt it was important to have a draft Haulage Route Agreement prepared for Township Council's consideration because it was an integral part of the ZBA approval process. County Planning staff had also decided to hold off with the OPA until the Township was satisfied that a haulage route for the extraction operation had been agreed upon by the Township. In this regard, there was considerable correspondence between the applicant's road expert and the peer

reviewer employed on behalf of the Township over the last two years as well as attempts by the applicant to provide an acceptable Haulage Route Agreement. To date, though, the Township has not received an agreement that is acceptable from staff's perspective.

Whereas that the applicant and Township staff were making progress toward an acceptable agreement, the applicant decided not to wait any longer and appealed the "non-decision" of the OPA and ZBA to the Ontario Municipal Board (OMB).

In 2015, because some of the ratepayers had objected to the pit license under the ARA, the applicant requested that the Ministry of Natural Resources and Forestry (MNR) refer the ARA application to the Ontario Municipal Board (OMB).

As such, the OMB will be conducting a hearing to deal with the OPA, ZBA and the ARA license applications. No date for the hearing has been set, as of yet.

Seeking Township Council's Position:

Township staff feels it would be of great assistance to the OMB and probably beneficial to the Township itself if Township Council took a position on the ZBA.

County Council was asked to do the same with regard to the County OPA; and, in this regard, the County Committee of the Whole passed a resolution on December 14, 2017 stating that the County was not opposed to the OMB approving the County OPA subject to the ratification of a Haulage Route Agreement by the Township.

Tonight, Township Council is being asked to take a position on the ZBA, and staff will advise the OMB accordingly.

Purpose of this Report:

This Report is designed to assist Council in establishing a formal position with regard to the Zoning By-law Amendment.

Planner's Recommendation:

It is the opinion of the Township Planner that Council should advise the OMB that the Township of Chatsworth does not object to OMB approving the Zoning By-law Amendment provided:

- (1) the applicant enter into Haulage Route Agreement with the Township, to the satisfaction of the Township; and,

- (2) certain revisions to the ARA Site Plans are made, as explained in the “Conclusions and Recommendation” section of this Planning Report.

Subject Lands:

The subject property is located at the northeast corner of the 60 Sideroad / Veteran’s Road South intersection. The site comprises 39.6 hectares of land. A dwelling and farm buildings are clustered in the southwest corner of the site. A forested area exists in the north east corner. The balance of the property, comprising approximately 33.5 hectares, is actively farmed.

Figure 1: Aerial Photograph (2015)



Adjacent Lands:

This area of the Township is presented by a mix of agriculture, forestry and non-farm residential uses.

Proposed Pit Operations:

The fine details of the proposed pit are explained in the four drawings known as the "Site Plans". The Site Plans are required under the Aggregate Resources Acts and include the following:

- Existing Features Plan;
- Operational Plan;
- Rehabilitation Plan; and,
- Cross Sections.

If the OPA and ZBA are approved by the OMB and the pit license is granted, all activity that occurs within the licensed area must adhere to these Site Plans. The Site Plans have been prepared in accordance with the regulations of the Aggregate Resources Act, the policies of the Official Plan, the provisions of the Zoning By-law and the recommendations of the various background studies that have been prepared by the expert consultants.

A significant amount of information is provided on these Site Plans, in both drawing and textual format. The highlights of Site Plans are:

The entire 39.6 hectare property would be licensed; however, only 18.92 hectares would be within the extraction area.

A maximum of 150,000 tonnes of material would be extracted and shipped from the site on an annual basis. (Any operation that involves more than 20,000 tonnes per year is known as a "Class A" pit, and an operation under 20,000 tonnes is a "Class B" pit.)

The applicant proposes to extract material within 1.5 metres of the established high water table.

According to the information provided by the applicant, there are approximately 1,675,000 tonnes of sand and gravel available for extraction.

Extraction will generally occur across the site from east to west.

