

Planning Justification Report

Proposed Zoning By-law Amendment

Dewdney Mountain Farms Limited

**Lot 28 & Part of Lots 29 & 30, Concession 15 (Harvey)
543 Ledge Road, Municipality of Trent Lakes
County of Peterborough**

July 17, 2020

PURPOSE:

The purpose of this proposed Zoning By-law Amendment is to;

- i. Amend Schedule 'A' of the Municipality of Trent Lakes' Zoning By-law from the Special Rural Exception No. 55 (RU-55) Zone to the Special Extractive Industrial No. __ Holding (EI-__-H) Zone for the purpose of permitting a quarry use and associated uses on the Subject Lands conditional on the execution of a Development Agreement which speaks to the provision of road works for the purpose of firstly improving the municipal roads of Quarry Road and Ledge Road and secondly the intersection of County Rod 36 and Quarry Road.

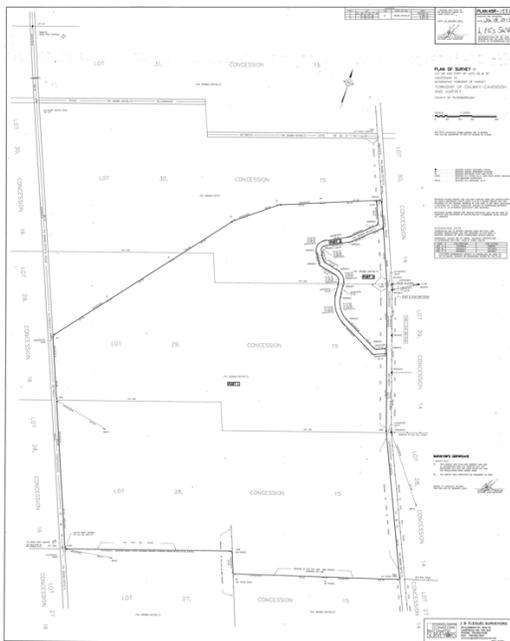
Owner: Dewdney Mountain Farms Limited c/o Mr. Paul Ritchie; President;

Legal Description:

Lot 28 & Part of Lot 29 and 30, Concession 15 (Harvey)
Municipality of Trent Lakes,
County of Peterborough

Survey:

Parts 1, 2 and 3, Reference Plan 45R-15569, Lot 28 and Part of Lots 29 and 30, Concession 15, Geographic Township of Harvey, Township of Galway-Cavendish and Harvey, Now in the Municipality of Trent Lakes.



Municipal Address:

543 Ledge Road, Trent Lakes, ON

Mailing Address:

543 Ledge Road,
Trent Lakes, ON
K0M1A0

Tax Roll Number: 154201000267500

Subject Lands: Lot Dimensions and Areas:

- Lot Frontage: +/- 1,550 m (+/- 5,085 ft.);
- Lot Depth: +/- 1,360 m (+/- 4,462 ft.) irregular;
- Lot Area: +/- 175.32 ha (+/- 433.21 ac.);

Location Map and Aerial Photograph:

543 Ledge Road, Municipality of Trent Lakes, County of Peterborough

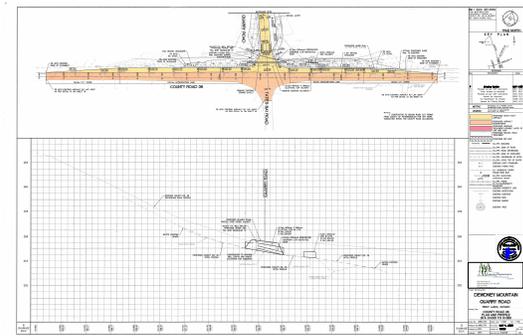
County of Peterborough



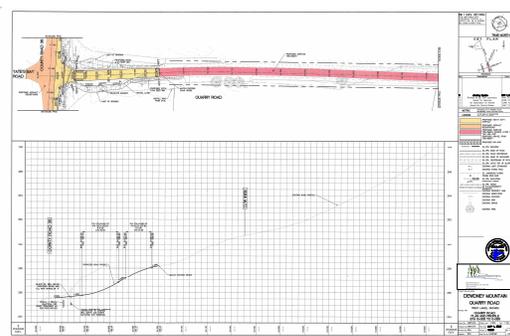
2018 Aerial Photograph



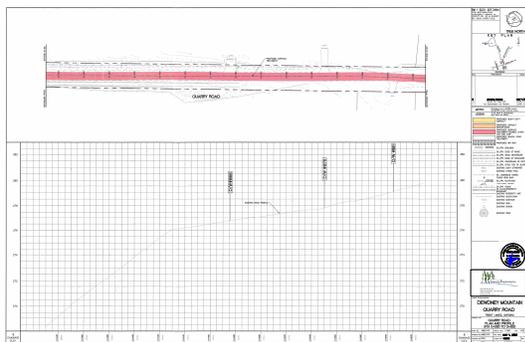
Plan 2 - Intersection Cty. Rd. 36/Quarry Rd.



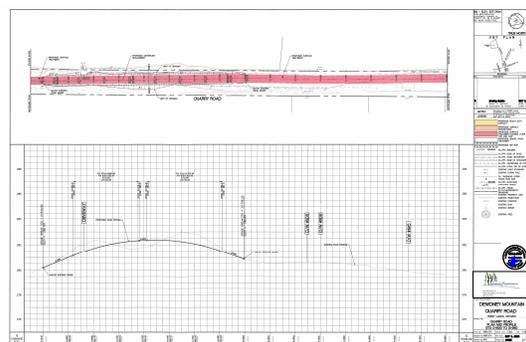
Plan 3 - Quarry Road



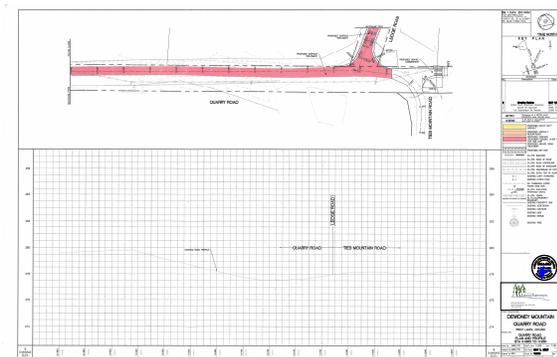
Plan 4 - Quarry Road



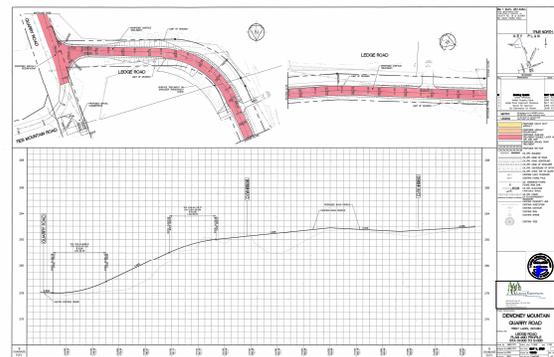
Plan 5 - Quarry Road



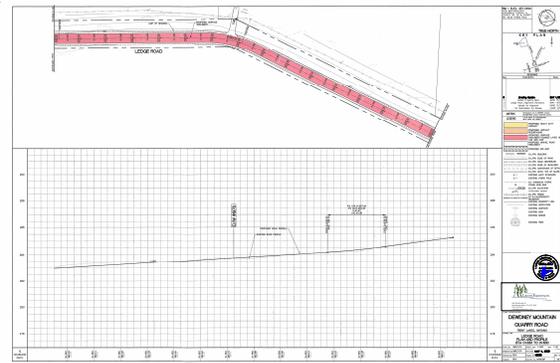
Plan 6 - Intersection: Quarry Rd. and Quarry Rd.



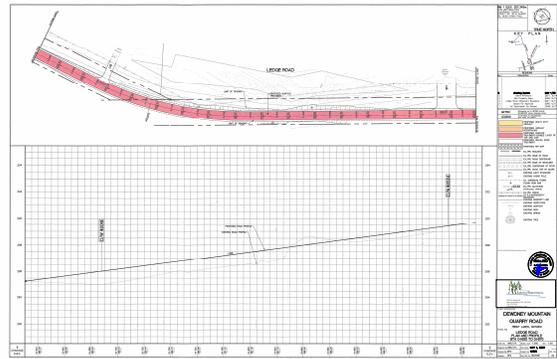
Plan 7 - Ledge Rd. Deviation Parcel 1



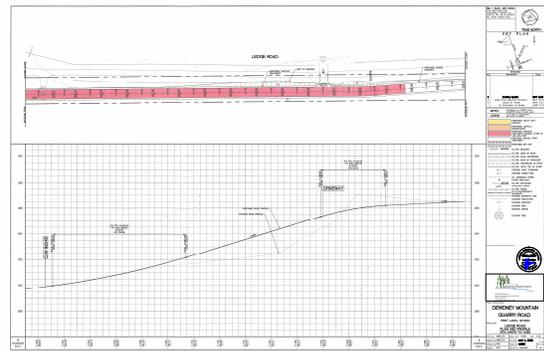
Plan 8 – Ledge Rd. Deviation Parcel 2



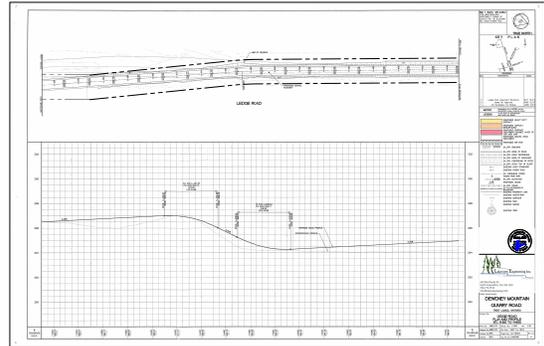
Plan 9 – Ledge Rd. Deviation Parcel 3



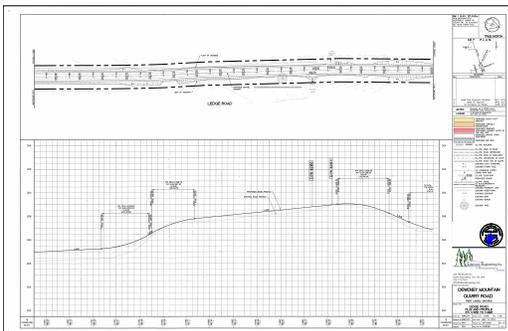
Plan 10 – Ledge Rd.



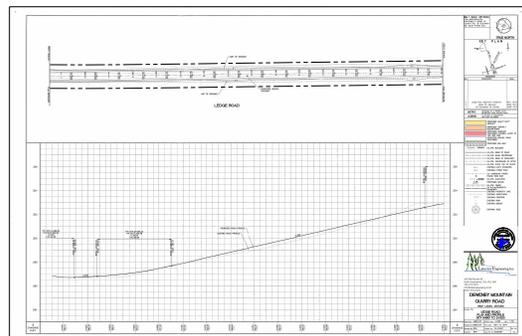
Plan 11 – Ledge Rd.



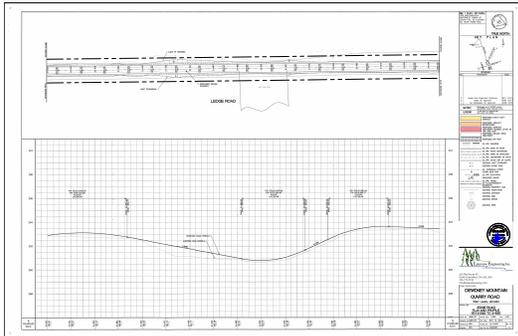
Plan 12 – Ledge Rd.



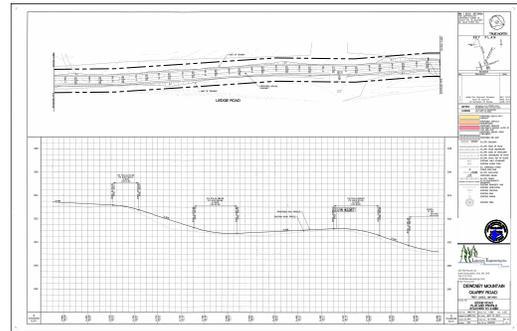
Plan 13 – Ledge Rd.



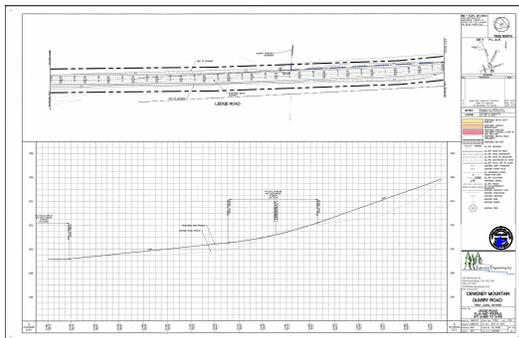
Plan 14 – Ledge Rd.



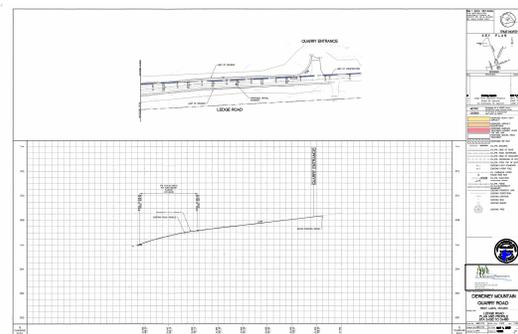
Plan 15 – Ledge Rd.



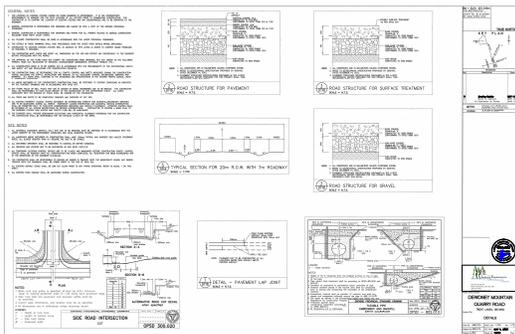
Plan 16 – Ledge Rd.



