

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: August 13, 2019

CASE NO(S): PL160112

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

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

Applicant and Appellant:	1194233 Ontario Ltd.
Subject:	Application to amend Zoning By-law No. 5000 - Refusal of Application by Township of Springwater Agricultural (A) and Environmental Protection (EP)
Existing Zoning:	Extractive Industrial Hold [ME-(H)]
Proposed Zoning:	To permit the expansion of the existing neighbouring aggregate operation
Purpose:	3568 Barrie Hill Road
Property Address/Description:	Township of Springwater
Municipality:	ZB-2012-002
Municipality File No.:	PL160112
OMB Case No.:	PL160112
OMB File No.:	PL160112
OMB Case Name:	1194233 Ontario Ltd. v. Springwater (Township)

PROCEEDING COMMENCED UNDER subsection 11(5) of the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended

Referred by:	Sharon Rew
Objector:	Danella Agowissa
Objector:	Lori Allen
Objector:	Eric Atthill
Objector:	Stephanie Atthill; and others
Applicant:	1194233 Ontario Limited
Subject:	Application for a Class A licence for the removal of aggregate
Property Address/Description:	Part Lot 21, Concession 9
Municipality:	Township of Springwater
OMB Case No.:	PL160112
OMB File No.:	MM180038

Heard: July 3, 2019 in Springwater, Ontario

APPEARANCES:

Parties

Counsel

1194233 Ontario Ltd.

Lawrence Hansen

Township of Springwater

Barnett Kussner

DECISION OF THE TRIBUNAL DELIVERED BY GERALD S. SWINKIN

The Appeals before the Tribunal

[1] The Local Planning Appeal Tribunal (the “Tribunal”) had before it two matters in this hearing session. There was an appeal by 1194233 Ontario Ltd. (the “Appellant”) of the refusal by the Council of the Township of Springwater (the “Township”) of the application for zoning by-law amendment brought by the Appellant with respect to its lands municipally known as 3568 Barrie Hill Road (the “Property”).

[2] The purpose of the zoning by-law amendment application was to amend the zoning by-law to permit the expansion of the existing adjacent aggregate extraction operation being conducted by the Appellant. This will involve an amendment from the current Agricultural (A) and Environmental Protection (EP) zone categories on the Property to an Extractive Industrial (ME) zone category.

[3] As will be explained below, the zone category being sought at the hearing before the Tribunal was an Extractive Industrial Hold (ME-H) zone.

[4] In addition to the zoning appeal, the Tribunal also had before it a referral from the Minister of Natural Resources and Forestry, under the provisions of s. 11(5) of the *Aggregate Resources Act* (“ARA”), of the site plan of the Property for which the Appellant was seeking the Minister’s approval to establish a pit and extract material from it. The application to the Minister had objectors and that triggered the referral to the Tribunal, which has a duty to report back to the Minister after conducting a hearing

into the matter.

The Property

[5] The Property is located south of County Road 40, which is known as Sunnidale Road. It lies east of County Road 28, which is known as George Johnston Road. The Property is accessed by Barrie Hill Road, which runs south from County Road 40 and terminates in the Property, along its eastern edge.

[6] The Property is in proximity to the settlement area to the northeast known as Centre Vespra. This settlement area has recently been the subject of further residential development.

[7] The Property is north of the existing operating pit, known as the Eek Pit. The proposal here effectively relates to expansion of the Eek Pit northerly.

The Settlement with the Municipality

[8] At the outset of the hearing, the Tribunal was advised that the Appellant and the Township had arrived at a settlement of the matters under appeal. The settlement was documented in formal Minutes of Settlement (the "Minutes"), which were dated May 19, 2019, and were filed with the Tribunal.

[9] The Minutes have attached to them a form of zoning by-law amendment which the Appellant and the Township endorse and which they undertook to advance for approval by the Tribunal in this hearing.