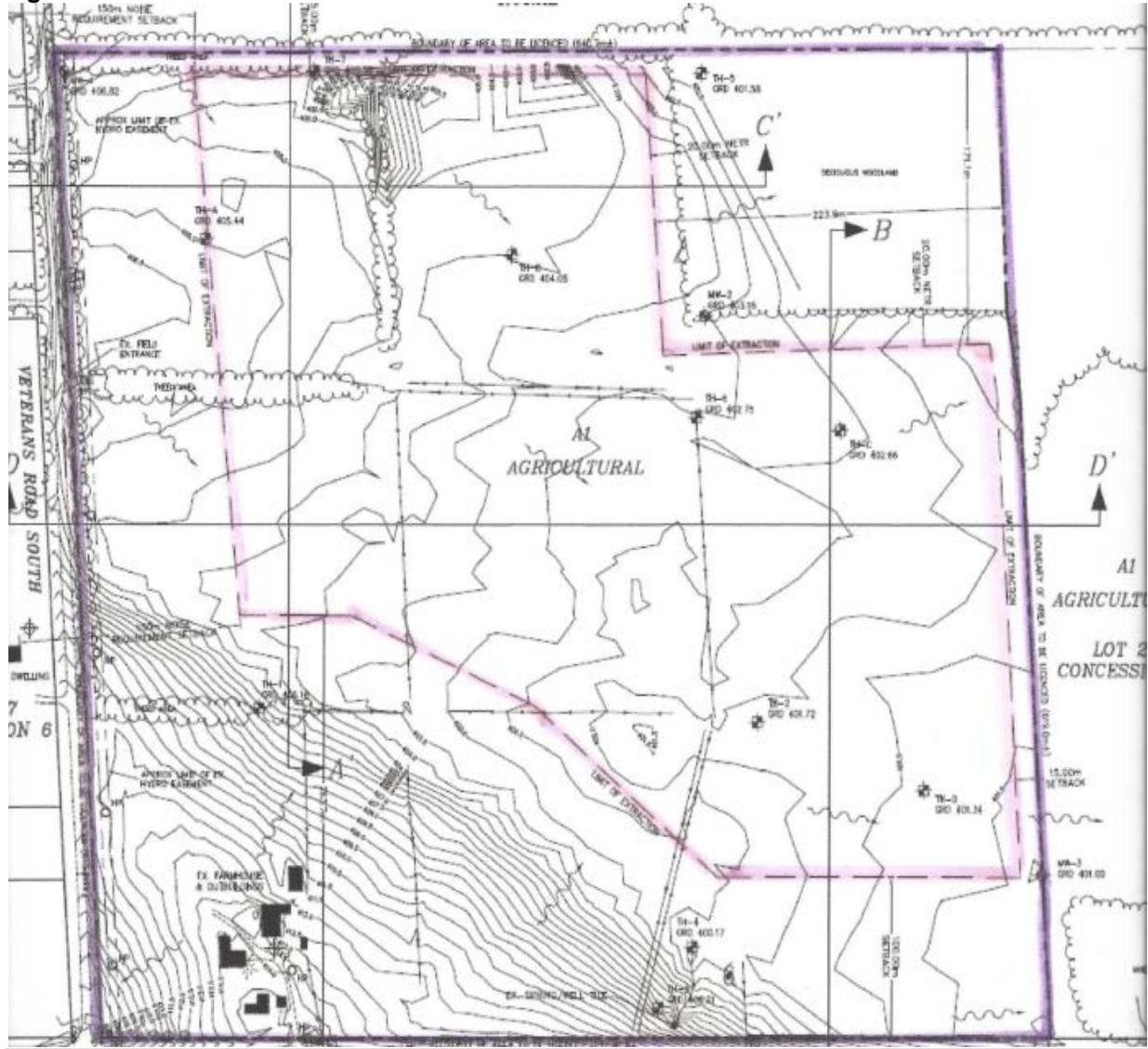
The proposed Operational Plan lists the hours of operation as:

Monday to Friday: 7:00 a.m. to 6:00 p.m.
Saturdays: 7:00 a.m. to 12:00 p.m.

No operations are proposed on Saturdays of long-weekends.

The subject lands will be progressively rehabilitated (i.e. rehabilitated as the pit progresses) for agricultural use. All topsoil and overburden that was stripped and stockpiled on the property as part of extraction operations will be used in the rehabilitation of the site.

Figure 2: Licensed Area and Extraction Area



Purple = Licensed Area
Pink = Extraction Area

Proposed Haulage Route:

The proposed haulage route is as follows:

A new road entrance will be constructed in the southeast corner of the site, as shown on the Operational Plan. Trucks leaving the property will head east along 60 Sideroad until this road bends and heads north to Provincial Highway 10. This 60 Sideroad and Highway 10 intersection is located in the settlement area of Berkeley. Upon reaching Highway 10, the trucks will either head either northwest or southeast along the Highway, depending on the intended recipient of the material.

The Township will require the applicant to enter into a Haulage Route Agreement regarding improvements to 60 Sideroad.

Zoning By-law

The subject lands are zoned 'A1' (Rural) in the Township of Chatsworth Zoning By-law. Permitted uses include agriculture, forestry, conservation, a detached dwelling, an accessory apartment, an accessory detached dwelling, home industry, home occupation, wayside pit, and accessory buildings and structures.

The proposed pit requires a Zoning By-law Amendment (i.e. rezoning) and, in this regard, the submitted application is proposing an 'M3' (Extractive Industrial) zoning on this site.

Adjacency Comments:

The following comments were received as a result of the circulation of the Zoning By-law Amendment and associated Official Plan Amendment:

Historic Saugeen Metis (HSM)

The HSM stated in a letter dated September 4, 2014 that they have no objection or opposition to the proposed development.

Saugeen Ojibway Nation (SON)

The Saugeen Ojibway Nation stated in a letter dated February 25, 2016:

"We've have reviewed all documents and have come to the conclusion that your proposed pit does not adversely impact Aboriginal and Treaty rights and interests. Please accept this letter as our official withdrawal of an objector for your proposed pit."

Grey Bruce Health Unit (GBHU)

The GBHU stated in a letter dated February 21, 2014:

We wish to draw attention to the fact that we have received numerous expressions of concern in relation to this proposal from residents living in the vicinity of it. To summarize, these concerns encompass PDR-CW-01-18 Date: December 14, 2017

- 1. potential adverse health effects associated with exposure to particulate matter (generated by both the pit operation and associated traffic), particularly as this might relate to individuals with pre-existing respiratory conditions*
- 2. potential adverse impacts on local groundwater quality and quantity*
- 3. increased road hazards associated with heavy vehicular traffic to and from the site*

We trust that these concerns will be addressed both through the general standards governing pit operations and the specific directions provided in the proposal's Operational Plan. With regard to the latter and in relation to item 1) above, we would welcome the inclusion of language in the Operational Plan that specifies the procedures that will be used to mitigate off-site dust impacts."

In follow-up correspondence with a neighbour (shared with the County and the Township), Grey Bruce Health Unit staff stated:

In previous correspondence, we have indicated that the health unit does not retain the resident expertise necessary to provide informed comment and recommendations regarding aggregate proposals. Our opinion is that the provincial ministries currently responsible for these assessments conduct them in a manner that addresses completely and thoroughly the technical aspects of the proposal. We are also of the opinion however that potentially less tangible, qualitative community impacts associated with aggregate operations may not be adequately considered by these technical assessments. Therefore, there may be merit in augmenting the current assessment process with HIAs [Health Impact Assessments].