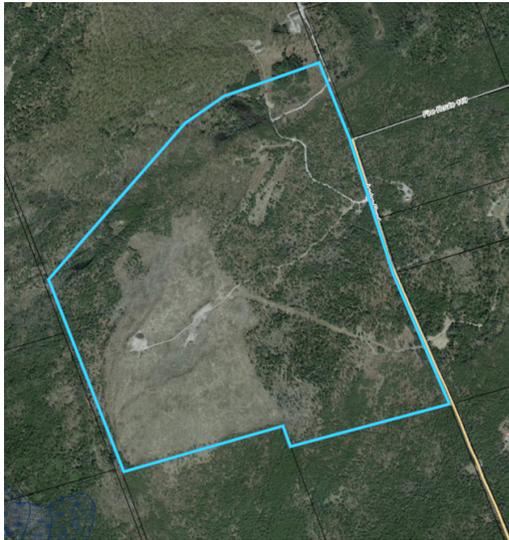
Plan 17 – Ledge Rd. & Quarry Entrance



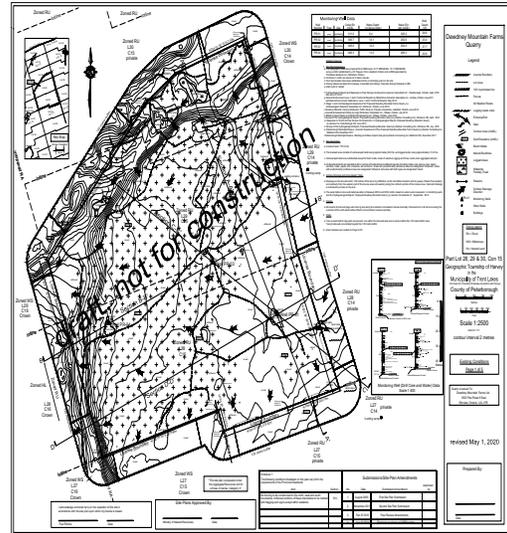
Plan 18 – Ledge Rd.



543 Ledge Road (2018 Aerial Photograph)



Quarry Site Plan 2014



Site Inspection:

A road and site visit of County Road 36, Quarry Road, Ledge Road and of the proposed Quarry Site at 543 Ledge Road, Municipality of Trent Lakes, was conducted on May 4, 2020. The following photographs were taken at that time;

Ledge Road:
(looking North from Entrance)



Ledge Road:
(looking South from Entrance)



Lands Directly Opposite/East of Proposed
Main Quarry Entrance along Ledge Road



Quarry Entrance (looking West into Site)



Quarry Site Internal Site Access Road (looking west)



Quarry Test Pit - Surface Limestone



Phase 1: Preparation of Site:
Forest Resources Harvested



Surface Aggregate Limestone Resources



West Limit of Proposed Quarry Extraction Area



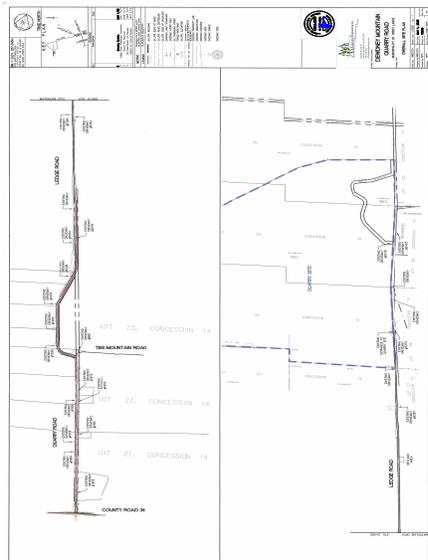
Observations of these roads include:

- County Road 36 is a two (2) lane paved arterial road under the jurisdiction of the County of Peterborough;
- Quarry Road is a 20 m wide local municipal road open year-round which is partially paved with the remainder consisting of a chip and tar surface;
- Ledge Road is a 20 m wide local municipal road open year-round having a finished gravel surface;
- The travelled portion of Ledge Road includes a 'deviation road' which weaves around an existing ravine then the road straightens along the original road allowance and extends north to the Subject Lands (quarry site);
- Both Quarry Road and Ledge Road have hydro utility poles and wires running along alternating sides of the road allowance;
- Approximately twenty (20) residential driveway entrances feed onto both Quarry Road and Ledge Road from adjacent rural lots;
- There is an existing small quarry (20,000 tonnes/year) at the corner of Ties Mountain Road and Quarry Road. It has an has a commercial entrance accessing onto Ties Mountain Road.
- The proposed Haul Route (Ledge Road and Quarry Road) passes open farm fields, approximately twenty (20) residences, one (1) existing small quarry and a number of seasonal hunt camps;
- Residences and Hunt Camps are considered by the Municipality to be Sensitive Land Use Receptors;
- The proposed Dewdney Mountain quarry site lands are situated near the north-end of Ledge Road and front onto and have direct access to the west-side of Ledge Road;
- Photographs of the main entrance location demonstrate there is a significant, unobstructed sightlines for both vehicles leaving the site and accessing the roadway to travel south and for those vehicles travelling north to the site and accessing the future quarry site entrance;
- It is estimated the Haul Route extends;
 - a distance along Quarry Road from County Road 36 to the intersection of Ledge Road approximately 1.16 kms;
 - from Quarry Road north along Ledge Road to the quarry site entrance for a distance of 3.47 kms; and
 - a total distance of about approximately 4.63 km;
- predominantly the lands along each side of both roadways consist of rural lands which are significantly vegetated, consisting of natural mixed bush save and except a few open fields along the east side of Quarry Road and those lands being used for a small quarry;

Proposed Haul Route: +/- 4.63 kms in length.



Sensitive Receptors: Single Detached Dwellings and Hunt Camps:



Relevant Planning Chronology of Quarry Proposal:

- On January 15, 2013 Council for the Township of Galway-Cavendish and Harvey passed By-law B2013-008, being a by-law to adopt an amendment to the Township's Official Plan approving all of Amendment No. 41;
- Additionally, on January 15, 2013 Council for the Township of Galway-Cavendish and Harvey passed Zoning By-law No. B2013-009 to Comprehensive Zoning By-law No. 85-94 as amended by By-law No. B2000-73 (Consolidation), subject to OPA No. 41 being approved. The purpose of Zoning By-law Amendment No. B2013-009 was to permit a quarry use and a number of associated uses and accessory uses related to the quarry operation;
- Zoning By-law Amendment By-law No. B2013-009 was appealed to the Ontario Municipal Board (OMB);
- On June 26, 2013 Council for the County of Peterborough approved all of Amendment No. 41 to the Official Plan for the Township of Galway-Cavendish and Harvey, as adopted by Municipal By-law No. B2013-008;
- Official Plan Amendment No. 41 (together with Zoning By-law Amendment No. B2013-009), was appealed on or before the 'Last Date of Appeal', being July 17, 2013 to the Ontario Municipal Board;
- The OMB heard this matter in the summer of 2014 and on February 5, 2015 the OMB issued an Order approving both the Official Plan and Zoning By-law Amendments. A motion was brought forward for an Order for the review, correction and/or rehearing of three (3) alleged errors in the decision of the OMB;
- On November 12, 2015 the OMB heard the appeal, were advised that the Parties had reached an agreement with respect to the alleged errors in question and accordingly, based on a thorough review of the materials filed in relation to this proceeding, including the Decisions, the submissions of counsel and the agreement reached by the Parties, on that same day, the Board ordered as follows:
 - (a) OPA 41 is hereby approved.
 - (b) The Municipality's comprehensive Zoning By-law No. 85-94 is amended in accordance with Zoning By-law No. B2013-009, which is marked as Exhibit 55 in this proceeding. The Board's order in relation to such zoning by-law amendment shall be withheld pending confirmation from the Municipality that a Haul Route Agreement has been executed by the relevant parties.
 - (c) The appeal has therefore been allowed in part (Nov. 19, 2015 date of written Order);
- On December 2, 2015 as a result of the motion filed under s. 43 of the Ontario Municipal Board Act, the OMB re-heard the evidence of Mr. West; an environmental expert and Mr. Ellingwood, being an ecological consultant. The

OMB considered the evidence and submissions of both experts and ordered corrections to the decision (Feb. 5, 2015). Additionally, the OMB found that a new full hearing was not justified and further changes, other than the environmental corrections, were not required. It was further noted by the OMB that the Municipality of Trent Lakes approved OPA 41 and Zoning By-law No.: B2013-009 and the Board considered its decision in this matter appropriate regard for the decisions of municipal council as required in s. 2.1 of the Act (*Planning*). The date of issue of this Decision was May 3, 2016.

- On December 9, 2016 Divisional Court heard a motion by the Appellants seeking leave to appeal which provides that an appeal lies from the Board to the Divisional Court with leave of the Divisional Court on a question of law. Ten (10) discrete issues were set forth by the Appellant's factum upon which the Appellants sought leave to appeal. Of these ten (10) issues, four (4) issues were granted 'leave to appeal' by Justice M. L. Edwards in his decision dated January 11, 2017.
- Subsequently on September 29, 2017, in a decision released by Divisional Court, one (1) of the remaining four (4) issues of law was found to be an error of law. The issue or error of law is based in the following question:

Whether the OMB erred by proposing noise mitigation measures without evidence supporting their feasibility?

The Court agreed with the Appellants that the OMB erred in law in adopting the respondent's mitigation measures without regard for the accepted evidence that there was a possibility that access to private lands would be required to implement those measures. The Court remitted this one issue to the OMB for re-consideration.

- On March 21 and 22, 2018 the Local Planning Appeal Tribunal (formerly the OMB) heard evidence in regard to the issue of mitigation measures. The Tribunal advised it was of the view the issue remitted to the Tribunal by the Court was a narrow one and based in the question: Whether there was evidence that the proposed noise mitigation measures were feasible?
 - Accepted facts:
 - The trucks which would access the quarry would run along Ledge Road and Quarry Road;
 - That they would generate levels of noise which would exceed what are understood to be acceptable levels of noise in this rural area;
 - Noise levels that exceed what is understood to be acceptable levels of noise within this rural area will be experienced at eight (8) of the eighteen (18) sensitive receptors (dwellings and hunt camps) along this rural route;

- In accordance to Provincial Policy Statement 2014 Section 2.5.2.2, 'extraction shall be undertaken in a manner which minimizes social, economic and environmental impacts, and to comply with the applicable noise guideline documents published by the Ministry of the Environment;
 - Some form of mitigation would be required;
 - The type of mitigation originally proposed at the original hearing was the emplacement of earth berms and noise walls atop of them, to be strategically placed along Quarry Road and Ledge Road so as to attenuate the sound energy which would be experienced at the various sensitive receptors and bring that sound energy down below the recommended maxima;
 - The evidence at the original hearing suggested that in order to implement such a feature, it may be necessary to enter upon the private property to be protected in order to create a portion of the berm;
 - The Tribunal was advised by the Appellants' counsel that the owners of the affected properties were not prepared to grant the necessary consent for such entry and works;
 - Counsel for the Municipality advised the Tribunal a Haul Route Agreement was required to be prepared and executed by the Owner (Quarry Site) and the Municipality however that agreement process afforded no statutory provision which entitled the Appellants to have a direct participation in the development of such an Agreement or provided them with any right of appeal from a decision which the Municipal Council may make;
 - Issue: 'Therein lay the issue of feasibility of the proposed mitigation works.';
- Conclusion of Tribunal 2018:
 - The Tribunal hearing remains the forum where the Appellants could be heard and where the appropriateness of the land use proposal must be tested and established;
 - The evidence tendered by the Proponent in this proceeding fell well below the standard necessary to satisfy the Tribunal that the required noise mitigation works are feasible and capable of implementation so as to achieve the required noise attenuation objectives and also not creating ancillary undue impacts either as such impacts may relate to the functioning of the road itself or the use and enjoyment of the properties abutting thereon;

- The Tribunal had no evidence of the willingness or preparedness of the Municipality to allow the reconstruction of either of these roads or the introduction of these significant noise mitigation features within the road allowance;
 - The Municipality is the owner of the road allowances and is under no compulsion to subject those road allowances to features that it may not wish to have located within them that are not otherwise prescribed by law; and
 - It remained a matter of speculation whether the Municipality will agree to these works, the concern or issue for the Municipality was the design of the noise mitigation works.

- The Disposition:
 - The Tribunal concluded:
 - there was insufficient evidence provided at that time to be assured that there would be efficacious noise mitigation to the affected sensitive receptors on Ledge Road and Quarry Road;
 - That the Provincial Policy Statement 2014 compliance requires such assurance;
 - the Tribunal cannot, in the public interest, authorize the use of the Site for quarry purposes;
 - The Zoning Amendment could not be approved at that time and as such was set aside for the following reasons;
 - There is no modification to the Zoning Amendment which would address the issue before the Tribunal; and
 - The reality is that the use permitted by the Zoning By-law Amendment is premature in the absence of a concrete, feasible mitigation solution for the proposed haul route;
 - Aside from the feasibility of mitigation measures issue the Tribunal made no inquiry into the land use and related questions which were dealt with in the Original Hearing and about which a number of challenges based on error of law were rejected by the Court;
 - Therefore, save with respect to the specific issue dealt with in this decision and the resultant consequence as to the Order of the Tribunal, and as to the modifications effected by the s. 43 Review, the

balance of the Original Decision must be treated as intact;

- OPA 41 is not affected by this Decision and, as noted earlier in the Decision based upon the earlier ruling out of the s. 43 Review, is in effect;
- Therefore, to the extent that the Proponent is able to develop a feasible noise mitigation plan that the Municipality will agree to implement and which will satisfy the determined recommendations as to noise attenuation without creating consequential impacts, nothing in this Decision should be taken to prejudice any fresh application for zoning amendment for the Site to permit its use as a quarry.

Meeting (October 2019):

In October 2019, this Haul Route matter and the required 'fresh' Zoning By-law Amendment, as per the Local Planning Appeal Tribunal's (LPAT) direction (April 18, 2018), was discussed with Senior Municipal staff and Municipal Legal counsel.