[10] The zoning by-law amendment amends the zoning on the Property to an Extractive Industrial Exception Hold [ME-17(H)] Zone. A new exception provision is introduced into Zoning By-law No. 5000, as amended, by way of subsection 28.4.17. The new exception provisions create nine site specific regulations relating to undertaking the pit use of the Property. These regulations are as follows:

- i. No crushing of aggregate material is permitted anywhere on site.
- ii. No extraction operations are permitted on site within 30 metres (98 feet) of any road right-of-way or within 15 metres (49 feet) from any adjoining property line.
- iii. Notwithstanding (ii) above, for the purposes of reducing wastage of materials where two licensed pits abut one another, extraction operations are permitted up to the adjoining property line.
- iv. A 15 metre (49 feet) landscaped open space buffer shall be required adjacent to any abutting property line notwithstanding those exempted by (iii) above.
- v. No extraction operations are permitted on site within 120 metres (393.70 feet) of any Residential, Commercial, Institutional or Industrial (MI or MO) zone.
- vi. No extraction operations are permitted on site within 150 metres (492.13 feet) of any property used for residential purposes in whole or in part.
- vii. No concrete batching or asphalt plants are permitted anywhere on site.
- viii. No blasting or quarrying is permitted anywhere on site.
- ix. No recycling operation, plant or facility is permitted anywhere on site, including but not limited to crushing, grinding or breaking down of any on-site or off-site materials such as asphalt, concrete brick or glass ("Prohibited Materials"), provided that this does not prohibit bringing in from other sites any processed or unprocessed aggregate materials (other than Prohibited Materials) that have already been crushed, ground or broken down off-site, such that no further crushing, grinding, or breaking down via any means will occur on site, for blending and resale within the

prescribed hours of operation associated with a licensed pit on the site.

[11] The Property will also be subject to a holding provision so that no extraction of aggregate materials will be permitted until the hold is lifted. Six matters are to be satisfied prior to the hold lift as follows:

1. The Appellant will have entered into a Development Agreement with the Township dealing with the haul route, hours of operation, road improvements, a covenant to comply with the approved Rehabilitation Plan, signage regarding use of air brakes and berms of an appropriate height to buffer the pit operations from view;
2. That the Appellant will have entered into a Road Improvements/Haul Route Agreement to the satisfaction of the Township and the County of Simcoe ("County");
3. That the Appellant will have entered into a Groundwater Monitoring and Rare Species Transplantation Program Agreement to the satisfaction of the Township and the Nottawasaga Valley Conservation Authority;
4. That anticipated emissions of noise, dust and vibration are demonstrated to meet applicable parameters as determined by the Ministry of Natural Resources and Forestry ("MNRF") and the Ministry of the Environment, Conservation and Parks ("MECP"). Some lands on the property will be returned to agricultural production according to existing MNRF guidelines where feasible.
5. That any necessary clearances are obtained with respect to Source Water Protection policies; and
6. That all financial obligations relating to any outstanding taxes and technical and legal reviews associated with this matter as they concern the Township,

the Nottawasaga Valley Conservation Authority and the County have been met.

[12] The Minutes also endorse a form of Site Plan, known as the ARA Site Plan, which relates to the application to the Minister for an ARA licence.

[13] The ARA Site Plan is entitled Eek Pit 2, dated June 2019, and is noted as having been prepared by Geological Investigations under the *Aggregate Resources Act* for a Class A License, Category 3.

[14] The ARA Site Plan has endorsed on it a variety of operating and rehabilitation recommendations. In addition to general standards applicable to licensees and the prescribed conditions applicable to Category 3 licenses, these recommendations are to be understood as site specific conditions applicable to this license.

[15] The Minutes confirm that the Township will not oppose approval of the ARA Site Plan by the Tribunal and the Tribunal's recommendation to the Minister to issue the license on the basis of this ARA Site Plan.

The Appellant's Evidence

[16] The Tribunal had before it various consultant reports as obtained by the Appellant for the purpose of securing approval of this pit extension. These included reports from a land use planning consultant, an archaeology report, a traffic capacity and impact analysis, a natural environment report, a hydrogeological analysis and report and a noise impact analysis and report.