This opinion does not apply uniquely to the Bumstead Pit proposal. Many of the concerns raised in relation to this proposal mirror those raised in other locales throughout Ontario. For this reason we believe that HIAs, if they are deemed a useful assessment tool, be administered at the provincial level. This would provide for a consistent approach to the process across the province.

Saugeen Valley Conservation Authority (SVCA)

The SVCA stated in a letter dated January 13, 2014:

All of the plan review functions of interest to this Authority have been assessed with respect to this proposed Official Plan Amendment and proposed Zoning By-law Amendment. The Authority has no objection to the approval of the proposed pit application for a Category 1 Class 'A' Pit License. As such, the proposed amendments

that will re-designate and re-zone the property to permit the establishment of the pit operation are acceptable to the SVCA.

In a follow-up email on January 23, 2014 the SVCA stated:

Please be advised that the Saugeen Valley Conservation Authority (SVCA) reviewed the AET Natural Environment Level 1 & 2 Technical Reports and Environmental Impact Assessment that were posted on the Grey County website as part of the Proposed Official Plan Amendment and Proposed Zoning By-Law Amendment information package. SVCA staff has reviewed the full report, and the SVCA comments of January 13, 2014 remain unchanged.

Source Water Protection Office

In response to a public inquiry, Carl Seider, on April 3, 2017, clarified the drinking water source protection provisions with respect to the proposed pit:

Under the 2016 Source Protection Plan, policy TP-03 requires the circulation of proposals with new transport pathways within a wellhead protection area (WHPA) or surface water intake protection zone (IPZ). As noted in your email, the proposed aggregate pit on the Bumstead property is not within a WHPA/IPZ therefore this policy does not apply.

Essentially, this site is not close to any municipal drinking water source or significant drinking water protection areas where the Source Protection Plan policies apply. With respect to previous comments received from Saugeen Valley CA, the reference to transport pathways was in relation to potential impacts from vehicles on roadways to/from the proposed pit as opposed to 'Transport Pathways' as defined under The Clean Water Act: "a condition of land resulting from human activity that increases the vulnerability of raw water supply of a drinking water system.

Hopefully these comments provide some clarity with respect to source water protection policies."

In follow-up to a further inquiry on April 6, 2017 Mr. Seider noted:

Thanks for the follow-up email regarding Policy TP-03 for 'Circulation of Proposals with New Transport Pathways'. This Policy needs to be read as a whole and applies only to activities within a Wellhead Protection Area or Intake Protection Zone as described in the text of this policy.

Policy G-10 of the Source Protection Plan describes the difference between 'existing' and 'future activities'. In the case of the Bumstead aggregate pit, it appears that this would be considered an 'existing activity' as an application under the Planning Act was submitted prior to July 1st, 2016."

Ministry of Natural Resources and Forestry (MNRF)

The MNRF submitted several pieces of correspondence, and in their letter dated January 27, 2015, the Ministry stated:

The Ministries concerns/comments related to hydrogeological matters and natural heritage matters have been addressed through the relevant addendum reports. The MNRF has no further concerns and withdraws their objections.

Ministry of the Environment and Climate Change (MOECC)

The MOECC submitted several pieces of correspondence on the applications, and most recently stated in an e-mail dated May 20, 2015:

I have found the evidence and discussion provided within the Peer Review to be reasonable and adequate to address this Ministry's remaining concerns regarding the potential for the proposed gravel pit activities to adversely impact the groundwater resource by way of karst drainage. A groundwater level monitoring program involving the existing onsite monitoring wells is prudent and should be required at a monthly frequency during the proposed periods of operation. Water level data should be assessed on a regular basis by a qualified person as this will provide a first alert to a potential unexpected water level drop.

Based on my review of the above noted support documentation, the Ministry of the Environment and Climate Change has no further outstanding concern with this proposed ARA application.

Ministry of Tourism, Culture and Sport (MTCS)

The MTCS stated in a letter dated August 7, 2015:

Based on the information contained in the report, the Ministry is satisfied that the fieldwork and reporting for the archaeological assessment are consistent with the Ministry's 2011 Standards and Guidelines for Consultant Archaeologists and the terms and conditions for archaeological licenses. This report has been entered into the Ontario Public Register of Archaeological Reports.

Ministry of Northern Development and Mines (MNDM)

In response to a public inquiry with respect to karst, MNDM noted in a letter dated May 9, 2016:

My data shows that the bedrock topography in vicinity of your property and neighbour to south and to north is relatively flat. Bedrock surface is at approx.. 397.25masl on your property based upon your well record. Your neighbour to south of you is 397.35masl and neighbour to north is 394.21masl. The well depths into rock are all different at three

wells. Your well, drilled in 1970, penetrates rock to depth of 367.37masl, neighbour to south penetrates rock to depth of 332.32masl, so they had to drill much deeper to find water supply and your neighbour to north drilled to 381.7masl, so it resides above your well depth.

I have attached a figure with some general positions of wells in vicinity of your property with basic bedrock ground elevation and depth to top of rock and end of hole.

The drainage of water from the pond on your property could be through drumlinized overburden with a stony till base and onto or into the shallow bedrock surface.

Therefore the drainage that you are documenting does not prove bedrock karst in vicinity of your property, but it does not negate it either. As Daryl has commented on in his report, the pond drains slowly and has not been growing through time as would be expected if drainage of pond was due to sinking into a bedrock joint solution system or possible shallow bedrock cavern system.

I cannot answer why Daryl Cowell sampled the surface water bodies he did and not sampled other water bodies. His knowledge concerning karst features in Guelph Formation and the general observations of ponding on the Quaternary sediments in your area are summarized well in his report.