The following information was confirmed at this meeting;

- Official Plan Amendment No. 41 was approved by the OMB (now the Tribunal) on November 12, 2015 (written Decision/Order dated November 19/15) designating the subject lands Aggregate Resource Extraction; (Official Plan: Schedule A - Land Use Plan of the Official Plan should be amended designating the subject lands as Aggregate Resource Extraction).
 1. This land use designation primarily permits the establishment of a mineral aggregate operation (quarry) and associated uses (ancillary/accessory uses);
- Zoning By-law No. B2014-070, as amended: Schedule A to By-law No. B2014-070 Map 5, identifies the subject lands are zoned Rural-55 (RU-55). The Rural-55 (RU-55) does not permit a mineral aggregate quarry operation.
- In accordance to the last Tribunal's decision (April 18, 2018), the appeals to Zoning By-law Amendment No. B2013-009 (Exhibit #55) were allowed and the Tribunal's Order set aside By-law No. B2013-009;
- In accordance to paragraph [66] of the Tribunal's Decision (April 18, 2018), a 'fresh' Zoning By-law Amendment application for which the Applicant has developed a 'feasible noise mitigation plan' that;
 - a. the Municipality will agree to implement; and
 - b. which will satisfy the determined recommendations as to noise attenuation without creating consequential adverse impacts;

would need to be submitted to further consider the proposed quarry use;

- The Applicant and his Planning consultant advised the Municipal staff and legal counsel the supporting documentation for a fresh Zoning By-law Amendment Application would be based on:
 - a. OPA No.41 is in effect designating the lands Aggregate Resource Extraction;
 - b. Planning and other expert evidence (Natural Heritage, Noise Impact and Traffic Assessments, etc.) had been accepted by the OMB/LPAT and confirmed to remain in good standing in the Tribunal's Order/Decision dated April 18, 2018:
 - i. [64] As such, the Tribunal will be allowing the Appeals and setting aside the Zoning Amendment. In doing so however, it is to be clearly stated that the mandate of this panel of the Tribunal in this proceeding was to focus strictly on the haul route noise mitigation issue. This panel has made no inquiry into the land use and related questions which were dealt with in the Original Hearing and about which a number of challenges based on error of law were rejected by the Court. Therefore, save with respect to the specific issue dealt with in this Decision and the resultant consequence as to the Order of the Tribunal, and as to the modifications effected by the s. 43 Review, the balance of the Original Decision must be treated as intact.
 - ii. [65] OPA 41 is not affected by this Decision and, as noted earlier in the Decision, based upon the earlier ruling out of the s. 43 Review, is in effect.
 - c. the accepted maximum decibel level is set at the rural ambient noise of 45 dBA plus 8 dBA (heavy truck traffic noise) for a maximum noise level at the point of sensitive receptors along the haul route of 53 dBA;
 - d. there will be no noise/acoustical mitigation measures (walls or berms) being proposed by the Applicant and included as part of the road improvements;
 - e. the travelled route would be reviewed, assessed and redesigned by a civil engineer and the required plans drawn proposing, where required, a new road alignment and surface within the existing Municipal road allowances of Quarry and Ledge Roads; and
 - f. County Road 36 would be improved with accelerating and decelerating lanes and a new intersection surface to the satisfaction of the County of Peterborough;

A. PLANNING REVIEW:

Context:

This planning review was completed in context to the Tribunal's April 18, 2018 'Decision', paragraph [66], which provided direction on what matter remained unresolved and would require the approval of a fresh application and a new Zoning By-law Amendment.

[66] "Therefore to the extent that the Proponent is able to develop a feasible noise mitigation plan that the Municipality will agree to implement and which will satisfy the determined recommendations as to noise attenuation without creating consequential adverse impacts nothing in this Decision should be taken to prejudice any fresh application for zoning amendment for the Site to permit its use as a quarry."

Feasible Noise Mitigation Plan: The Applicant has elected to proceed with a 'No Mitigation' Option by significantly reducing the aggregate shipping rates (24-hour daily total DMQ related two-way heavy truck traffic is 148 heavy trucks) permitted to travel along the proposed Ledge and Quarry Road Haul Route thereby maintaining a noise ambient level of 53 dBA or less at the location point of all sensitive receptors.

This review includes the review of the following documents:

- A. ***Planning Act*, R. S. O. 1990, c.P.13, as amended, September 3, 2019:**
- B. **The Provincial Policy Statement (PPS 2020) in effect as of May 1, 2020;**
- C. **A Place to Grow Growth Plan for the Great Golden Horseshoe Area (May 16, 2019);**
- D. **the County of Peterborough Official Plan (POP 1994, consolidated to March 2020, as amended);**
- E. **the Municipality of Trent Lakes Official Plan (Office Consolidation April 2011, as amended); and**
- F. **the Municipality of Trent Lakes Zoning By-law No.B2014-070, as amended;**

A. *Planning Act*, R. S. O. 1990, c.P.13, as amended, September 3, 2019:

Sections 1, 2, 24, 34 and 36 of the *Planning Act* have been reviewed in this matter.

Section 1: Interpretation

Section 1.1 Purposes, states the purposes of this Act are to:

- promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act;
- provide for a land use planning system led by provincial policy;
- integrate matters of provincial interest in provincial and municipal planning decisions;
- provide for planning processes that are fair by making them open, accessible, timely and efficient;
- encourage co-operation and co-ordination among various interests;
- recognize the decision-making authority and accountability of municipal councils in planning.

Additionally, Section 2 of the Planning Act outlines the Minister or as delegated, the council of a Municipality or the Tribunal **shall have regard to, among other matters, matters of provincial interest** including the following most relevant interests in this matter;

- (a) the protection of ecological systems, including natural areas, features and functions;
- (c) the conservation and management of natural resources and the mineral resource base;
- (h) the orderly development of safe and healthy communities;
- (n) the resolution of planning conflicts involving public and private interests;
- (o) the protection of public health and safety; and
- (p) the appropriate location of growth and development (e.g. non-flooding hazard areas).

Furthermore, Section 2.1 of the *Act* entitled 'Approval authorities and Tribunal to have regard to certain matters' states:

(1) When an approval authority or the Tribunal makes a decision under this Act that relates to a planning matter, it shall have regard to,

- (a) any decision that is made under this Act by a municipal council or by an approval authority and relates to the same planning matter; and
- (b) any information and material that the municipal council or approval authority considered in making the decision described in clause (a). 2015, c. 26, s. 13; 2017, c. 23, Sched. 3, s. 2 (1); 2019, c. 9, Sched. 12, s. 1 (1).

Council for the Municipality approved Municipal Zoning By-law Amendment (ZBA) No. B2013-009 as modified by the OMB being Exhibit # 55 in the Board's Decision dated Feb. 5, 2014, subject to OPA No. 41 coming into effect. OPA No. 41 is now in effect.

The ZBA however was appealed to the OMB/LPAT, further reviewed by the Tribunal (April 18, 2018) and finally set aside as it was concluded the Applicant had erred '**by proposing noise mitigation measures without evidence supporting their feasibility**'.

Furthermore, the Tribunal made it very clear the mandate of the Tribunal in the proceeding of March 21 and 22 of 2018, as directed by the Court, was to focus strictly on the haul route noise mitigation issue. In paragraph [64] of that decision the Tribunal stated:

"This panel has made no inquiry into the land use and related questions which were dealt with in the Original Hearing and about which a number of challenges based on error of law were rejected by the Court. Therefore, save with respect to the specific issue dealt with in this Decision and the resultant consequences as to the Order of the Tribunal, and as to the modifications effected by the s.43 Review, the balance of the Original Decision must be treated as intact."

The original decision referred to by the Tribunal is that Decision dated February 5, 2015, rendered by the then Ontario Municipal Board and delivered by Member C. Hefferon providing an Interim Order. In the Decision of Mr. Hefferon, his "Conclusion" [paragraph 135] consisted of the following;

"The Board has carefully considered all of the evidence before it at the hearing and finds that the requested amendments to the OP and the By-law conform to the general intent and purpose of both the (Municipality's) OP and the COP, that is, the County's Official Plan. They are, as well, consistent with Provincial policy and in accordance with good planning principles. The Board has also considered its powers respecting the appeals under the Planning Act and the MNRF's powers under the ARA and has restricted the terms of the Board's Orders accordingly."

CONTINGENT ORDER (Hefferon Feb. 5, 2015):

[136] The Board orders that the appeals are allowed in part.

[137] The Board orders that Official Plan Amendment No. 41, entered into the evidence as Exhibit 39, Tab 3 and Zoning By-law No. 2013-009, as shown in Exhibit # 55, are approved contingent on the required Site Plan of the proposed quarry lands including Conditions substantially in accordance with Mr. McGill's evidence set out in

the draft Site Plan contained in Exhibits 7A – 7E receiving MNR approval and a licence to extract under Category 4, Class A of the ARA being issued.

[138] The Board further orders that a Final Order approving OPA 41 and Zoning By-law 2013 – 009 is withheld contingent on a Development Agreement acceptable to the Municipality (of Trent Lakes) and executed by the Municipality and the Applicant, Dewdney Mountain Farms Inc. as well as the haul route agreement being signed by the relevant parties and a copy of each being filed with the Board.

[139] The Board may be spoken to about the Orders and the Final Order.

Additionally, in a subsequent hearing that came about by the Proponent having brought a motion for an Order for review, correction and/or rehearing of three (3) alleged errors in the decision (“Decision”) of the Ontario Municipal Board (“Board”) pursuant to Section 43 of the *Ontario Municipal Board Act*, the Board provided the following;

‘Decision Delivered by S. Stefanko and C. Conti on November 12, 2015 And Order of the Board’.

Paragraph [5]

- (a) Paragraph [8] of the Decision (Feb. 5, 2015) is amended by deleting the words “not yet submitted a license application. Consequently, the reports and the Site plan required to be submitted before a license to establish a quarry remain in draft form.” Immediately following the word “had” on the fifth line on paragraph [6] and by inserting, in their place, the words “submitted a license application which was deemed complete.”
- (b) A portion of the hearing which gave rise to the decision shall be reconvened at the Board’s offices, 655 Bay Street, Toronto, Ontario on Wednesday December 2, 2015 at 10 a.m. At such time, the Board shall once again hear the evidence of Chris Ellingwood and Rob West, with Mr. Ellingwood testifying first. No new evidence is to be presented or given by these witnesses and no new filings shall be made.
- (c) The heading CONTINGENT ORDER and paragraphs [136], [137],[138] and [139] are deleted from the Decision and replaced with the following:

ORDER

[136] The Board orders as follows:

- (a) **OPA 41 is hereby approved.**
- (b) The Municipality's comprehensive Zoning By-law No. 85-94 is amended in accordance with Zoning By-law No. 2013-009, which is marked as Exhibit 55 in this proceeding. **The Board's order in relation to such zoning by-law amendment shall be withheld pending confirmation from the Municipality that a Haul Route Agreement has been executed by the relevant parties.**
- (c) This appeal has been allowed in part.

Section 24 (1) Public Works and by-laws to conform with plan.

With the approval of OPA No. 41 (OMB Verbal Order November 12, 2015/Written Order November 19, 2015) which designated the lands Aggregate Resource Extraction which permits a quarry use of the subject lands, the proposed fresh by-law amendment may now proceed having had regard to;

1. Section 24 (2) Pending Amendments (Zoning By-law Amendment); and
2. Section 24 (3) Preliminary steps may be taken where proposed public work would not conform with official plan (Development Agreement – Haul Route Improvement Works); and

may now be approved provided there is conformity to the General Development policies of the Municipal Official Plan and specific policies of the Aggregate Resource Extraction designation of the Municipal Official Plan.

At the December 2, 2015 Hearing, the Board (Member C. Conti) heard the evidence of Mr. Ellingwood and Mr. West and the Board after hearing the evidence and in view of Mr. West's evidence being provided the weight of expert opinion, further corrections were ordered to the decision. However, the Board found that a new hearing was not justified and further changes, other than those noted above, were not required. In the Decision Delivered by C. Conti and Order of the Board dated May 3, 2016 regarding the December 2, 2015 Hearing, the Board in [63] stated "It should be noted that the Municipality has approved OPA 41 and Zoning By-law No. B2013-009. The Board considers its decisions in this matter to have appropriate regard for the decisions of municipal council as required in s. 2.1 of the Act."

The subsequent Order of the Board in this May 3, 2016 Decision amended the Decision of Feb. 5, 2015 by making two (2) minor changes and confirmed through paragraph [66]:

“Furthermore, no additional changes are required to the order in the decision of February 5, 2015 as amended through the Board’s decision issued on November 19, 2015.”

The November 19, 2015 Decision approved OPA 41.

On September 29, 2017, on a matter of error of law, Divisional Court declined to find an error of law in the first three posed questions but did find an error of law with the fourth question being:

Whether the OMB erred by proposing noise mitigation measures without evidence supporting their feasibility?

The feasibility matter was then referred back to the Tribunal.

In accordance to Section 24 of the *Planning Act*; **Public works and by-laws to conform with plan**, the *Act* states: “Despite any other general or special Act, where an official plan is in effect, ... no by-law shall be passed for any purpose that does not conform therewith”.

Within the Municipality of Trent Lakes’ Official Plan Section 5.10, entitled Aggregate Resource Extraction, sub-section 5.10.5 - Township Considerations and Information Requirements, paragraph m) states the following:

- m) Haul routes and the traffic generated by the proposed mineral aggregate operation shall be considered through the preparation of a traffic impact assessment. The traffic impact assessment shall be undertaken by the applicant and shall be acceptable to the Municipality and the County of Peterborough. The traffic impact assessment shall address, but shall not necessarily be limited to, the projected volume of truck traffic related to the proposed mineral aggregate operation and existing mineral aggregate operations (whether active or not) using the same haul routes, the physical suitability of the haul routes for truck traffic, the nature and volume of existing traffic on the haul routes, requirements for improvements to the haul routes, the location and design of a safe site entrance, and community impacts and safety.

In accordance to the above Official Plan policy, a Zoning By-law Amendment which proposes the establishment of a new Mineral Aggregate Operation, must review and provide a Traffic Impact Assessment which takes into account and is acceptable to the Municipality and the County in regard to the following:

- Projected volume of traffic related to the proposed mineral aggregate operation and existing mineral aggregate operations (whether active or not) using the same haul routes;
 - The physical suitability of the haul routes for truck traffic;
 - The nature and volume of existing traffic on the haul routes,
 - Requirements for improvements to the haul routes;
 - The location and design of a safe site entrance; and
 - Community impacts and safety.

Additionally, in accordance to Section 8.7 Development Holding Provisions, of the Municipality’s Official Plan the use of Holding provisions to generally prevent the use of those lands until such time as Council is satisfied that further development may take place. The objectives of this policy in this case include:

Section 8.7.1 Objectives to Holding Provisions:

- c) To ensure that special design criteria established by the Official Plan have been satisfied;
- d) To allow for the implementation of special design features.