[17] The Appellant retained the services of William D. Fitzgerald, whose role it was to co-ordinate the various consultants and manage the ARA application process. For the purposes of the ARA application, a summary statement was prepared by him in connection with the submission of the Class A Category 3 application.

[18] This summary statement was provided to the Tribunal and spoken to by Mr.

Fitzgerald. The summary addressed the matters which must be considered by the Minister or the Tribunal, as the case may be, in considering whether a licence should be issued or refused. These matters are laid out in s.12 (1) of the *Aggregate Resources Act* as clauses (a) to (k).

[19] By the summary, the following facts and conclusions were brought to the Tribunal.

[20] With respect to planning and land use, the Property is designated 'High Aggregate Potential' and 'Rural' within the Township's Official Plan.

[21] The Property is currently zoned Agricultural (A) and Environmental Protection (EP) under the Comprehensive Zoning By-law No. 5000. As this zone would not permit the extraction of aggregate material, a zoning by-law amendment is required, and that matter is now before the Tribunal. The proposed zoning by-law amendment would place the Property into the Extractive Industrial (ME-H) Hold Zone and allow for the Appellant to obtain an MNRF license which would permit the extraction of aggregate materials (sand and gravel).

[22] The evidence was supported by the testimony of Darren Vella, a land use planning consultant qualified to offer opinion evidence to the Tribunal on planning matters. Mr. Vella detailed the foregoing assertions and confirmed that the proposed zoning by-law amendment would be consistent with the policies of the Provincial Policy Statement 2014, conform with the policies in the Growth Plan for the Greater Golden Horseshoe, 2019 and conform with both the Township's Official Plan and the County's Official Plan.

[23] The summary requires that the agricultural classification of the proposed site, using the Canada Land Inventory classes be identified and for the lands being returned to agriculture, the proposed rehabilitation techniques must be identified.

[24] Reference to the Canada Land Inventory mapping indicates that the lands are

classed as 60% Class 7 with topographical limitations (7 6/t,) and 40% Class 4 with stoniness limitations (4 4/s).

[25] As the Property is designated 'High Aggregate Potential' and 'Rural' within the Township's Official Plan, the lands are not required to be returned to an agricultural after use, but the proposal here anticipates such an outcome.

[26] With respect to the quality and quantity of aggregate on the site, test holes have been constructed on the Property to a maximum depth of 6 metres. The aggregate deposits encountered consist of generally fine grained aggregated, sands and silts with minor amounts of stone, similar to deposits encountered in the pits to the south and west.

[27] It is estimated that a minimum of 2 million tonnes of high-quality fine-grained aggregates are potentially available from this site.

[28] On the question of haul routes, the haul route for the proposed pit will be the same as that for the existing pit immediately adjacent to the Property to the south. The County has been consulted along with the Township and agreements in principle concerning improvements and operational issues have been reached.

[29] Trucks from this site will travel south through the adjacent pit to the existing weigh scales. Trucks will enter onto Barrie Hill Road and travel north to the intersection of Simcoe County 40 (Sunnidale Road). Only loaded tri-axel trucks are permitted to turn right and travel towards the City of Barrie. All larger trucks, i.e. tractor trailers, must turn left and travel towards George Johnston Road (County Road 28). Un-loaded trucks may turn either direction onto or from Simcoe County Road 40 (Sunnidale Road).

[30] Regarding rehabilitation of the Property, the proposed rehabilitation will be progressive and will be to agricultural and reforestation after uses.

[31] Progressive rehabilitation will commence as soon as extraction reaches the

proposed final pit floor elevation. Pit sloping will commence as soon as the extraction reaches the excavation setbacks.

[32] Stockpiled soils and/or soils from newly stripped areas will be used in rehabilitation areas and will be spread to a minimum depth of 10 centimetres.

[33] With MNRF approval, topsoil or other materials that will aid rehabilitation may be imported if on site supplies are inadequate.

[34] Side slopes of the final pit may be 50 - 70 metres wide and will be graded to a 3:1 ratio.

[35] Side slopes will be seeded with grass/legume mixtures to create wildlife habitat and prevent erosion. Side slopes will also be encouraged to re-vegetate naturally with woody species creating forest communities where restoration to agriculture is not feasible.