Ministry of Municipal Affairs and Housing (MMAH)

MMAH helped co-ordinate the technical review by partner Ministries, including the Ministry of Transportation and the Ministry of the Environment and Climate Change. Although MMAH sent emails on December 10, 2013 and March 19, 2014, they were simply conveying messages regarding other Ministry's comments.

Ministry of Transportation (MTO)

MTO stated in a letter dated January 27, 2016:

The Ministry of Transportation (MTO) has completed its review of the above noted proposed gravel pit. The application has been considered and reviewed in accordance with the requirements of our highway access policies, criteria, and the Public Transportation and Highway Improvement Act. The following outlines our comments, requirements, and conditions of approval.

The proposed gravel pit is approximately three kilometers from Highway 10 and is outside of the MTO permit control area and jurisdiction.

MTO has reviewed the traffic impact study and concluded that the expected volumes will not result in operational issues at the intersection. MTO will continue to monitor the traffic operations at this intersection.

In a follow-up letter dated February 10, 2016, MTO stated:

The Bumstead Pit development generated traffic was added to existing and projected background traffic. This was done in order to determine if the development generated traffic would increase the traffic volume enough to warrant turning lanes or signalization. After review it was determined that the existing and projected traffic volumes were not sufficient to warrant turning lanes or signalization.

The MTO will conduct ongoing traffic counts at the Highway 10/60 Sideroad intersection based on provincial business rules for frequency. Collision data is reviewed by MTO. Maintenance staff and contractors continually monitor all intersections for maintenance and operational needs. The staff will report issues of concern to the appropriate MTO office on an as needed basis.

Municipal Property Assessment Corporation (MPAC)

MPAC did not provide any comments directly on the Bumstead pit applications. However, during the processing of these applications, in response to questions over taxation and property devaluation, MPAC did provide information to the County and the Township on how pits are assessed in Ontario. This information was not specific to the Bumstead pit proposal, but rather general information applicable to all pits in the Province.

Public Comments:

The proposed pit has generated a significant amount of public involvement. The following persons have provided written or verbal comments:

- George Antoniuk
- Joan Albright
- Val Ames and Robert Ginzel
- Karl Backhaus
- Dianne Barrett
- Jennifer Base
- Kurt Berger
- Richard and Joanne Bickley
- Peter Bissette
- Angela Boersma
- Jean Buchanan
- Brian and Pearl Bumstead
- George and Jennifer Burbidge
- Lynn Buttineau
- Ken Byers
- Andrew and Patty Caine
- David and Barbara Cassidy

- William (Bill) Celhoffer
- Chatsworth Taxpayers For A Safe and Healthy Environment
- Tobi Ching-King
- Douglas K. Crocker
- Donald T. Curry
- Charlie and Jackie Darnato
- John Dickson
- Darlene and Gregory Elchuk
- Trevor Falk
- Scott Fisher
- Kari Fullerton
- Dawn Gillen
- Lori Godsmark
- Hugh and Marnie Graham
- Bill Hartley
- Daryl Heatherington
- Stan and Liz Hierons
- Ray Hillifer
- Nancy Lou Hill
- Barb and Terry Hinch
- Irvine Hollis
- Frank Horvat
- Jim and Susan Hunter
- Stuart and Sharon Hyde
- Al Ireton
- Anna James
- Carrie James
- Ryan and Jody Johnson
- Trevor and Lynda Kendall
- Anne and Naohiko Kurita
- Sarah Kurita and Marc Dryer
- Lesley Lewis
- Jim and Ruth Martin
- Steve McCarley
- Barbara and James McCleave
- Susan McDonald
- Mike McMurray
- David and Josephine Millican
- Lisa Ruddy and Jeff Misiurski
- Larry and Sharon Neely
- Howard Newman
- Dave Ollerton
- John Quinn
- Rhonda Ross

- Lisa Ruddy
- Helmut Scheufen
- Eric and Barbara Shaw
- Marni and Tony Shpur
- Judi Shropshire
- Andrew and Adrian Smith
- Andrea Smith
- Clinton Smith
- Don and Doris Sowerby
- Viola Sowerby
- Frank and Pam Stemmler
- Kathy and Ray Stephenson
- Gilbert and Sharon Van Eck
- Heather Van Fleet
- Joanne Veerman
- Peter and June Walinga
- Robert Wenting and Richard Devrieze
- Jessica White
- John Wilkes
- Julie Williams
- Nicole Wilson
- Shawn and Nicoll Wilson
- Jim and Jean Witten
- Tobi Witten
- Birgit and Garry Wright
- Bryan G Young
- Liz Zetlin

The Township also received a lengthy petition in opposition to the pit, as well as a number of hand-written postcards also in opposition. On some of the post cards and in the petition, the signatures/authors were not always identifiable.