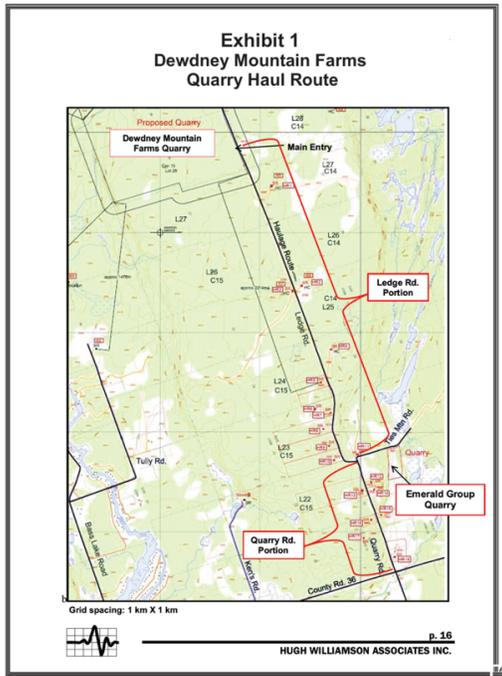
Haul Route:

The Haul Route (part of County Road 36, Quarry Road and Ledge Road) consists of the transportation corridor to be reviewed, designed and improved with new public road works along the County and/or Municipal road allowances.

In accordance to Section 5.10, entitled Aggregate Resource Extraction, sub-section 5.10.5 - Township Considerations and Information Requirements, paragraph m), the following additional Reports were undertaken:

1. Noise Study Traffic Report for the Dewdney Mountain Farms Quarry Haul Route, prepared by Tranplan Associates March 3, 2020; and
2. Haul Route Noise Impact Assessment Report for The Proposed Dewdney Mountain Farms Quarry ‘No Mitigation’ Option, prepared by Hugh Williamson Associates Inc. May 25, 2020.

1. Noise Study Traffic Report:



The findings of the Noise Study Traffic Report for the Dewdney Mountain Farms Quarry Haul Route, prepared by Tranplan Associates March 3, 2020 are as follows:

2030 Traffic Impacts:

- The original 2012 Traffic Study completed by Tranplan Associates determined that Dewdney Mountain Quarry (DMQ) traffic generated by an extraction rate of 1.2 million metric tonnes for a 2021 planning horizon would have an acceptable traffic impact on the CR 36/Quarry Road intersection;
- The traffic study report was reviewed by the County of Peterborough and the Municipality of Trent Lakes as the approving agencies;
- The traffic report was found acceptable.
- 2020 Review:
 - reduced DMQ daily shipping rates;
 - forecasted Quarry Road heavy truck volumes have dropped as a result of the reduction in product to be shipped from DMQ;
 - the planning horizon for the noise study has been moved to 2030 from the original 2021 used in the traffic study analyses;
 - it is expected that there will be some growth in traffic along the CR 36 corridor over this extended 9-year planning horizon (2021-2030);

- During the 2030 PM peak hour, the critical movement at the CR 36/Quarry Road intersection is forecasted to operate at Level of Service (footnote 2) (LoS) “B”;
- “B” Level of Service (LoS) is considered to be a very good LoS for peak hour conditions. Drivers accessing the CR 36 corridor will face little delay;
- There will be considerable residual capacity for future growth in traffic at this intersection beyond the 2030 planning horizon;

Conclusions:

- i. Much of the traffic analyses in support of the Noise Study have focused on developing daily profiles broken out by hour for specific vehicles travelling along the haul route;
- ii. The DMQ profiles have been developed through considerable discussion with the proponent;
- iii. These discussions included future quarry operation measured in terms of employee assignments, rates of loading trucks and the size/capacity of the trucks;
- iv. This information was combined with data assembled from Tranplan Associates files for similar quarry studies to develop the forecasted 2030 traffic profiles for the DMQ;
- v. The results of these analyses are the detailed daily traffic profiles that will provide the specific data required for the Noise Study;
- vi. The residential background traffic trip generation and profiles have been taken directly for ITE sources;
- vii. The resulting traffic forecasts/profiles are in reasonable agreement with the observed 2011 “background” traffic data;
- viii. The traffic profiles that will be applied to the Noise Study analyses are based on a solid set of empirical data and as such should provide an appropriate data set for input to the Noise Study analyses.

Conclusion of the Noise Study Traffic Report:

- A. With the reduction in future DMQ daily aggregate shipping rates, there will be fewer vehicles travelling along the haul route corridor than had been originally forecasted in the 2012 traffic study; and
- B. An assessment of the 2030 PM peak hour CR 36/Quarry Road intersection has determined that the 2030 volumes of future Dewdney Mountain Farms Quarry traffic will have an acceptable impact on the CR 36/Quarry Road intersection.

2. Haul Route Noise Impact Assessment:

The criteria and findings of the Haul Route Noise Impact Assessment Report For The Proposed Dewdney Mountain Farms Quarry 'No Mitigation' Option, prepared by Hugh Williamson Associates Inc. May 25, 2020 are as follows;

Criteria:

- The maximum 2-way hourly truck volume from the DMF Quarry is assumed in this report to be 14 trucks, say 6 trucks in and 8 trucks out, in the busiest hour;
- this volume of truck activity allows the haul route to be used with essentially no noise mitigation;
- The word 'essentially' is used in the previous sentence because one hunt camp, HR3, located on Ledge Road is only 18 m from the road centerline, and some form of noise impact accommodation will be required for HR3.;
- This noise impact accommodation for HR3 is discussed later in this report;
- For all other residences and hunt camps along the haul route, the proposed DMF truck volumes will be such that no noise mitigation will be required;
- In all analyses, previous and current, it is assumed that DMF Quarry production occurs only during the daytime, 7 a.m. to 7 p.m. Actual hours may be less.
- Methodology for Noise Impact Calculation and Assessment
 - Noise impact analysis methodology in this and previous reports (footnotes 2, 4) is based on the Ministry of Environment, Conservation and Parks, MECP, Noise Guidelines for Landfill Sites (Draft) (footnote 6), October 1998, and the Ministry of Transportation, MTO, Environmental Guide for Noise (footnote 7), October 2006. This methodology was presented in detail and accepted at the 2014 OMB Hearing (footnote 3). Pertinent details of the methodology are as follows.
 - The Noise Guidelines for Landfill Sites (Draft) (footnote 6) states that noise impact should be calculated at residential points of reception along the haul route during the busiest hour.

- The Noise Guidelines for Landfill Sites (Draft) (footnote 6) also states that noise levels are calculated from traffic volumes using the MECP traffic noise model STAMSON (footnotes 8,9).
- The Environmental Guide for Noise (footnote 7) states that where no dominant noise source currently exists, then 45 dBA should be assumed as the ambient sound level in a quiet rural area. The 2014 OMB Hearing (footnote 3) established that, with the addition of DMF Quarry traffic, (daytime) noise levels up to 53 dBA calculated on the above basis are acceptable without noise mitigation.
- To assess noise impacts, traffic volumes have been forecasted 10 years into the future, to 2030. Basing noise mitigation on traffic volumes forecasted 10 years into the future is established practice according to current MECP Guidelines (footnote 10).
- The 2030 traffic volumes for the Haul Route used in this study are based on a study (footnote 11) conducted by traffic engineering specialist, Tranplan Associates.

Discussion:

- i. This noise impact assessment of the proposed Haul Route for the Dewdney Mountain Farms Quarry presents a 'no mitigation' option for the operation of the haul route;
- ii. The 'no mitigation' option is based on a proposed level of DMF Quarry related activity on the Haul Route which is described in detail in the Tranplan Associates Report;
- iii. The proposed level of DMF Quarry related activity on the Haul Route is significantly less than the level considered in previous noise studies which were carried out in 2014 and 2018;
- iv. The maximum hourly DMF related two-way heavy truck traffic is 14, say 6 trucks in and 8 trucks out;
- v. The 24-hour daily total DMF related two-way heavy truck traffic is 148, 74 trucks in and 74 trucks out. (In the assessment, 4 empty trucks are assumed to arrive at the entry to the DMF quarry between 6 and 7 a.m., the remaining 144 two-way truck traffic is assumed to take place during the operating hours of the Quarry, 7 a.m. to 7 p.m.); and

vi. The speed limit on the proposed Haul Route is to be 40 km/hour.

Summary of Haul Route Noise Impact Assessment Report:

For the proposed level of DMF activity, no noise mitigation is required at any of the receptors along the haul route, except for one hunt camp designated as HR3 in this study. Accommodating the noise impacts at HR3 is discussed in Section 3.0 of this report.

Accommodation for Noise Impact at HR3:

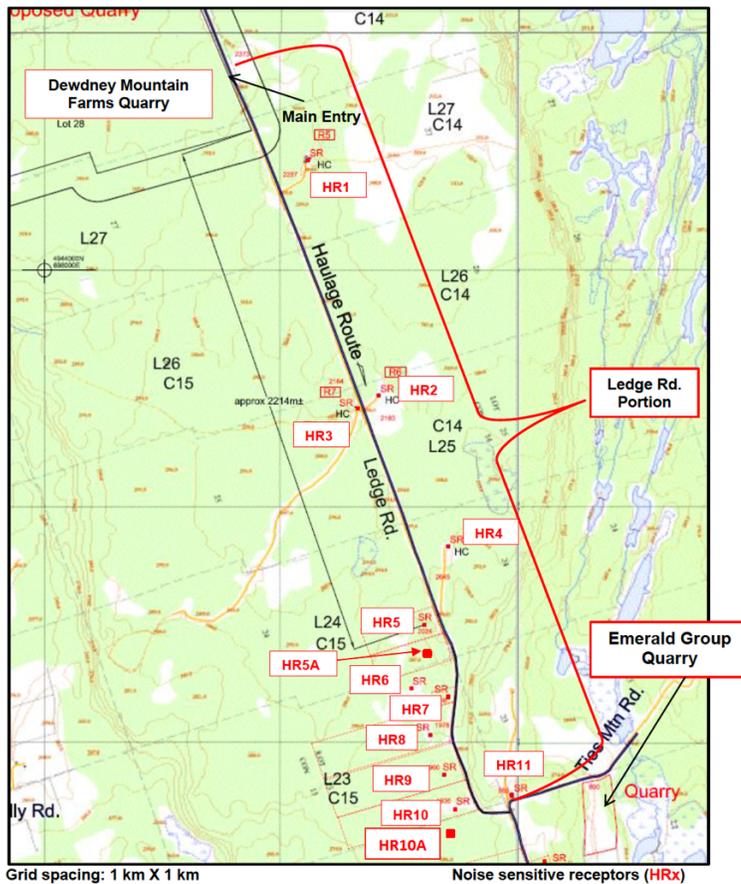
As shown in Tables 2, 3 and 4, the calculated sound levels at HR3 are above the no mitigation limits (daytime 53 dBA and nighttime 48 dBA). Some form of accommodation will be required with the Owner of the lands at HR3 in recognition to the location of this Haul Route and the level of noise impacting this HR3 sensitive receptor.

It is observed that the hunt camp at HR3 is not a large building. This hunt camp could be relocated or re-built further from Ledge Road. If the relocated building were to be 50 m from the centre line of Ledge Road, the sound levels would be similar to HR5 and no noise mitigation works would be required.

The analysis of traffic noise impacts is based MECP Draft Landfill Noise Guidelines¹⁰ and the daytime no-mitigation limit of 53 dBA established in the 2014 OMB Decision³. However, the MECP currently use their guideline NPC-300 (footnote 10), Stationery and Transportation Sources - Approval and Planning, for the assessment of noise from transportation sources, such as aggregate haul routes. An analysis based on NPC-300 is presented in Section 4.0 of this report and shows that the currently proposed level of DMF Quarry related activity (footnote 11) on the Haul Route will readily meet the no mitigation noise limits.

Sensitive Land Use HR3 Hunt Camp
Mr. Randy Law: Owner

Figure 2: Proposed External Haul Route, Ledge Road Portion



Grid spacing: 1 km X 1 km

Noise sensitive receptors (HRx)



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HUGH WILLIAMSON ASSOCIATES INC.

Letter of Intent and Understanding:

Dewdney Mountain Farms Ltd. (Mr. Pau Ritchie; President of DMF) and Mr. Randy Law have discussed the noise matter along Ledge Road believe they have come to a mutual resolution to resolve the potential noise matter. This resolution is outlined below and is based upon Mr. Williamson's recommendation to relocate this existing Hunt Camp building a minimum of fifty (50) metres from Ledge Road.

May 29, 2020

Re: Letter of Intent and Understanding
Sensitive Receptor HR3
Lot 25, Concession 15 (Harvey)
Municipality of Trent Lakes
Quarry - Dewdney Mountain Farms Ltd.
Haul Route (Ledge Road)



- Having had discussions with regard to potential noise impacts that the proposed Quarry Haul Route along Ledge Road may have on the Hunt Camp located on Lot 25, Concession 15 (Harvey), Mr. *Randy Lou*, the Hunt Camp Owner and Mr. Paul Ritchie President of Dewdney Mountain Farms Ltd. agree to further discussions regarding the demolition and, if required, the reconstruction or new build of the Hunt Camp with the understanding that it would be relocated a minimum distance of 50 metres and preferably 100 metres from the front lot line of these lands along Ledge Road; and it is further understood that
- Dewdney Mountain Farms Ltd, as the Owner of the proposed quarry, is prepared to borne all costs associated with the Owner's permission to demolish and if requested relocate/rebuild the Hunt Camp beyond the minimum 50 metre and preferably 100 metre noise impact setback resulting from Ledge Road being designated a future Haul Route.

Parties:

1. Mr. Paul Ritchie; President, Dewdney Mountain Farms Ltd;
2. PAUL RITCHIE, Owner of Hunt Camp and lands being Lot 25, Concession 15 (Harvey) Municipality of Trent Lakes;

This letter only represents an intent and understanding to discuss and, if agreeable, cooperate with each other in principle and is not a binding agreement, in any form.