[36] The 30 metre setbacks along the north and east property boundaries will be planted upon project approval with native, locally sourced trees to provide a visual screen and to create a wildlife corridor.

[37] Plantings will consist of deciduous and conifer tree species similar to what is found in the existing forest community. Trees will be planted randomly and in groups of similar species to replicate natural conditions.

[38] One and a half hectares ("ha") of on-site woodland will be retained in setbacks.

[39] Tree planting in setback areas will begin in the initial stages of the operation.

[40] Total tree planting area plus natural regeneration of pit side slopes will replace the 8.5 ha of woodlands temporarily removed during extraction operations.

[41] All tree removal and tree planting will be planned and implemented by qualified

personnel.

[42] The rehabilitated area of the pit floor will be fertilized if required, to ensure a self sustainable vegetation cover. Areas of over compaction will be deep ripped, if required, to provide drainage. The pit floor will be initially planted in clover or some other cover crop to stabilize the ground. The crop will be tilled or turned over annually until the soil has been established. Afterwards crops will be rotated as normal for agricultural use.

[43] Rehabilitation will be progressive, where feasible, to allow immediate re-vegetation of extracted areas.

[44] Final grade slopes will be created as the limit of extraction is reached using existing material in the bank, imported material or other material from the site.

[45] Importation of material for use in rehabilitation, (i.e. topsoil and/or inert fill) may occur with prior approval of MNRF should it be demonstrated to the satisfaction of MNRF that sufficient materials are not available on site.

[46] Asphalt, concrete, brick and aggregate may be imported onto the site for recycling and resale. These materials may be stored on the pit floor as delineated on the site plan subject to the following terms.

[47] Recycling of e.g. asphalt, concrete, glass, etc. will be permitted on this site.

[48] Recyclable asphalt materials will not be stockpiled within 30 metres of any water body or man-made pond; or 2 metres of the surface of the established water table.

[49] Any rebar and other structural metal must be removed from the recycled material during processing and placed in a designated scrap pile on site which will be removed on an on-going basis.

[50] Removal of recycled aggregate is to be ongoing.

[51] Once the aggregate on site has been depleted there will be no further importation of recyclable materials permitted.

[52] Once final rehabilitation has been completed and approved in accordance with the site plan, all recycling operations must cease.

[53] Stumps and woody material saved from land clearing will be used to create wildlife habitat.

[54] In addressing the matter of ground and surface water resources, the summary advises that there are no permanent surface water features on or within 150 metres of the proposed pit. Precipitation onto the Property will be retained on site and allowed to infiltrate into the ground, returning to the local groundwater system. No surface water drainage from disturbed areas will be allowed to leave the site.

[55] Harden Environmental Services Ltd. has determined that the water table beneath the area to be extracted is at approximately 251 metres above sea level in the south and 256 metres above sea level in the north.

[56] As the limit of extraction is above these water table levels, the proposed extraction of aggregate from the Property will not enter into the local water table.

The Objections

[57] The Tribunal heard from five nearby residents, all of whom had filed Participant statements and who spoke to those statements at the hearing.

[58] Roy Hunter, a 39-year resident of the area, the last 27 of which on Friesen Place, spoke to the interplay of the simultaneous growth of the aggregate extraction uses and residential uses. He indicated that there were 13 aggregate pits within 9 kilometres of Centre Vespra and that this created the largest concentration of aggregate pits within the County.

[59] He acknowledged that the proposal will create a buffer between the expanded pit and the residential uses to the north, but he is concerned that this proposal brings the pit very close to the residential uses.

[60] The Eek Pit was established in 1997. He advised that since that time, the population in the City of Barrie area has almost doubled. Alliston has grown. In Centre Vespra, the Stonegate subdivision was established in the late 1980s. It consisted of 70 homes. Stone Manor Woods is the latest subdivision. These developments have contributed 750 homes to this community, adding 2,400 persons to the population. These residents have two to three cars per dwelling. In his view, Centre Vespra is the second largest community in the Township.