A summary of the written public comments and those raised at the Public Meeting are as follows:

- Concerns over impacts on neighbouring farms
- Preserve existing farmland / avoid loss of good farmland
- Rehabilitation plan questions
- Drinking water safety concerns / impact on wells
- Concerns about the identification of the water table
- Concerns about extraction being too close to the water table

- Health impacts from the proposed pit and along the haul route
- Traffic concerns
- Road safety concerns including impacts on cyclists, pedestrians, school buses, and horseback riders
- Seeking clarity on traffic and road assessment studies
- Increase in traffic/heavy truck traffic
- Concerns over road conditions along the haul route including the 'S-bends'
- Concerns over ongoing maintenance of roads
- Concerns over proposed haul route going through Berkeley, it should instead be re-routed so it does not pass through the village
- Impacts on Berkeley, including traffic, noise and social impacts
- Concerns over Highway 10 / 60 Sideroad intersection
- Concerns over haul route agreement, and questions over whether or not public members will be party to the negotiations
- Need for road upgrades / increase in taxes as a result of the pit
- Tax reassignment after potential development
- The pit is not for the common good, but only benefits owner / operator
- Negative impacts on surrounding property values
- Keep the unique beauty of area intact
- Impacts on rural community values
- Impacts on tourism
- Noise impacts
- Environmental concerns
- Impacts on air quality
- Karst topography concerns
- Impacts on wildlife
- Growing number of gravel pits in the area, is there a need for more?
- The subject lands are only a tertiary aggregate resource, not primary or secondary, and therefore the proposal is not consistent with Provincial Policy
- Questions over Provincial Policy Statement consistency
- Questions over County Official Plan conformity

- Concerns over accuracy of technical studies
- Concerns over presentations made at the public meeting
- Support for the pit stating there is demand for good aggregate product that continues to grow due to increased growth and upgrades to infrastructure
- Concerns over endangered species
- Clarification needed on the pit license application.
- After extraction and rehabilitation, the area could be turned back into farmland. The gravel deposit would provide material for building homes, roads for ease of travel, employment, etc. and then be available later for future food production as proved in other areas.

Official Plan:

Any decision regarding a Zoning By-law Amendment in the Township of Chatsworth must conform to the relevant policies of the Grey County Official Plan. (The Township does not have its own Official Plan.)

i. Land Use Designation

The subject lands are designated ‘Agricultural’ on Schedule A to the County of Grey Official Plan, as shown on Figure 3.

Figure 3: Grey County Official Plan Schedule A (Land Use)



Brown = Agricultural land use designation

A licensed pit may be considered on lands designated 'Agricultural' without an amendment to the Official Plan provided all of the subject lands are identified as 'Aggregate Resource Area' on Schedule B to the Official Plan. On this note, only about 40% of subject property is designated 'Aggregate Resource Area', but not the entire licensed area, as shown on Figure 4. As such, an amendment to the Official Plan is required.

Figure 4: Grey County Official Plan Schedule B (Constraints)



An Official Plan Amendment application in this regard has been filed, but the applicant has appealed their own application based on the County's "non-decision within 180 days" policy of the Planning Act.

ii. Aggregate

Section 2.7 Mineral Aggregate Resources provides direction for new pit proposals. The following is an evaluation of the proposed pit within the context of those policies (edited for relevancy):

2.7.3 Development Criteria Policies

- (1) *It shall be a policy of this Plan that an applicant who wishes to undertake a mineral aggregate operation other than a wayside pit and quarry must, if requested to do so by the local municipality, enter into a Development Agreement with the local*

municipality. The Agreement shall be entered into prior to local Council's enactment of the implementing Zoning By-law Amendment.

Such an Agreement may include:

- (i) Capital arrangements regarding improvements beyond the boundary of the applicant's land, as they may be required by reason of the operation of that extractive industry, e.g. widening and improving roads; and*
- (ii) Routes to be used by trucks carrying aggregate.*

Comment: The applicant is willing to enter into a Haulage Route Agreement in this regard. The applicant and Township staff have been working on the agreement; however, at the time of writing this Report, the applicant had not provided an Agreement that is acceptable to the Township staff. Once staff has a draft Agreement that is acceptable, it will be presented to Township Council.

- (2) All mineral aggregate operations shall comply with the Aggregate Resources Act and its regulations as amended from time to time.*

Comment: The pit, as proposed on the Site Plans, complies with the Act.

- (3) All mineral aggregate operations shall satisfy the legal requirements of the Ministry of Environment or the authority having jurisdiction as to water supply and disposal of liquid wastes.*
- (4) All mineral aggregate operations shall satisfy the legal requirements of the Ministry of Environment, Air Management Branch, as to the control of air pollution.*

Comment: All activity within the licensed pit shall be in compliance with all applicable Provincial requirements.

- (7) Asphalt plants and concrete batching plants may be permitted as accessory uses to a licensed extractive operation subject to the following items being addressed through the Aggregate Resources Act site plan amendment process:*
 - (i) it is a non-permanent use and will cease to operate once the aggregate material has been completely removed or the operator stops removing material from the site on a regular basis;*
 - (ii) a traffic impact study is provided to the satisfaction of the County and the local municipality; and,*

- (iii) the applicant must demonstrate that the proposed location is appropriate and that impacts to the social and natural environment as defined in Section 2.8 of this Plan within a defined study area can be minimized.*
 - (iv) noise, odour and dust studies are provided which satisfy the Ministry of the Environment's standards.*
- (8) An Official Plan Amendment will be required for asphalt plants and concrete batching plants proposing to locate outside of the Mineral Resource Extraction areas identified on Schedule B.*

Comment: Neither an asphalt plan nor a concrete batching plant is proposed on the site.

- (9) In Special Policy Areas identified on Appendix A, an Environmental Impact Study will not be required. Precautionary measures shall be included in the licensed operational plan to ensure that any chemical or gas spills from equipment shall be prevented. Should a spill occur, clean-up procedures shall be identified within the licensed operational plan.*

Comment: The subject lands are not identified as a 'Special Policy Area'.

- (10) Within areas identified as Significant Woodlands as shown on Appendix B, cutting of the woodland to facilitate a mineral aggregate operation may be permitted where it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. If this can be demonstrated, cutting of the woodland should be minimized and the woodland area cleared for extraction shall be progressively rehabilitated back to a woodland use in accordance with Section 2.7.4(5) of this Plan. Permitted mineral aggregate operations must be carried out in a manner which is environmentally sensitive to the remaining portions of the Significant Woodland in accordance with the recommendations from the Environmental Impact Study as required under section 2.8.4(1) of this Plan.*

Comment: No portion of the subject lands are identified as 'Significant Woodland'.