; (sign)

Paul Ritchie
Dewdney Mountain Farms Limited 543 Ledge Road, Trent
Lakes, ON K0M 1A0; Address

; (sign)
PAUL RITCHIE; Owner (print name)
543 Ledge Rd Trent Lakes
; Address

; (sign if second registered
Owner)
; Owner (print name)

Planning Analysis:

Exhibit No. 55 of the original OMB Hearing (Decision Feb. 5, 2014), being the modified Zoning By-law Amendment was presented to the Board during the Hearing. This proposed Zoning By-law Amendment was approved by the Municipal Council having had regard to Section 24, 34 and 36 of the *Planning Act*, as amended.

Most specifically Section 36 of the *Planning Act* states:

- A. " The council of a local municipality may, in a by-law passed under section 34, by the use of the holding symbol "h" (or "h") in conjunction with any use designation, specify the use to which lands, buildings or structures may be put at such time in the future as the holding symbol is removed by amendment to the by-law."; and

Section 8.7 Development Holding Provisions of the Municipal Official Plan;

Section 8.7.1 Objectives to Holding Provisions states:

- c) To ensure that special design criteria established by the Official Plan have been satisfied; and
- d) To allow for the implementation of special design features.

The use of Holding provisions is commonly applied to prevent the approved use of the subject lands until such time as Council is satisfied that further development may take place.

In accordance to Sections 3 of both the original Zoning By-law Amendment (ZBA) being By-law No. B2013-009 and the modified ZBA presented as Exhibit No. 55 at the OMB Hearing and referred to in the decision of Feb. 5, 2014, the Municipality approved the use of a Holding (H) symbol on lands identified as being zoned Special District 649 – Holding (S.D. 649 – H) Zone.

Notwithstanding the permitted uses of the Special District 649 (S.D.649) Zone, this ZBA stated “only uses that existed at the date of adoption of the holding zone provision would be permitted.” As such, prior to those Uses listed as Permitted Uses within the S.D. 649 Zone being allowed to be established, the Holding (H) provision would need to be removed by by-law. In order to remove the Holding (H) provision and to permit these new uses (Quarry), Section 3 (i) of this ZBA stated in accordance to Section 36 of the Act the following was to occur:

“A Development Agreement between the Municipality and the owner/operator of the quarry has been executed and registered on title.”

The intent of the identified Development Agreement was to ensure the following measures had been satisfied to Municipality’s approval;

1. The Haul Route had been assessed, designed and improved to provide safe use for the proposed level of trucking on these roads (Cty Road 36, Quarry and Ledge Roads); and
2. The installation of Mitigation measures on the public road allowances, if required and acceptable to the County and the Municipality.

Council for the Municipality of Trent Lakes endorsed this approach and approved By-law B2013-009, subject to the approval of OPA No. 41 to the Municipality’s Official Plan on January 15th, 2013.

In accordance to Section 1.1 entitled Purposes, it states the purposes of this Act are to:

- recognize the decision-making authority and accountability of municipal councils in planning.

Council for the Township of Galway-Cavendish and Harvey, now the Municipality of Trent Lakes, approved this Zoning By-law Amendment permitting the establishment of a quarry use on the subject lands, subject to the approval of a Development Agreement and the removal of the Holding (H) provision.

The Tribunal in its decision of April 18, 2018 advised:

“Therefore, save with respect to the specific issue dealt with in this Decision and the resultant consequence as to the Order of the Tribunal, and as to the modifications effected by the s. 43 Review, the balance of the Original Decisions must be treated as intact.”

The Municipality passed Zoning By-law Amendment No. B2013-009, which was slightly modified when presented to the OMB in June of 2014 as Exhibit No. 55, provisional on a Holding provision being applied, which required the Municipality to approve and execute a Development Agreement which was to detail all road works proposed to be constructed along the roadways comprising the Haul Route and all mitigation works associated with the transportation of aggregate from the Dewdney Mountain Farms Ltd. Quarry.

The basis of the Development Agreement was to design and construct road improvements, to the satisfaction of both the Municipality and the County, as required to be installed to ensure public safety and install noise mitigation works as needed along those municipal roads being Ledge Road and Quarry Road as well as the intersection of Quarry Road and County Road 36 (designated Haul Route Improvement Corridor). Once clear of the intersection of Quarry Road and County Road 36, the remaining roadway of County Road 36 is considered to be constructed to a standard which presently accommodates the safe transport of heavy vehicles hauling aggregate and therefore required no additional road improvements beyond the designated Haul Route improvement corridor in order to accommodate the safe transport of aggregate material to its final destination.

The Municipality’s approval of the proposed Zoning By-law Amendment (Exhibit #55), the quarry land use conditional (H) upon of the quarry operator entering into a Development Agreement with both County and Trent Lakes Councils requiring the proposed Haul Route Improvement Corridor be constructed to Municipal and County standards prior to the sale and transport of aggregate material from the quarry, is in this Planner’s opinion, having had regard to the *Planning Act* by the County and the Municipality for potential community impacts, the orderly development of safe and healthy communities, the resolution of planning conflicts involving public and private interests and the protection of public health and safety in regard to the design and reconstruction of the designated Haul Route to Municipal and County standards comprising the proposed Haul Route Improvement Corridor, to permit these roads to be used as a safe haul route, for heavy vehicles transporting aggregate along this Public highway corridor. The Municipality of Trent Lakes and the County of Peterborough having had regard to Sections 1, 2, 24, 34 and 36 of the *Planning Act* adopted/approved Official Plan Amendment No. 41 and its implementing Zoning By-law.

Based on the above Planning review it is this Planner's professional opinion this proposed Zoning Bylaw Amendment has had regard to the *Planning Act*.

B. Provincial Policy Statement (PPS) 2020:

2020 Provincial Policy Statement (2020 PPS in effect):

Part I: Preamble

The Province of Ontario through the *Planning Act* and the 2020 Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development.

The 2020 Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. The Provincial Policy Statement supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

Municipal official plans are the most important vehicle for implementation of this Provincial Policy Statement and for achieving comprehensive, integrated and long-term planning. Official plans shall identify provincial interests and set out appropriate land use designations and policies.

Official plans should also coordinate cross-boundary matters to complement the actions of other planning authorities and promote mutually beneficial solutions. Official plans shall provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas. In order to protect provincial interests, planning authorities shall keep their official plans up to date with this Provincial Policy Statement.

Zoning and development permit by-laws are also important for implementation of this Provincial Policy Statement. Planning authorities shall keep their zoning and development permit by-laws up to date with their official plans and this Provincial Policy Statement.

Part II: Legislative Authority

The Provincial Policy Statement is issued under the authority of section 3 of the *Planning Act* and came into effect on May 1, 2020.

In respect of the exercise of any authority that affects a planning matter, section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act.

Comments, submissions or advice that affect a planning matter that are provided by the council of a municipality, a local board, a planning board, a minister or ministry, board, commission or agency of the government “shall be consistent with” this Provincial Policy Statement.

Part V: Policies

1.0 Building Strong Healthy Communities.

“Ontario is a vast province with urban, rural, and northern communities with diversity in population, economic activities, pace of growth, service levels and physical and natural conditions. Ontario’s long-term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns. Efficient land use and development patterns support sustainability by promoting strong, liveable, healthy and resilient communities, protecting the environment and public health and safety, and facilitating economic growth.”

Sub-section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

Sub-section 1.1.1 of the PPS 2020, provides a number of criteria for providing for and sustaining healthy, liveable and safe communities, including;

- c) avoiding development and land use patterns which may cause environmental or public health concerns;

1.1.4 Rural Areas in Municipalities

1.1.4.1 Healthy, integrated and viable *rural areas* should be supported by:

- f) promoting diversification of the economic base and employment opportunities through goods and services, including value-added products and the sustainable management or use of resources;

1.1.4.4 Growth and development may be directed to *rural lands* in accordance with policy 1.1.5, including where a municipality does not have a *settlement area*.

- 1.1.5 Rural Lands in Municipalities
- 1.1.5.1 When directing development on *rural lands*, a planning authority shall apply the relevant policies of Section 1: Building Strong Healthy Communities, as well as the policies of Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety.
- 1.1.5.2 On *rural lands* located in municipalities, permitted uses are:
- a) the management or use of resources;
- 1.1.5.6 Opportunities should be retained to locate new or expanding land uses that require separation from other uses.
- 1.2.6 Land Use Compatibility
- 1.2.6.1 *Major facilities* and *sensitive land uses* shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential *adverse effects* from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of *major facilities* in accordance with provincial guidelines, standards and procedures.

6.0 Definitions

Major facilities: means facilities which may require separation from *sensitive land uses*, including but not limited to airports, manufacturing uses, transportation infrastructure and corridors, *rail facilities*, *marine facilities*, sewage treatment facilities, *waste management systems*, oil and gas pipelines, industries, energy generation facilities and transmission systems, and resource extraction activities.

Sensitive land uses: means buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more *adverse effects* from contaminant discharges generated by a nearby *major facility*. *Sensitive land uses* may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care centres, and educational and health facilities.

Adverse effects: as defined in the *Environmental Protection Act*, means one or more of:

- a) impairment of the quality of the natural environment for any use that can be made of it;
- b) injury or damage to property or plant or animal life;
- c) harm or material discomfort to any person;
- d) an adverse effect on the health of any person;
- e) impairment of the safety of any person;
- f) rendering any property or plant or animal life unfit for human use;
- g) loss of enjoyment of normal use of property; and
- h) interference with normal conduct of business.

1.2.6.2 Where avoidance is not possible in accordance with policy 1.2.6.1, planning authorities shall protect the long-term viability of existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by ensuring that the planning and *development* of proposed adjacent *sensitive land uses* are only permitted if the following are demonstrated in accordance with provincial guidelines, standards and procedures:

- a) there is an identified need for the proposed use;
- b) alternative locations for the proposed use have been evaluated and there are no reasonable alternative locations;
- c) *adverse effects* to the proposed *sensitive land use* are minimized and mitigated; and
- d) potential impacts to industrial, manufacturing or other uses are minimized and mitigated.

2.0 Wise Use and Management of Resources

Ontario's long-term prosperity, environmental health, and social well-being depend on conserving biodiversity, protecting the health of the Great Lakes, and protecting natural heritage, water, agricultural, mineral and cultural heritage and archaeological resources for their economic, environmental and social benefits.

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.

2.5.2.5 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.

Planning Analysis:

In January 2020, Dewdney Mountain Farms Ltd, commissioned the review of the proposed Haul Route on the basis that;

- 1. the accepted decibel level of 53 dBA by the OMB shall not be surpassed along the Haul Route corridor resulting from the transport of aggregate material by heavy trucks;
- 2. no mitigation measures were to be constructed on private; and
- 3. the determination of the maximum number of heavy trucks permitted to travel along the Haul Route at the busiest hour and per day while adhering to the maximum noise level of 53 decibels.

The following Reports and Drawings were commissioned and completed by:

- A. Noise Study Traffic Report for the Dewdney Mountain Farms Quarry Haul Route, prepared by Tranplan Associates March 3, 2020;
 - B. Haul Route Noise Impact Assessment Report for The Proposed Dewdney Mountain Farms Quarry 'No Mitigation' Option, prepared by Hugh Williamson Associates Inc. May 25, 2020; and
 - C. Lakeview Engineering Inc., Dewdney Mountain Quarry Road Improvements, Sheet Numbers 01 – 17 plus the Detail sheet.
- A. The Noise Study Traffic Report determined the traffic counts during the busiest hour and daily heavy vehicle truck numbers resulting from the proposed quarry operation

together with all other vehicles using the proposed Haul Route Corridor including all 'background' vehicles of both a smaller quarry operation and all residential uses.

- B. The Haul Route Noise Impact Assessment Report utilized ;1) the vehicle number counts in the Traffic Report that were estimated to result from all existing and proposed establishments located along the Haul Route corridor; 2) the Environmental Guide for Noise (footnote 7) which states that where no dominant noise source currently exists, then 45 dBA should be assumed as the ambient sound level in a quiet rural area; and 3) the 2014 and 2018 OMB/LPAT decisions confirming that, with the addition of DMF Quarry traffic, (daytime) noise levels up to 53 dBA calculated on the above basis are acceptable without noise mitigation.
- C. The Dewdney Mountain Quarry Road Improvements plans were designed based on an assessment of the proposed haul route corridor, the determination of the limits of the Municipal and County roadways, the physical condition of the actual road, assessment of roadway/vehicle sight lines, the types of all vehicles including those being used to haul the aggregate proposed to use the highway corridor and the speed which would be authorized for vehicles using the haul route.

The selected Haul Route corridor will permit a maximum Dewdney Mountain Quarry heavy truck count of fourteen (14) trucks at the busiest hour, resulting in a 24-hour daily total DMF related two-way heavy truck traffic of 148 heavy trucks along the haul route corridor resulting in a daytime noise level of no more than 53 dBA at each identified Sensitive Land Use Receptor location, provided all haul route road improvements are completed to the satisfaction of the Municipality and the County.

It is this Planner's professional opinion the proposed Zoning By-law Amendment and associated Development Agreement to implement the required road improvements along the designated Haul Route are consistent with the Provincial Policy Statement 2020 (PPS 2020).

A Place to Grow Growth Plan for the Greater Golden Horseshoe (May 2019):

The subject lands and associated Haul Route are within the Greater Golden Horseshoe Area and therefore development/planning applications affecting the subject lands are guided by the policies of the provincial plan known as A Place to Grow Growth Plan of the Greater Golden Horseshoe.

1.2 A Place to Grow: Growth Plan for the Greater Golden Horseshoe

A Place to Grow is the Ontario government's initiative to plan for growth and

development in a way that supports economic prosperity, protects the environment, and helps communities achieve a high quality of life. The Places to Grow Act, 2005 enables the development of regional growth plans that guide government investments and land use planning policies.

Vision for the GGH

More than anything, the Greater Golden Horseshoe (GGH) will continue to be a great place to live, work and play. Its communities will be supported by a strong economy and an approach that puts people first.

This approach protects the Greenbelt and will ensure a cleaner environment is passed on to future generations. A Place to Grow will support the achievement of complete communities with access to transit networks, protected employment zones and an increase in the amount and variety of housing available.

1.2.1 Guiding Principles

The policies of this Plan regarding how land is developed, resources are managed and protected, and public dollars are invested are based on key principles including:

- Provide flexibility to capitalize on new economic and employment opportunities as they emerge, while providing certainty for traditional industries, including resource-based sectors.