[61] This residential development has added vehicles to the roads along with the heavy truck traffic. He is concerned about the conflicts that the growth of these two uses may present. In this regard, he noted that there is no transit available and that the community has a low walkability score.

[62] Eric Atthill has been a Centre Vespra resident for three years. He has two young children who attend school in the City of Barrie and are picked up by bus to get there. He expressed anxiety about the safety of those on the road due to increasing traffic and the lack of barriers or safety features on these roads.

[63] As the extent of residential development presently proposed will add traffic, he was of the view that the traffic from this pit use will only exacerbate the problem and will infringe on the safety of his children.

[64] In cross-examination, he acknowledged that the Simcoe County District School Board registered no objections to the requested zoning amendment and that the Township Planning Department staff did not identify an issue in this regard.

[65] David Aves has been a resident on Edgecombe Terrace since 1991. His comments were focussed on traffic safety issues. He spoke about the evolution of

Sunnidale Road from a stagecoach route in the 1800s to the busy two-lane country road of today. He compared the size and weight of gravel trucks with passenger vehicles.

[66] Although he acknowledged that he could not point to any particular accident record connected to the movement of gravel vehicles from Eek Pit, he asserted that gravel trucks are the most dangerous on the road and that allowing the pit expansion is not good planning. He found it hard to accept that there would not be increased truck traffic.

[67] Joseph Shocrylas, who resides on Alana Drive, is a member of Concerned Citizens of Centre Vespra. He expressed a number of concerns. These concerns were expressed against a background of the anticipated growth in new residential dwellings in Centre Vespra, which he pegged on the order of 800 to 966 new residences.

[68] Mr. Shocrylas spoke to potential harms to air quality related to respirable silica dust and vehicle emissions. He was concerned about impact on the water table on the basis that the water table can fluctuate and that asphalt stored on site can leach toxic material into the soil.

[69] In his view, his estimate of 80 trucks per day from the site will create noise impacts. He referred to an incident in 2015 on the site related to burning and was concerned that as there did not seem to be active Ministry enforcement of the operations, such incidents could occur again.

[70] In his view, every tree destroyed on the site affects our atmosphere, removes an element of erosion control and creates openings for light pollution.

[71] In conclusion, he suggested that smart planning attempts to avoid conflicting land uses and that allowing expansion of this extractive use is incompatible with the growth of residential uses in Centre Vespra. Although he made reference to s. 3 of the *Planning Act* and the obligation of planning authorities to act consistently and in conformity with Provincial policy, he did not acknowledge the current official plan

designation of the Property for aggregate extraction and the Provincial policies that are associated with that.

[72] In response to a question from the Tribunal, Mr. Shocrylas was unable to point to any negative impacts on his property from the existing pit.

[73] Finally, Stella Hutchinson, also of Alana Drive, spoke about her residency for 20 years and how Centre Vespra is an exceptional countryside community that has been growing by the addition of many new homes. She asserted that proper and judicious planning is required to ensure that there will be no negative impact to existing and future residents. In her view, rezoning to allow a new pit is bad planning.

The Professional Evidence

[74] As the bulk of the comments by the objectors centred on the issue of traffic volume and safety, the transportation planning consultant for the Appellant was called following the evidence of the objectors.

[75] Michael Cullip, who has 25 years experience in transportation consulting, including many retainers relating to pits and quarries, was called and qualified to provide opinion evidence with respect to traffic matters.

[76] The very pertinent and salient fact arising from the proposal is that this pit extension will come into operation upon completion of extraction of the existing pit so that as the rate of extraction will generally be the same as the existing pit, there is no expectation of any increase in truck traffic associated with the pit expansion.

[77] Mr. Cullip spoke to the physical features of the site access and advised that due to the presence of the County Road 40 (Sunnidale Road), the Property is provided with good access and that the sight lines at the intersection are sufficient to sustain safe traffic movements. He had no evidence of traffic accident incidences related to the use.

[78] There will be intersection improvements effected at the intersection of Barrie Hill

Road and Sunnidale Road, which are being undertaken on a cost shared basis between the Appellant and residential developers in Centre Vespra.