2.7.4 Policies for the Establishment of New Mineral Resource Extraction Operations

- (1) The following proposed mineral aggregate extraction operations will require an amendment to the County Official Plan except for those proposed within the Niagara Escarpment Plan Area as shown on Schedule A-Maps 1, 2 and 3:*
- (a) All new or expanding quarry operations proposed within the County of Grey;*
 - (b) All new sand and/or gravel operations proposed outside of the areas identified as an Aggregate Resource Area shown on Schedule B; and,*

- (c) *All proposed expansions beyond the areas identified as an Aggregate Resource Area on Schedule B*
- (2) *For new or expanding sand and/or gravel operations proposed within the Aggregate Resource Area identified on Schedule B, a County Official Plan Amendment and a local official plan amendment will not be required. Should the proposed operation receive a license under the Aggregate Resources Act, the Mineral Resource Extraction area will be identified on Scheduled B without an amendment to this Plan. A Zoning by-law amendment shall be required.*

Comment: Approximately 60% of the site is located outside of the 'Aggregate Resource Area' designation shown on Schedule B, and therefore an amendment to the Official Plan is required. The fact that the 'Aggregate Extraction Area' overlay does not apply to the entire extraction area does not imply that a good quantity of high quality material does not exist on the property. On that note, test pitting was conducted prior to the applications being filed and, as explained in the Summary Statement by GM BluePlan Engineers (formerly Gamsby and Mannerow Ltd.), it was determined that the material available for extraction meets the requirements for Type 1 Granular 'B' and the quality, hardness and absorptions meets the requirements for concrete aggregate and certain criteria for asphalt aggregate.

In response to questions raised by the public, additional test pitting was conducted across the site in November 2015, resulting in the same conclusions.

- (3) *The following studies/reports must be provided in order to support the proposed mineral aggregate operations identified in Section 2.7.4(1) and Section 2.7.4(2):*
- (a) *Submission of copies of all documentation provided to the Ministry of Natural Resources as required for licensing, pursuant to the Aggregate Resources Act;*
- (b) *A Planning Report prepared by a qualified individual indicating whether or not the proposed mineral aggregate operation is consistent with the Provincial Policy Statement and conforms to the policies of the County of Grey Official Plan, as well as conformity to the Local Official Plan should one exist. The Planning Report shall also address the policies identified in Section 6.3(1) of the County Plan. With respect to Section 6.3(1)(a), the demonstration of need for mineral aggregate resources, including any type of supply/demand analysis, shall not be required;*
- (c) *A Noise Impact Study prepared by a qualified individual which satisfies the Ministry of the Environment's standards. Any noise impacts generated from*

an extraction operation should be minimized to the greatest extent possible. If a Noise Impact Study is not required, information should be provided demonstrating how potential noise impacts will be mitigated.

- (d) *A Traffic Impact Study prepared by a qualified individual is required for all new mineral aggregate operations. The Traffic Impact Study must demonstrate that the movement on existing streets or roads will not be unduly obstructed or interfered with by aggregate carrying vehicles during the operation of the pit or quarry. Information should be provided estimating the average number of trucks per day, the proposed haul route, identifying the potential impacts to traffic, an assessment of the road conditions on the proposed haul route, as well as a cost estimate for any necessary upgrades required to the proposed haul route. Where the haul route has existing deficiencies and has existing traffic, cost-sharing will be considered. Costs to upgrade the haul road that are directly attributable to the proposed operation shall be the responsibility of the Applicant and will be based on use of the haul route. During pre-submission consultation the County may exempt a proposed mineral aggregate application from the requirement of a Traffic Impact Study after consultation with the local municipality(ies), the County Transportation & Public Safety Department, and/or the Ministry of Transportation.*

Where an existing mineral aggregate operation exists, and the proposal is to expand the existing licensed area, a Traffic Impact Study is not required so long as the annual tonnage limit on the proposed area of expansion is the same as the existing annual tonnage limit and a condition is placed on the site plan indicating that extraction will not occur on the expanded area until such time as the aggregate from the existing operation has been extracted. A Traffic Impact Study may be required in cases where the area of expansion is to be extracted concurrently with the existing licensed area.

- (e) *For mineral aggregate operations proposing to remain above the established water table level identified in the Aggregate Resources of Ontario: Provincial Standards, a letter of opinion shall be provided by a qualified individual estimating the current water table level and determining whether the proposed operation will have any impacts to the quality or quantity of the surface or groundwater resources;*
- (f) *A Hydrogeological Study, prepared by a qualified individual, shall be required for proposed aggregate operations which are proposing to proceed below the established water table level identified in the Aggregate Resources of Ontario: Provincial Standards.*
- (g) *An Environmental Impact Study is required if the proposed licensed area is within or adjacent to a natural heritage feature. A Level 2 – Natural Environment Report required under the Aggregate Resources Act can act as*

a substitute for an Environmental Impact Study (refer to Section 2.8.7 of this Plan);

- (h) A Stage 1 Archaeological Assessment prepared by a qualified individual is required. The findings of the Stage 1 Assessment may identify the need for further study.*
- (i) The County requires that the proponent consult with the County and the local municipality prior to submitting any application to determine the studies/reports that are required in accordance with Section 6.18.*

Comment: All studies required by the Township and Council have been prepared on behalf of the applicant. The studies, except for the Archaeological Assessment, have been peer reviewed by either a public authority or private consultant.