Section 2 Where and How to Grow

Sub-section 2.1 Context

This Plan is about accommodating forecasted growth in complete communities. These are communities that are well designed to meet people's needs for daily living throughout an entire lifetime by providing convenient access to an appropriate mix of jobs, local services, public service facilities, and a full range of housing to accommodate a range of incomes and household sizes.

To support the achievement of complete communities that are healthier, safer, and more equitable, choices about where and how growth occurs in the GGH need to be made carefully.

2.2 Policies for Where and How to Grow

2.2.1 Managing Growth

2.2.1.2. Forecasted growth to the horizon of this Plan will be allocated based on the following:

a) the vast majority of growth will be directed to settlement areas that:

- i. have a delineated built boundary;
- ii. have existing or planned municipal water and wastewater systems;
and
- iii. can support the achievement of complete communities;

2.2.9 Rural Areas

2.2.9.3 Subject to the policies in Section 4, development outside of settlement areas may be permitted on rural lands for:

a) the management or use of resources;

4 Protecting What is Valuable 4.1 Context

The GGH contains a broad array of important hydrologic and natural heritage features and areas, a vibrant and diverse agricultural land base, irreplaceable cultural heritage resources, and valuable renewable and non-renewable resources.

These lands, features and resources are essential for the long-term quality of life, economic prosperity, environmental health, and ecological integrity of the region.

4.2 Policies for Protecting What is Valuable

4.2.8 Mineral Aggregate Resources

2. Municipalities will develop and implement official plan policies and other strategies to conserve mineral aggregate resources, including:

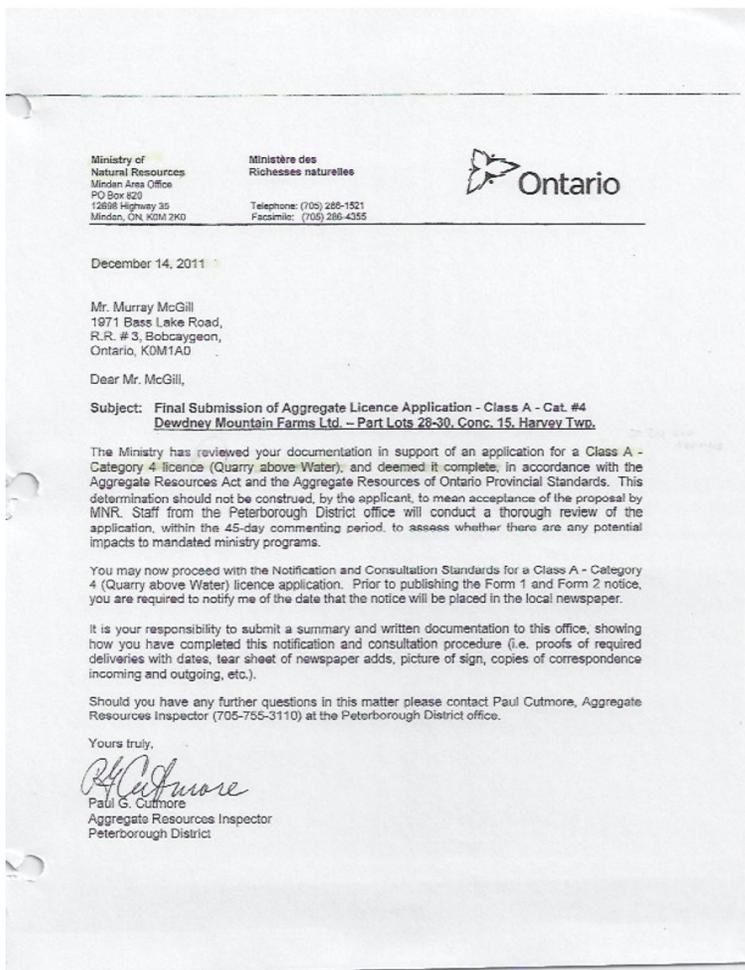
b) the wise use of mineral aggregate resources, including utilization or extraction of on-site mineral aggregate resources prior to development occurring.

7. Where an application under the Aggregate Resources Act has been received and deemed complete by the Province as of July 1, 2017, any applications under the Planning Act to permit the making, establishment or operation of the pit or quarry to which the Aggregate Resources Act

application relates, if approved, will not be subject to the policies of this Plan.

The following letter was received from Ministry of Natural Resources, Minden Area Office, dated December 14, 2011 regarding Final Submission of Aggregate Licence Application – Class A – Cat #4 Dewdney Mountain Farms Ltd. – Part of Lots 28-30, Conc. 15, Harvey Twp. confirming MNR had received and deemed the application for a Class A- Category 4 licence (Quarry above water) complete.

December 14, 2011



The application remains in good standing at the MNR office.

In conformity to Section 4.2.8.7 of A Place to Grow Growth Plan for the Greater Golden Horseshoe, it is this Planner's professional opinion the proposed Zoning By-law

Amendment application to permit a quarry use on the Subject lands is not subject to the policies of the provincial plan entitled A Place to Grow Growth Plan for the Greater Golden Horseshoe (May 2019).

County of Peterborough Official Plan (CSOP) 1994, as amended (Consolidated March 2020):

1.0 Introduction

1.1 Purpose and Structure of the Official Plan

This Official Plan is prepared by the County of Peterborough to direct and guide the actions of local municipalities and the County in policy planning and physical planning on a very broad basis.

The County of Peterborough Official Plan has two functions.

The County Plan serves as the upper tier Official Plan for the County. It establishes a vision in which planning, and stewardship protect and enhance a diverse landscape, lifestyle and sense of community for the County.

The County Plan also functions as the lower tier Official Plan for four of the local municipalities, the Township of Selwyn, the Township of Asphodel-Norwood, the Township of Douro-Dummer and the Township of North Kawartha.

The other local municipalities in the County (the Township of Cavan Monaghan, the Municipality of Trent Lakes, the Township of Havelock-Belmont-Methuen and the Township of Otonabee-South Monaghan) maintain separate, free-standing planning documents.

4.0 Watershed Strategic Components

There are seven (7) components that are inter-related and effectively have a role within the context of a watershed. These seven (7) components include:

1. Natural Environment,
2. Settlement Areas,
3. Rural and Cultural Landscape,
4. Shoreland Areas and the Waterfront,
5. Recreation and Open Space,
6. Economic Development; and
7. Physical Services and Utilities.

Section 4.1 entitled Natural Environment, states the County recognizes the important contribution that natural systems, natural heritage features and natural resources make to the social, economic, and environmental health of local municipalities.

In this regard, the County has identified Hazard Lands, Natural Heritage Features and Natural Resources as areas to ensure that the appropriate land use and resource management protection policies are applied to them.

Natural Resources

- Mineral and mineral aggregates

The specific policies for mineral aggregates are included in this section of the Plan. These policies provide a general approach to environmental management which policies may be augmented by more detail policies and schedules in local Official Plans.

Section 4.1 – Goal:

- to establish an approach which will protect and enhance natural features and ecological systems, conserve natural resources, reduce pollution and protect people and property from environmental hazards.

Section 4.1.2 – Objectives:

- to encourage local municipalities within the same watershed to participate, coordinate and carry out similar environmental management initiatives and practices to promote conservation, protection, sustainability and enhancement of natural systems, features and resources.

Section 4.1.3 – Policies

Section 4.1.3.3 – Mineral Aggregate and Non-Aggregate Mineral Resources states;

- Mineral aggregate and non-aggregate resources shall be recognized and managed by local Official Plans as limited and non-renewable natural resources to be protected for long-term use;
- Local municipalities, in consultation with the County, the Ministry of Northern Development and Mines and the Ministry of Natural Resources shall review development proposals with respect to mineral aggregate and non-aggregate resources;

- Local municipalities shall identify and protect from incompatible uses 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, all existing mineral aggregate and mineral mining operations and known significant deposits of aggregate and non-aggregate mineral resources;
- In areas of significant mineral aggregate and non-aggregate resource potential, as identified by the Ministry of Natural Resources, the Ministry of Northern Development and Mines, private landholders or the development industry in consultation with the local municipalities, uses which do not preclude future access to and extraction of these potential resources may be permitted.

All other uses of the land which prohibit future access to, and extraction of the resources shall be considered secondary and generally discouraged until such time as the resource is substantially depleted.

- All extraction and processing operations should be located and operated in such a manner as to minimize the impact on the natural, social and built environments.
 - i. water resources including both surface and ground, shall be protected from adverse impacts of extraction.
 - ii. Appropriate separation distances for proposed and existing aggregate operations are usually determined on a site-specific basis.
 - iii. the Ministry of Environment considers the area of influence to be 500 metres for a quarry,
 - iv. This area is considered to have the greatest impact on sensitive land uses from the pit or quarry operation.
 - v. Environmental studies should be required to assess the impact if development occurs within this influence area.
 - vi. This influence area should be applied reciprocally to new sensitive land uses encroaching upon an existing extraction operation or lands committed for future extraction.

Planning staff for the County of Peterborough confirmed the Official Plan land use designation of the proposed quarry site is designated Rural.

4.3 Rural and Cultural Landscape

4.3.3.1 – General

- Rural areas will generally be the focus of resource activity, ...

Planning Analysis:

The subject lands and the proposed Haul Route corridor are within the Rural Area designation of the County Official Plan. The County Official Plan categorizes Mineral Aggregates as a Natural Resource. This general area consists of a sizable known mineral aggregate deposit.

It is County policy that;

- natural resources will be protected and conserved;
- Mineral aggregate resources shall be recognized and managed by local Official Plans as limited and non-renewable natural resources to be protected for long-term use;
- Local municipalities, in consultation with the County, the Ministry of Northern Development and Mines and the Ministry of Natural Resources shall review development proposals with respect to mineral aggregate and non-aggregate resources;
- Local municipalities shall identify and protect from incompatible uses and activities all known significant deposits of aggregate resources;
- In areas of significant mineral aggregate resource potential, as identified by the Ministry of Natural Resources, the Ministry of Northern Development and Mines, uses which do not preclude future access to and extraction of these potential resources may be permitted.

All other uses of the land which prohibit future access to, and extraction of the resources shall be considered secondary and generally discouraged until such time as the resource is substantially depleted.

- All extraction and processing operations should be located and operated in such a manner as to minimize the impact on the natural, social and built environments.

The fresh Zoning By-law Amendment proposes to permit the Quarry use on the subject lands within the Rural Area designation of the County Official Plan. The Rural Area land use designation of the County is identified as the focus of resource activity within the County. Policy 4.1.3.3 (8th bullet) of the Plan states all extraction and processing

operations should be located and operated in such a manner as to minimize the impact on the natural, social and built environments. Between 2014 and 2018 via four (4) Orders the OMB/LPAT confirmed the evidence provided in support of the quarry use on the subject lands had been accepted.

The issue that remained was to confirm there was efficacious noise mitigation to the affected sensitive receptors on Ledge Road and Quarry Road through a feasible mitigation approach to be accepted by the Municipality and the County.

The Applicant; Dewdney Mountain Farms Ltd. undertook the following Engineering assessments and plans to determine a feasible noise mitigation approach to the affected sensitive receptors on Ledge Road and Quarry Road;

1. Noise Study Traffic Report For the Dewdney Mountain Farms Quarry Haul Route, prepared by Tranplan Associates, dated March 3, 2020; and
2. Haul Route Noise Impact Assessment Report for The Proposed Dewdney Mountain Farms Quarry 'No Mitigation' Option, prepared by Hugh Williamson Associates Inc. dated May 25, 2020.
3. Lakeview Engineering Inc., Dewdney Mountain Quarry Road Improvements, Sheet Numbers 01 – 17 plus the Detail sheet.

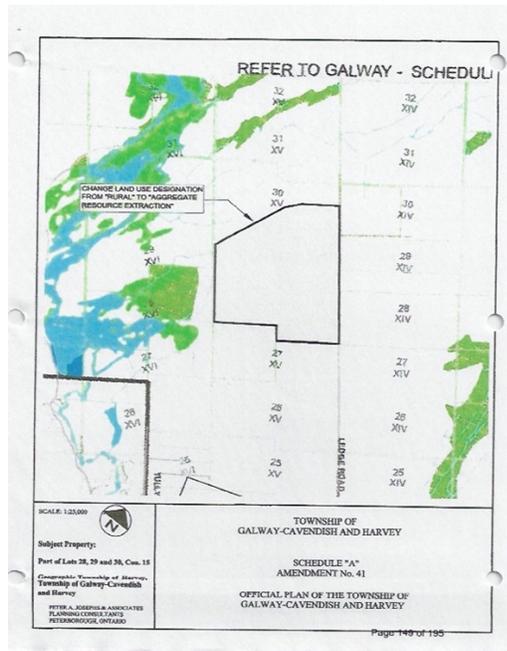
The conclusions of these reports and engineering drawings provide the basis for which the Municipal and County Haul Route Road Improvement Development Agreement are now to be based on.

In review of the above policies of the County's Official Plan and the amended supporting engineering documentation, it is this Planner's professional opinion the proposed Zoning By-law Amendment and the associated Haul Route Improvement Development Agreement conform to the County's Official Plan.

Municipality of Trent Lakes Official Plan (Consolidated 2010)

Approval of OPA No. 41 to the Municipality's Official Plan and Schedule A1 – Harvey Land Use (May 2010) by the OMB/LPAT written Order dated November 19, 2015, confirmed the subject lands were re-designated from the Rural land use designation to the Aggregate Resource Extraction land use designation.

OPA No. 41 - Schedule "A"



5.10 Aggregate Resource Extraction

5.10.1 Definitions

“Mineral aggregate resources” means gravel, sand, clay, earth, stone, limestone, dolostone, sandstone, marble, granite, rock or other material prescribed under *the Aggregate Resources Act* suitable for construction, industrial, manufacturing and maintenance purposes, but does not include metallic ores, asbestos, graphite, kyanite, mica, nepheline syenite, salt, talc, wollastonite, mine tailings or other material prescribed under the *Mining Act*. For the purposes of this Plan, vermiculite shall be deemed to be a “mineral aggregate resource.”

“Mineral aggregate operation” means the extraction of mineral aggregate resources and related activities, and includes:

- a) Lands under licence or permit, other than for wayside pits and quarries, issued in accordance with the *Aggregate Resources Act*, or successors thereto;
- b) Associated facilities used in extraction, transport, beneficiation, processing or recycling of mineral aggregate resources and derived products such as asphalt and concrete, or the production of secondary related products.