[79] Mr. Cullip obtained traffic count data, which includes the residential traffic, and concluded that there was capacity in the road system to accommodate the pit traffic, which he assesses as 40 trucks per day on the basis of an average of four trucks per hour.

[80] Mr. Cullip's analysis was submitted to the County. The report has been accepted by the County and the recommended intersection improvements have been approved by the County.

[81] The Tribunal is satisfied on the basis of the testimony of Mr. Cullip and his filed evidence that there is no traffic issue arising from the proposed pit expansion which would indicate traffic capacity or safety issues which would in any way warrant rejecting the proposal.

[82] Furthermore, the Tribunal is satisfied from its review of the filed consultant reports as noted above and the testimony of Mr. Fitzgerald regarding them that there are not expected to be any operational issues or land use conflicts which will result from the proposed pit expansion to warrant refusal of the applications.

The Disposition

[83] Mr. Kussner succinctly summed up the issues in these appeals and the approach which, on all of the facts, the Tribunal should take in dealing with them.

[84] Mr. Kussner acknowledged the comments which were heard from the residents, that the Township's Official Plan has provided differing land uses in the area of Centre Vespra. Centre Vespra is a clearly acknowledged community of residential uses, but it is just as clearly designated in its southwest as an area of High Aggregate Potential.

[85] As such, the present application for zoning by-law amendment was determined

to be in conformity with the Township's Official Plan. It is also in conformity with the County's Official Plan.

[86] It was on this basis of official plan conformity that the Township Planning Department staff originally recommended the requested zoning by-law amendment for enactment, subject to a host of conditions which staff thought appropriate to ensure that compatibility of uses was achieved.

[87] In its initial decision making, the Township's Council rejected that recommendation, apparently in the spirit of giving some character of precedence to the residential community.

[88] However, subsequent to that decision of refusal, Council retained the services of an environmental consultant and based on this additional advice, Council has changed its course and has endorsed the Minutes of Settlement which are now before the Tribunal.

[89] As Mr. Kussner puts it, the Minutes of Settlement achieve the appropriate balancing of the planned function of the lands and the proven potential of those lands to produce good quality aggregate with the protection of the residentially designated lands.

[90] The Tribunal finds that the elements of the Minutes of Settlement conform with Provincial planning policy and the Township and County Official Plans.

[91] The applications have been thoroughly reviewed and commented upon by all of the usual public agencies, which includes the Nottawasaga Valley Conservation Authority and the Provincial Ministries.

[92] Strict controls have been introduced in the proposed zoning by-law amendment and also by way of the terms and conditions appearing on the ARA Site Plan. On the basis of these controls, the Tribunal is satisfied that potential impacts have been adequately addressed.

DECISION

[93] Therefore, on the strength of the evidence heard by the Tribunal and the submissions of counsel, the Tribunal will allow the Appellant's appeal, in part, and direct the amendment to the Township's Zoning By-law No. 5000, as amended, in accordance with the form of zoning by-law amendment attached hereto as Attachment 1.

[94] The Tribunal will also recommend to the Minister of Natural Resources and Forestry that a license be issued to the Appellant for the pit to be established on the Property in accordance with the details, terms and conditions expressed on the ARA Site Plan as submitted in this proceeding.

[95] So orders the Tribunal.

"Gerald S. Swinkin"

GERALD S. SWINKIN
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

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Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

The Corporation of the Township Of Springwater

By-law 5000-230

A By-law to amend By-law 5000 as amended, with respect to property located in Part of Lot 21, Concession 9, former Vespra and known municipally as 3568 Barrie Hill Road, Roll 434101000612301 & 434101000612450 - ZB-2012-002

WHEREAS By-law 5000, as amended, is the main Comprehensive Zoning By-Law of the Township of Springwater; and

WHEREAS the Council of The Corporation of the Township of Springwater has received a request to amend By-law 5000 as amended, and is in general agreement with this request; and

WHEREAS authority is granted under Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to enact such amendments; and

WHEREAS the proposed amendment is in conformity with the Township of Springwater Official Plan;