(4) Mineral aggregate operations may be permitted on Agricultural and Special Agriculture lands as identified on Schedule A, so long as rehabilitation of the site will be conducted in order to restore substantially the same areas and the same average soil quality for agriculture. In such cases complete rehabilitation will not be required if the following occurs:

- (a) a substantial quantity of the aggregate is below the water table warranting extraction; or*
- (b) the extraction is at a depth which would make restoration of pre-extraction agricultural capability unfeasible; and*
- (c) other alternatives have been considered and found unsuitable. The consideration of other alternatives shall include resources in areas of Canada Land Inventory Class 4 to 7 soils, resources on lands identified as designated growth areas, and resources on prime agricultural lands where rehabilitation is feasible. Where no other alternatives are found, prime agricultural lands shall be protected in this order of priority: specialty crop areas, Canada Land Inventory Classes 1, 2 and 3; and*
- (d) agricultural rehabilitation in remaining areas will be maximized.*

Comment: The subject lands are designated 'Agricultural', and they are intended to be restored through rehabilitation to an agricultural use.

(5) Progressive and final rehabilitation shall be required to:

- accommodate subsequent land uses;*
- to promote land use compatibility; and*

- to recognize the interim nature of extraction, in accordance with the rehabilitation plans as part of the license.

Progressive rehabilitation shall be required where possible. Final rehabilitation shall take surrounding land use and approved land use designations into consideration. On lands previously not designated as Agricultural, or where agricultural rehabilitation is not required as identified in Section 2.7.4(4), rehabilitation plans should consider opportunities for enhancing the natural heritage features/functions in the area. Where an Environmental Impact Study/Natural Environment Report Level 2 is required, the Study must investigate the opportunities for enhancing the natural heritage features/functions. Grey

Comment: Progressive rehabilitation will occur as the pit progresses. The lands will revert to an agricultural use.

iii. Natural Heritage

Appendix B to the County Official Plan identifies the forested lands to the west and south as 'Significant Woodland', as shown on Figure 5.

Figure 5: Grey County Official Plan Appendix B (Constraints)



Section 2.8.4 *Significant Woodlands* states:

- (1) *No development or site alteration may occur within Significant Woodlands or their adjacent lands unless it has been demonstrate through an Environmental Impact Study, as per Section 2.8.7 of this Plan, that there will be no negative impact on the natural heritage features or their ecological functions. The adjacent lands are defined in section 6.19 of this Plan.*

Section 6.19 defines the adjacent lands of a Significant Woodland to be lands within 50 metres of this natural heritage feature.

Comment: The abutting Significant Woodlands are situated more than 50 metres from the proposed extraction area and therefore the above policy does not apply. Nevertheless, the Natural Environment Technical Report (which is the same as an Environmental Impact Study) did address the Significant Woodland matter and concluded that the pit would have no negative impact on this feature or its function.

The Official Plan mapping does not identify any of the other mapped natural heritage features (i.e. Significant Wetlands or Areas of Natural or Scientific Interest) on the subject property or adjacent lands, and their non-existence was confirmed through field investigations by the Ecologist.

The Ecologist also examined the subject property and adjacent lands for the natural heritage features that aren't mapped by the County, i.e. Habitat of Endangered or Threatened Species; Significant Valleyland; Significant Wildlife Habitat; and, Fish Habitat. No such features were found. The Natural Environment Technical Report did note that there is potential for the Meadowlark or Bobolink species to nest on the lands to the north and/or west of the subject property, and added that the type of disturbance created by the pit would be similar to the disturbance caused by the current agricultural activities occurring on the subject property. The Ecologist provided recommendations in the report to address this matter.

Provincial Policy Statement

Decisions regarding Zoning By-law Amendments must be consistent with the Provincial Policy Statement (PPS). The PPS contains policies that are relevant to proposed aggregate operations.

i Aggregate

Section 2.5 *Mineral Aggregate Resources* states:

2.5 Mineral Aggregate Resources

2.5.1 Mineral aggregate resources shall be protected for long-term use and, where provincial information is available, deposits of mineral aggregate resources shall be identified.

2.5.2 Protection of Long-Term Resource Supply

2.5.2.1 As much of the mineral aggregate resources as is realistically possible shall be made available as close to markets as possible. Demonstration of need for mineral aggregate resources, including any type of supply/demand analysis, shall not be required, notwithstanding the availability, designation or licensing for extraction of mineral aggregate resources locally or elsewhere.

2.5.2.2 Extraction shall be undertaken in a manner which minimizes social, economic and environmental impacts.

2.5.2.3 Mineral aggregate resource conservation shall be undertaken, including through the use of accessory aggregate recycling facilities within operations, wherever feasible.

2.5.2.4 Mineral aggregate operations shall be protected from development and activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact. Existing mineral aggregate operations shall be permitted to continue without the need for official plan amendment, rezoning or development permit under the Planning Act. When a license for extraction or operation ceases to exist, policy 2.5.2.5 continues to apply.

2.5.2.5 In known deposits of mineral aggregate resources and on adjacent lands, development and activities which would preclude or hinder the establishment of new operations or access to the resources shall only be permitted if:

- a) resource use would not be feasible; or*
- b) the proposed land use or development serves a greater long-term public interest; and*
- c) issues of public health, public safety and environmental impact are addressed.*

Comment: These policies speak to the priority that the Ontario Government has placed on the aggregate deposits and the need to protect the resource for possible future extraction.