Comment: In 2011 Dewdney Mountain Farms Ltd. submitted an Aggregate Licence Application to the then Ministry of Natural Resources for a Class A – Category #4 (Quarry above Water) licence on the subject lands described as Part of Lots 28-39, Conc. 15, Harvey Twp. Now in the Municipality of Trent Lakes. This Aggregate Licence Application was deemed complete, remains active and awaits confirmation the proposed Zoning By-law Amendment is in effect. Both the main quarry use and associated uses have been requested as part of this ARA application.

5.10.2 Permitted Uses

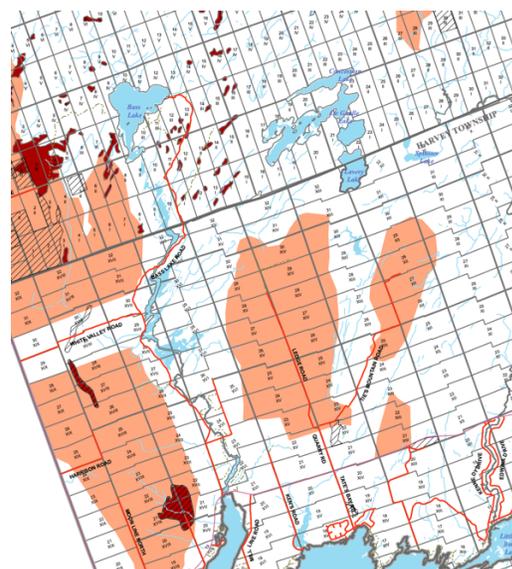
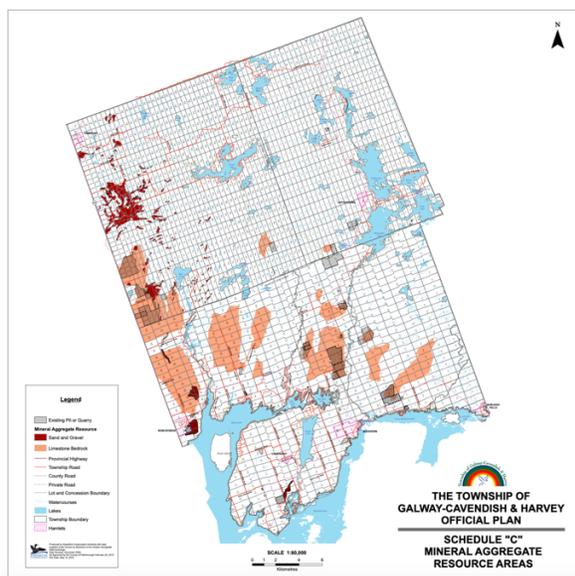
The uses permitted in the Aggregate Resource Extraction designation shall include mineral aggregate operations. Associated operations such as drilling, blasting, crushing, screening, washing and blending aggregate, aggregate recycling, aggregate storage, weigh scales, associated buildings and concrete and asphalt batch plants may also be permitted. These associated operations will only be permitted where they are compatible with other uses permitted in the Aggregate Resource Extraction designation and will in no way hamper the rehabilitation of these areas for other land uses.

Comment: It is the intent of Dewdney Mountains Farms Ltd. to establish a Mineral Aggregate Operation on these lands as defined in Section 5.10.1 and permitted within the approved Aggregate Resource Extraction land use designation now existing on these lands.

Mineral Aggregate Resource areas are identified on Schedule “C”.

Schedule “C” Mineral Aggregate Resource Areas

Subject Lands: Lots 28 – 30, Concession 15, Harvey Twp.



5.10.3 General Policy – Official Plan Schedules

The Aggregate Resource Extraction designation on Schedules “A1”, “A2” and “A3” of this Plan includes lands currently licensed under the Aggregate Resources Act for mineral aggregate operations, and lands identified as having known potential for future extraction of sand, gravel or bedrock resources.

Comment: The limestone on the subject lands has been tested, it is suitable for the construction industry and represents a valuable aggregate resource.

It is the intent of this Plan that new or expanded mineral aggregate operations locate within the areas identified as Mineral Aggregate Resource on Schedule “C”.

Comment: The Subject Lands and the majority of its associated Haul Route are within one of the Mineral Aggregate Resource Areas identified on Schedule “C” of this Plan known to the Municipality for potential for future extraction of sand, gravel or bedrock resources.

5.10.5 Township Considerations and Information Requirements

Council shall consider the following matters before a decision is made on an application for an amendment to this Plan or for an amendment to the Zoning By-law to permit the establishment of a new or expanded mineral aggregate operation in the Aggregate Resource Extraction designation:

- a) The extraction of mineral aggregate resources shall be undertaken in a manner that minimizes social and environmental impacts.
- b) A mineral aggregate operation should be screened from public view to the extent possible, in order to protect the scenic characteristics of the area.
- c) Regard shall be given to compatibility with existing adjacent land uses that might be affected by a pit or quarry operation. This may be reflected through measures such as extraction setbacks and/or other mitigative techniques such as the use of vegetation or berms to provide screening, restrictions on the location of machinery, the timing of extraction operations, and the location and condition of haul routes. Any mitigative techniques being established should depend on a site-by-site review, having regard to the policies of this Plan. These requirements may be implemented through:

- i) conditions on the licence and/or site plan under the *Aggregate Resources Act* at the time of licensing by the Ministry of Natural Resources;
 - ii) regulations in a site-specific zoning by-law for the property; and
 - iii) provisions in a development agreement under Section 5.10.6 of this Plan.
- d) As a general policy, a mineral aggregate operation for a pit should not be established within 150 metres of a sensitive land use for a pit above the water table, or within 300 metres of a sensitive land use for a pit below the water table. A mineral aggregate operation for a quarry should not be established within 500 metres of a sensitive land use.

Any setbacks not consistent with the above, and/or mitigative techniques being proposed shall depend on a site-specific review having regard to the policies of this Plan.

For the purposes of this section (5.10.5 d)), “sensitive land use” means a building, amenity area or outdoor space where routine or normal activities occurring at reasonably expected times would experience one or more adverse effect such as noise, vibration, odours and other air emissions, litter, dust and other particulates, and other contaminants, generated by a nearby facility or land use. A sensitive land use and associated activities may include, but are not limited to, one or a combination of:

- i. Residential uses or facilities where people sleep, for example, single-unit dwellings and multiple-unit dwellings, nursing homes, hospitals, trailer parks, recreational resorts, campgrounds, mobile home parks, etc. These uses are considered to be sensitive 24 hours per day;
- ii. Permanent institutional uses such as schools, churches, municipal offices, libraries, community centres, and day care centres; and
- iii. Community and neighbourhood parks and playgrounds.

Comment: OPA No. 41 was approved by the OMB on November 12, 2015 designating the Subject Lands Aggregate Resource Extraction. In accordance to this Plan and for the purposes of this section a “sensitive land use” is considered to be sensitive 24 hours

per day. There are no known adjacent land uses which would be considered sensitive 24 hours per day. As such there are no sensitive land uses known to exist within 500 metres of the Aggregate Resource Extraction designation within the Subject Lands and the proposed location of the mineral aggregate quarry operation. That said, Hunt Camps although not considered being sensitive 24 hours per day were taken into account throughout the amended Noise Assessment Report (May 25, 2020) in respect to the proposed Haul Route corridor.

- e) Proposals for mineral aggregate operations shall be evaluated for matters such as, but not limited to, land use compatibility, impacts on groundwater, effects of noise, blasting, dust, and traffic. Recommendations for mitigative techniques shall have regard to Paragraph (c) above and to the policies of this Plan.
- j) All mineral aggregate operations must satisfy the requirements of the Ministry of the Environment and/or By-laws of the Municipality as to the control of dust, noise and vibration.
- k) All mineral aggregate operations shall satisfy the requirements of the *Aggregate Resources Act* as to licensing and regulation.
- l) The establishment of all new mineral aggregate operations on lands designated under the *Aggregate Resources Act* shall be in accordance with the applicable provisions of the “Aggregate Resources of Ontario – Provincial Standards” document of the Province of Ontario.
- m) Haul routes and the traffic generated by the proposed mineral aggregate operation shall be considered through the preparation of a traffic impact assessment. The traffic impact assessment shall be undertaken by the applicant and shall be acceptable to the Municipality and the County of Peterborough. The traffic impact assessment shall address, but shall not necessarily be limited to, the projected volume of truck traffic related to the proposed mineral aggregate operation and existing mineral aggregate operations (whether active or not) using the same haul routes, the physical suitability of the haul routes for truck traffic, the nature and volume of existing traffic on the haul routes, requirements for improvements to the haul routes, the location and design of a safe site entrance, and community impacts and safety.
- q) An application for an amendment to this Plan to permit the establishment of a new mineral aggregate operation or the expansion of an existing

operation, whether or not the lands are designated under the *Aggregate Resources Act*, shall be accompanied by detailed site development plans and reports as listed below or as required by other sections of this Plan. Site plans required by the *Aggregate Resources Act* are acceptable for the purposes of this policy.

The following Site Plans and reports shall be required:

- iv) a traffic impact study, which shall address the matters of Section 5.10.5(m);
- v) a noise (acoustical) impact study;
- ix) any other reports or studies as deemed necessary by Council or any agency having jurisdiction.

All site plans and technical reports required by this Plan shall be prepared by qualified professionals and shall address applicable policies or procedures such as the Provincial Policy Statement under the *Planning Act* and the provisions of the “Aggregate Resources of Ontario – Provincial Standards” document of the Province of Ontario.

Comment: The following engineering reports and plans were amended to assess the proposed Haul Route corridor:

- A. Noise Study Traffic Report For the Dewdney Mountain Farms Quarry Haul Route, prepared by Tranplan Associates March 3, 2020;
- B. Haul Route Noise Impact Assessment Report for The Proposed Dewdney Mountain Farms Quarry ‘No Mitigation’ Option, prepared by Hugh Williamson Associates Inc. May 25, 2020; and
- C. Lakeview Engineering Inc., Dewdney Mountain Quarry Road Improvements, Sheet Numbers 01 – 17 plus the Detail sheet.

These above listed Reports and Plans are being submitted together and in support of the new Zoning By-law Amendment application.

5.10.6 Development Agreements

An applicant who wishes to undertake a mineral aggregate operation shall enter into a Development Agreement with the Municipality. This Agreement shall be entered into prior to Council’s enactment of the implementing Zoning By-law or the removal of a

Holding provision. Such an agreement may address, but shall not necessarily be limited to the following matters:

- a) The haul routes to be used and requirements for the improvement and maintenance of the haul routes;
- b) Road damage caused by the aggregate trucks, particularly damage to public roads at or near the entrance to the pit or quarry site, shall be repaired by the pit/quarry operator and that the Municipality may repair the roads and invoice the said operator accordingly;
- c) The timing of operations on a daily, weekly and annual basis;
- f) Issues of public health, public safety and environmental impact; and
- g) Such other matters as Council may deem necessary and in the public interest.

Comment: A Tri-Party Development Agreement between Dewdney Mountain Farms Ltd., the Municipality of Trent Lakes and the County of Peterborough has been drafted and is being provided to all parties for review, Council consideration, refinement and final execution.

5.10.10 Zoning

Aggregate Resource Extraction uses may be included in a separate zoning classification in the implementing Zoning By-law.

Existing legal pits and quarries shall be recognized in the Comprehensive Zoning By-law. On lands designated Aggregate Resource Extraction, an applicant who wishes to expand an existing operation or commence a new operation must obtain an amendment to the Comprehensive Zoning By-law and, where applicable, a licence from the Ministry of Natural Resources.

Comment: Together with the Zoning By-law Amendment application and all supporting engineering reports and plans, a draft Zoning By-law Amendment has also been prepared to be submitted for the consideration of the Public, Senior Staff and Council for the Municipality of Trent Lakes as part of Dewdney Mountain Farms Ltd. proposal.

Planning Analysis:

In accordance to Policy 5.10.5 Township Considerations and Information Requirements, Council shall consider certain matters before a decision is made on an application for an amendment to the Zoning By-law to permit the establishment of a new mineral aggregate operation. Such matters would include:

- Haul routes;
- the traffic generated by the proposed mineral aggregate operation;
- the preparation of a traffic impact assessment acceptable to the Municipality and the County of Peterborough;
- the traffic impact assessment shall address, but shall not necessarily be limited to;
 - the projected volume of truck traffic related to;
 - the proposed mineral aggregate operation; and
 - existing mineral aggregate operations (whether active or not) using the same haul routes;
 - the physical suitability of the haul routes for truck traffic;
 - the nature and volume of existing traffic on the haul routes;
 - requirements for improvements to the haul routes;
 - the location and design of a safe site entrance; and
 - community impacts and safety.

Three professional engineers were retained to undertake specific reports or plans to address the above policy matters regarding the proposed Haul Route corridor. The engineering firms and their report were as follows;

- A. Noise Study Traffic Report For the Dewdney Mountain Farms Quarry Haul Route, prepared by Tranplan Associates March 3, 2020;
- B. Haul Route Noise Impact Assessment Report for The Proposed Dewdney Mountain Farms Quarry 'No Mitigation' Option, prepared by Hugh Williamson Associates Inc. May 25, 2020; and
- C. Lakeview Engineering Inc., Dewdney Mountain Quarry Road Improvements, Sheet Numbers 01 – 17 plus the Detail sheet.

- A. The Noise Study Traffic Report identified and assessed the haul route being made up of Ledge Road, Quarry Road and the intersection of Quarry Road and part of County Road 36. Mr. Copeland P. Eng. discussed the extent of operation of the proposed quarry with Mr. Paul Ritchie; Owner of Dewdney Mountain Farms Ltd., projected the number of heavy trucks expected to be required to serve the quarry

operation on an hourly and daily basis, estimated numbers of all background traffic, incorporated other quarry uses and other truck counts and inserted an area traffic growth component to determine the expected Level of Service this haul route corridor would experience subsequent to the quarry being operational.