NOW THEREFORE be it enacted as a By-law of The Corporation of the Township of Springwater the following:

1. THAT Schedule "A" to By-law 5000 as amended, be further amended by rezoning lands in Part of Lot 21, Concession 9, former Vespra and known municipally as 3568 Barrie Hill Road, Roll 434101000612301 & 434101000612450 as shown in Schedule "A" attached hereto and forming part of this By-law from the Agricultural (A) and Environmental Protection (EP) Zones to the Extractive Industrial Exception Hold [ME-17(H)] Zone.
2. THAT Section 28 - Extractive Industrial section of By-Law 5000, Subsection 28.4.17 (ME-17) – Zone Exceptions, as amended, be hereby further amended by the addition of the following:
 - "i. No crushing of aggregate material is permitted anywhere on site.
 - ii. No extraction operations are permitted on site within 30 metres (98 feet) of any road right-of-way or within 15 metres (49 feet) from any adjoining property line.

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/s/

- iii. Notwithstanding (ii) above, for the purposes of reducing wastage of materials where two licensed pits abut one another, extraction operations are permitted up to the adjoining property line.
- iv. A 15 metre (49 ft.) landscaped open space buffer shall be required adjacent to any abutting property line notwithstanding those exempted by (iii) above.
- v. No extraction operations are permitted on site within 120 metres (393.70 feet) of any Residential, Commercial, Institutional or Industrial (MI or MO) zone.
- vi. No extraction operations are permitted on site within 150 metres (492.13 feet) of any property used for residential purposes in whole or in part.
- vii. No Concrete Batching or Asphalt Plants are permitted anywhere on site.
- viii. No Blasting or Quarrying is permitted anywhere on site.
- ix. No recycling operation, plant or facility is permitted anywhere on site, including but not limited to crushing, grinding or breaking down of any on-site or off-site materials such as asphalt, concrete brick or glass ("Prohibited Materials"), provided that this does not prohibit bringing in from other sites any processed or unprocessed aggregate materials (other than Prohibited Materials) that have already been crushed, ground or broken down off-site, such that no further crushing, grinding, or breaking down via any means will occur on site, for blending and resale within the prescribed hours of operation associated with a licensed pit on the site.

Holding (H) Provision

In order to ensure the municipality is satisfied with the operations of the proposed pit expansion once the developers seek approval from the MNRF, a Holding (H) provision is necessary pursuant to section 36 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended. The Holding (H) provision would not be lifted and no extraction of aggregate materials shall occur until such time as the following conditions have been satisfied:

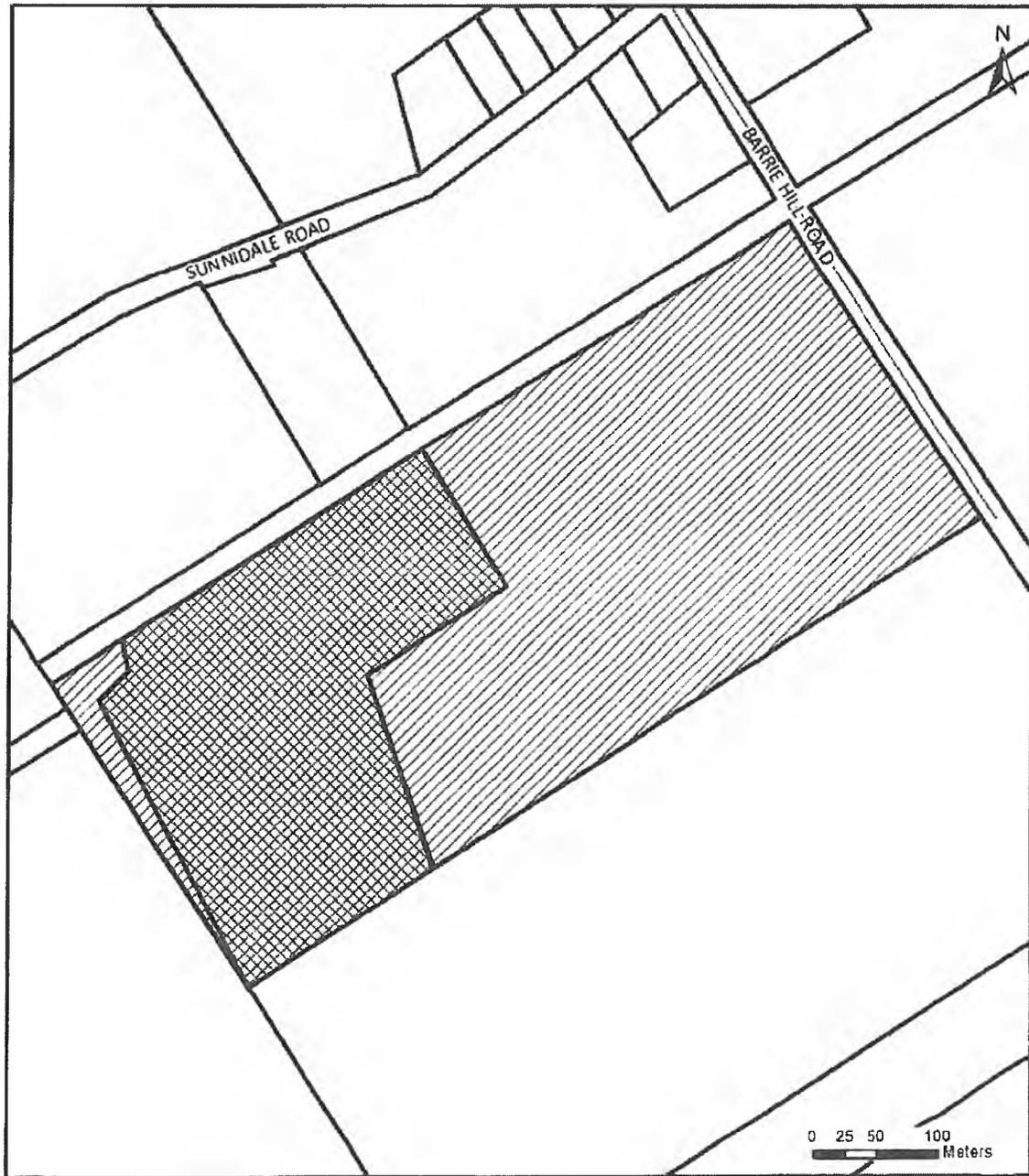
1. That the developer prepare and enter into an Development Agreement to satisfaction of the Township, the details of which shall include:
 - a. Haul Route
 - b. Hours of Operation
 - c. Road Improvements
 - d. A Covenant to comply with the Rehabilitation Plan approved by the MNRF,
 - e. Signage to address use of engine brakes and truck speeds
 - f. Berms of appropriate height where necessary to buffer pit operations from public view.
2. That the developer prepare and enter into a Road Improvements / Haul Route Agreement to the satisfaction of the Township and County of Simcoe.

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3. That the developer prepare and enter into a Groundwater Monitoring and Rare Species Transplantation Program Agreement to the satisfaction of the Township and NVCA.
 4. That all anticipated emissions of Noise, Dust and Vibration from the subject lands are within applicable parameters as determined by the Ministry of Natural Resources & Forestry (MNRF) and Ministry of the Environment and Climate Change (MOECC).
 5. That the developer obtain any necessary clearances from the Municipalities designated Risk Management Official (RMO) related to any applicable Source Water Protection Policies.
 6. That the developer meet all financial obligations of the Township, NVCA and County of Simcoe related to any outstanding taxes or technical and legal reviews.”
3. THAT this By-law shall take effect and come into force pursuant to the provisions of and regulations made under the *Planning Act*, R.S.O. 1990, c. P.13, as amended.



Schedule 'A' to By-law 5000-230



LEGEND

-  Lands to be rezoned Agricultural (A) Zone to Extractive Industrial Exception Hold (ME-17(H)) Zone
-  Lands to be rezoned Environmental Protection (EP) Zone to Extractive Industrial Exception Hold (ME-17(H)) Zone

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MC