2.5.3 Rehabilitation

2.5.3.1 *Progressive and final rehabilitation shall be required to accommodate subsequent land uses, to promote land use compatibility, to recognize the interim nature of extraction, and to mitigate negative impacts to the extent possible. Final rehabilitation shall take surrounding land use and approved land use designations into consideration. 2.5.3.2 Comprehensive rehabilitation planning is encouraged where there is a concentration of mineral aggregate operations. 2.5.3.3 In parts of the Province not designated under the Aggregate Resources Act, rehabilitation standards that are compatible with those under the Act should be adopted for extraction operations on private lands.*

Comment: Progressive and final rehabilitation will be required. The lands will revert to an agricultural use.

2.5.4 Extraction in Prime Agricultural Areas

2.5.4.1 *In prime agricultural areas, on prime agricultural land, extraction of mineral aggregate resources is permitted as an interim use provided that the site will be rehabilitated back to an agricultural condition. Complete rehabilitation to an agricultural condition is not required if:*

- a) *outside of a specialty crop area, there is a substantial quantity of mineral aggregate resources below the water table warranting extraction, or the depth of planned extraction in a quarry makes restoration of pre-extraction agricultural capability unfeasible;*
- b) *in a specialty crop area, there is a substantial quantity of high quality mineral aggregate resources below the water table warranting extraction, and the depth of planned extraction makes restoration of pre-extraction agricultural capability unfeasible;*
- c) *other alternatives have been considered by the applicant and found unsuitable. The consideration of other alternatives shall include resources in areas of Canada Land Inventory Class 4 through 7 lands, resources on lands identified as designated growth areas, and resources on prime agricultural lands where rehabilitation is feasible. Where no other alternatives are found, prime agricultural lands shall be protected in this order of priority: specialty crop areas, Canada Land Inventory Class 1, 2 and 3 lands; and*

d) *agricultural rehabilitation in remaining areas is maximized.*

Comment: The subject lands are designated as 'Agricultural' in the County Official Plan and are considered to be prime agricultural land. In keeping with the policy above, it is proposed to rehabilitate the pit to an agricultural use through progressive rehabilitation and final rehabilitation efforts.

ii. Natural Heritage

The PPS also contains policies designed to protect natural heritage features on a property and adjacent lands.

The policies contained in the PPS have been carried forward in the County Official Plan, and such Official Plan policies have been addressed. The only difference between these two land use documents with regard to natural heritage features is the definition of "adjacent lands" in reference to Significant Woodlands. Whereas the County Official Plan refers to the "adjacent lands" as those lands within 50 metres of a Significant Woodland, the PPS employs a 120 metre distance. In any event, the Natural Environment Technical Report has concluded that the Significant Woodland located on the adjacent lands would not be impacted by the proposed aggregate activity.

iii. Cultural Heritage

Section 2.6 *Cultural Heritage and Archaeology* states that significant built heritage resources and cultural heritage landscaped shall be protected. In this regard, an Stage 1 and 2 Archaeological Assessment has been conducted, and no archaeological resources were found on the site.

Conclusions and Recommendation

The decision to approve or refuse the Zoning By-law Amendment is no longer the responsibility of Council. The Ontario Municipal Board will make this decision, along with the decision to approve or refuse the Official Plan Amendment and the *Aggregate Resource Act* license. However, given that Council has never officially considered this application, it would seem fair to all parties, and helpful to the OMB, to have Council state its position on this matter.

The proposal has been evaluated within the context of the PPS and the County of Grey Official Plan, and it is evident that the requested Zoning By-law Amendment is consistent with the PPS and conforms to the OP, subject to the OPA being approved.

The proposed pit has been reviewed closely by various commenting agencies, and there are no outstanding concerns from their respective offices. These agencies include Saugeen Valley Conservation Authority, Ministry of Natural Resources and Forestry, Ministry of Transportation, Ministry of Northern Development and Mines and

Ministry of Municipal Affairs and Housing.

Based on the foregoing, the application has sufficient merit to be approved. It is therefore recommended that Township Council advise the Ontario Municipal Board that the Township does not object to the Board approving the Zoning By-law Amendment after a Haulage Route Agreement between the Township and the proponent has been signed.

If Council supports the above recommendation, then staff will continue to work with the proponent in coming up with a Haulage Route Agreement. Once staff is satisfied with the draft Agreement, it will be presented to Council for consideration. Ideally, the Agreement would be ratified prior to the Ontario Municipal Board Hearing.

If an Agreement can be reached between the proponent and Township Council, then Council will need to decide if it's necessary to send legal representation and/or staff to the OMB Hearing.

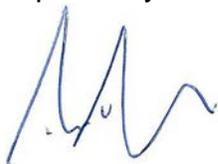
Regardless of whether or not Council chooses to defend its position at an OMB Hearing, Township staff will be recommending to the OMB office that a Pre-Hearing be held to discuss, among other things: what parties and participants will be involved in the full Hearing; what expert witnesses will be involved; deadlines for exchanging witness statement; estimation of lengthy of hearing, etc.

With regard to the Site Plans, two changes are recommended:

1. The hours of operation for Saturdays, as listed on Note 13 of the Operational Plan, should be amended by changing the starting time from 7 am to 8 am, in order to be in keeping with the standard practice in the Township;
2. The progressive rehabilitation proposal, as explained in Note 1 of the Rehabilitation Plan, should be amended to include a "maximum disturbed area". At present, the Rehabilitation Plan does require progressive rehabilitation, but no numerical figure has been assigned to help define this term. The applicant is aware of this request and is willing to change this Site Plan to limit the maximum disturbed area to 7.18 hectares, which reflects the area included in their largest phase. This figure is generally acceptable to Township staff.

These recommendations should also be referenced in Council's motion.

Respectively submitted,

A handwritten signature in blue ink, appearing to read 'Ron Davidson', with a stylized flourish at the end.

Ron Davidson, BES, RPP, MCIP
Planner