- B. The Noise Impact Assessment Report completed by Mr. Hugh Williamson, Ph.D., P.Eng., determined;
- i. the 24-hour daily total DMF related two-way heavy truck traffic would 148 trucks;
 - ii. the location of all Sensitive Land Uses (dwellings and hunt camps) along the proposed Haul Route corridor;
 - iii. the maximum recommended travel speed along the haul route to be 40 km/hour;
 - iv. the expected noise level at each sensitive land use receptor to be equal to or below a decibel level of 53 dBA;
 - v. the proposed haul route corridor to be redesigned and improved to Municipal and County standards subject to the jurisdiction of the road segment; and
 - vi. concluded based on the projected traffic counts there would be no need to incorporate noise mitigation measures such as berms, walls or vegetation or any combination thereof into the re-design of the Haul Route corridor and the re-construction of the haul route roadways within the municipal and County highways nor on private lands.
- C. Dewdney Mountain Quarry Road Improvements consists of recommendations and new road designs by Mr. Roy Hylkema P.Eng. along the proposed Haul Route corridor needed to accommodate the projected traffic count, permissible travelling speed and to maintain the noise level at or below 53 dBA resulting from the heavy truck traffic projected to travel along the proposed DMF Quarry operation.

The drawings for Dewdney Mount Quarry Road re-design and improvements are divided into 17 road segments for which a detailed design plan has been engineered and provided to both the Municipality and the County for comment and /or approval.

These plans represent the basis for the required Development Agreement entitled Dewdney Mountain Quarry Road Improvements which Dewdney, the County and the Municipality are to execute as Parties of the Agreement. The Agreement referred to is presently in draft form waiting to be reviewed by the other parties and if required, refinements made to it.

It is the opinion of this professional Planner the proposed Zoning By-law Amendment and the associated Haul Route Road Improvement Development Agreement conform to the policies of the Municipality of Trent Lakes' Official Plan.

Municipality of Trent Lakes Zoning By-law No. B2014-070, as amended:

In accordance to the Township's Zoning By-law, Interactive Zoning Map 5 identifies the Subject Lands are zoned Special Rural (RU-55).

The Special Rural (RU-55) Zone was approved in 2014 to reserve these lands for uses which would remain compatible to all surrounding rural uses and to prohibit a residential use from locating on these lands. The purpose of this site-specific provision was to ensure these lands were protected from sensitive land uses (residential single detached dwelling) locating on these lands which if allowed may possibly obstruct the future extraction of the known aggregate resources found on these lands and on adjacent lands.

It is now proposed to amend the existing Special Rural (RU-55) Zone and rezone the Subject Lands to the Special Extractive Industrial - Holding (EI- ___ - H) Zone.

The draft Zoning By-law Amendment c/w Schedule "A" is as follows:

Section 16 – Extractive Industrial (EI) Zone:

It is proposed to adhere to many of the permitted uses and provisions of the Extractive Industrial (EI) Zone with minor exceptions to the parent EI Zone. This Special Extractive Industrial (EI-___) Zone is to primarily permit a quarry, mineral aggregate operation use and other associated aggregate resource uses including both ancillary and accessory uses.

Section 3 – Definitions

Within the Municipality of Trent Lakes, a Quarry, Mineral Aggregate Operation is defined as:

3.216 Quarry, Mineral Aggregate Operation means land or land under water from which consolidated aggregate is being or has been excavated, and that has not been rehabilitated, but does not mean land or land under water excavated for a building or structure on the excavation site. A quarry does not include a wayside quarry as defined in this By-law.

Section 4 – General Zone Provisions:

4.15 Holding Zone Provisions

4.15.1 Permitted Uses,

4.15.2 Regulations for Permitted Uses, and

4.15.3 Removal of Holding Symbols.

Furthermore, it is proposed to utilize a Holding (H) provision as part of the approval of the Special Extractive Industrial zone. The purpose of the Holding provision is two-fold;

1. Firstly, to advise the permitted uses and relevant Zone Provisions applicable to the Special Extractive Industrial Zone do not apply until such time as the Holding symbol (H) is removed in accordance with the provisions of Section 36 of the Planning Act, R.S.O. 1990, as amended; and
2. Secondly, before the approved permitted uses of the Special Extractive Industrial Zone are allowed to establish, a Development Agreement shall be executed between Dewdney Mountain Farms Ltd., the Municipality and the County. This Agreement shall designate the approved Haul Route, include engineering drawings illustrating how these roads shall be improved to Municipal and County standards and prior to these lands being permitted a quarry use and before these roads may be used by heavy trucks transporting aggregate material to market from the Subject Lands.

A draft Zoning By-law complete with Schedule "A", has been prepared and submitted as part of this Zoning By-law Application. The Permitted Uses and the Zone Provisions are outlined in this site-specific draft Zoning By-law Amendment.

The following text is an excerpt the relevant sections concerning the Holding (H) provision of the proposed draft Zoning By-law Amendment;

Excerpt: Draft Zoning By-law Amendment:

Section:

3. The Holding (H) symbol on the Special Extractive Industrial-___ Holding (EI-___-H) Zone shall be removed by Council by a By-law passed under Section 36 of the *Planning Act*, RSO 1990, as amended, only at such time as;

- a) One or more Development Agreement(s) which;
 - I. identifies and prescribes the extent of a new designated Aggregate Haul Route;
 - II. identifies and secures those road improvement works, and maintenance responsibilities required by the Municipality and the County for a new or extended Aggregate Haul Route; and
 - III. is/are between the Owner/Operator and the Municipality and/or County and has been executed by all parties and may be registered on title to the quarry lands.
4. Where a zone symbol on Schedule "A" is followed by a Holding symbol (H), holding provisions under Section 36 of the *Planning Act*, R.S.O. 1990, as amended, are in effect. The permitted uses and relevant zone provisions applicable to that zone do not apply until such time as the Holding symbol (H) is removed in accordance with the provisions of Section 36 of the *Planning Act*, R.S.O. 1990, as amended. Prior to the removal of the Holding symbol (H), only uses that existed at the date of the adoption of the holding zone provision shall be permitted.

Planning Analysis:

The draft Zoning By-law Amendment proposes to permit a Quarry, Mineral Aggregate Operation Use along with ancillary and accessory uses on the Subject Lands. These uses are in conformity to Trent Lakes OPA No. 41 which designates these lands as Aggregate Resource Extraction and permits the following uses:

Municipality of Trent Lakes Official Plan

5.10.2 Permitted Uses

The uses permitted in the Aggregate Resource Extraction designation shall include mineral aggregate operations. Associated operations such as drilling, blasting, crushing, screening, washing and blending aggregate, aggregate recycling, aggregate storage, weigh scales, associated buildings and concrete and asphalt batch plants may also be permitted.

Furthermore, in accordance to Section 8.7 Development Holding Provisions of the Municipality of Trent Lakes' Official Plan, the draft Zoning By-law Amendment proposes to incorporate a Holding provision for the purpose of securing a Development Agreement from the quarry operator in accordance to 8.7 of the Official Plan which states:

Council may, in a by-law passed pursuant to the provisions of Section 36 of the *Planning Act*, R.S.O. 1990, zone lands for their intended use, and further impose

a holding provision to generally prevent or limit the use of those lands until such time as Council is satisfied that further development may take place.

8.7.1 Objectives to Holding Provisions

Council may pass a holding by-law to achieve one or more of the following objectives:

- a) To allow for the orderly phasing of development or redevelopment of land;
- b) To allow for the phasing of available adequate water, sewage disposal, or other municipal services;

In this case Councils of both the County and the Municipality wish to secure a Development Agreement which requires the Owner of the Quarry to undertake road improvement works on Municipal and County road allowances as part of each Council's acceptance of these roads as the designated Haul Route for heavy trucks transporting aggregate material from the proposed Quarry site.

Based on the above planning review, it is this Planner's professional opinion the proposed draft Zoning By-law Amendment, which proposes to permit a 'Quarry, Mineral Aggregate Operation' use, subject to a Holding provision to achieve an approved Development Agreement executed by Dewdney Mountain Farms Ltd.; the Owner of the Quarry, the Municipality and the County, conforms to the Official Plan of the Municipality and maintains the purpose and intent of the Municipality's Comprehensive Zoning By-law.

Conclusion:

Review of the Orders of the Ontario Municipal Board (OMB)/Local Planning Appeal Tribunal (LPAT):

1. OMB Decision Delivered by C. Hefferon and Interim Order: February 5, 2015

[137] The Board orders that Official Plan Amendment No. 41, entered into the evidence as Exhibit 39, Tab 3 and Zoning By-law No. 2013-009, as shown in Exhibit 55, are approved contingent on the required Site Plan of the proposed quarry lands including Conditions substantially in accordance with Mr. McGill's evidence set out in the draft Site Plan contained in Exhibits 7A – 7E receiving MNR approval and a licence to extract under Category 4, Class A of the ARA being issued.

[138] The Board further orders that a Final Order approving OPA 41 and Zoning By-law 2013 - 009 is withheld contingent on a Development Agreement acceptable to the Municipality (of Trent Lakes) and executed by the Municipality and the Applicant, Dewdney Mountain Farms Inc. as well as the Haul Route Agreement being signed by the relevant parties and a copy of each being filed with the Board.

2. OMB Decision by S. Stefanko and C. Conti Order: November 12, 2015

The heading Contingent order and paragraphs [136], [137], [138] and [139] are deleted from the Decision and replaced with the following

[136] The Board orders as follows:

- a) OPA 41 is hereby approved.
- b) The Municipality's comprehensive Zoning By-law No.85-94 is amended in accordance with Zoning By-law No. 2013-009, which is marked as Exhibit 55 in this proceeding. The Board's order in relation to such zoning by-law amendment shall be withheld pending confirmation from the Municipality that a Haul Route Agreement has been executed by the relevant parties.
- c) The appeal has therefore been allowed in part.

3. OMB Decision by C. Conti and Order of the Board: May 3, 2016

[65] The Board orders that the decision issued on February 5, 2015 regarding the application by Dewdney Mountain Farms Ltd. is further amended as follows:

1. Paragraph 70 is amended by eliminating the second sentence and replacing it with the following:

Mr. West provided oral evidence and was qualified by the Board to provide opinion evidence as an environmental consultant.

2. Paragraph 71 is amended by eliminating the last sentence and replacing it as follows:

Since Mr. Haven did not testify as an expert witness at the hearing and his report could not be tested, the Board will not have regard for his submission.

The remainder of the decision remains unchanged.

[66] Furthermore, no additional changes are required to the order in the decision of Feb5, 2015 as amended through the Board's decision issued on November 19, 2015.

4. Local Planning Appeal Tribunal (formerly the Board) Decision Delivered by Herald S. Swinkin and Order of the Tribunal: April 18, 2018

[60] Having come to the conclusion that there is insufficient evidence at the present time to be assured that there will be efficacious noise mitigation to the affected sensitive receptors on Ledge Road and Quarry Road, and that policy compliance requires such assurance, the Tribunal cannot, in the public interest, authorize the use of the Site for quarry purposes. The Zoning Amendment cannot be approved at this time.

[61] The Tribunal canvassed counsel as to what they were seeking in order to accommodate their respective clients' positions. Mr. White requested that the Appeals be dismissed but that the final Order be withheld until the Tribunal had been advised that the maximum annual tonnage for extraction on the license had been revised down to 900,000 tonnes.

[62] Mr. Gillespie requested that the Appeals be allowed and that the Zoning Amendment be set aside.

[63] The structure of s. 34(26) of the *Planning Act* does not leave the Tribunal with any significant measure of latitude in the circumstances now before the Tribunal. There is no modification to the Zoning Amendment which will address the issue before this panel. The reality is that the use permitted by the Zoning Amendment is premature in the absence of a concrete, feasible noise mitigation solution for the proposed haul route.

[64] As such, the Tribunal will be allowing the Appeals and setting aside the Zoning Amendment. In doing so however, it is to be clearly stated that the mandate of this panel of the Tribunal in this proceeding was to focus strictly on the haul route noise mitigation issue. This panel has made no inquiry into the land use and related questions which were dealt with in the Original Hearing and about which a number of challenges based on error of law were rejected by the Court. Therefore, save with respect to the specific issue dealt with in this Decision and the resultant consequence as to the Order of the Tribunal, and as to the modifications effected by the s. 43 Review, the balance of the Original Decision must be treated as intact.

[65] OPA 41 is not affected by this Decision and, as noted earlier in the Decision, based upon the earlier ruling out of the s. 43 Review, is in effect.

[66] Therefore, to the extent that the Proponent is able to develop a feasible noise mitigation plan that the Municipality will agree to implement and which will satisfy the determined recommendations as to noise attenuation without creating consequential adverse impacts, nothing in this Decision should be taken to prejudice any fresh application for zoning amendment for the Site to permit its use as a quarry.

[67] The Tribunal therefore allows the Appellants' appeals and by its Order sets aside the Zoning Amendment.

Planning Analysis:

2014 – 2018

The OMB/LPAT considers OPA No. 41 approved. The Subject lands are designated Aggregate Resource Extraction.

Save with respect to the specific issue dealt with in the April 18, 2018 Decision and the resultant consequence as to the Order of the Tribunal, and as to the modifications effected by the s. 43 Review, the balance of the Original Decision (Feb. 5, 2015) must be treated as intact.

The Quarry use permitted by the Zoning Amendment was considered by the Tribunal to be premature in the absence of a concrete, feasible noise mitigation solution for the proposed haul route.

The Tribunal therefore allowed the Appellants' appeals and by its Order set aside the Zoning Amendment (Zoning By-law No. 2013-009, as shown in Exhibit 55).

A fresh Zoning By-law Amendment is required to be proposed.

The fresh Zoning By-law Amendment must be supported by a feasible noise mitigation solution for the haul route.

Proposed Zoning By-law Amendment:

Dewdney Mountain Quarry undertook the following engineering reports and plans to assess the proposed Haul Route corridor:

- A. Noise Study Traffic Report For the Dewdney Mountain Farms Quarry Haul Route, prepared by Tranplan Associates March 3, 2020;

- B. Haul Route Noise Impact Assessment Report for The Proposed Dewdney Mountain Farms Quarry 'No Mitigation' Option, prepared by Hugh Williamson Associates Inc. May 25, 2020; and
- C. Lakeview Engineering Inc., Dewdney Mountain Quarry Road Improvements, Sheet Numbers 01 – 17 plus the Detail sheet.

The above listed Reports and Plans are to be submitted together with and in support of the fresh Zoning By-law Amendment application submission.

- A. The Noise Study Traffic Report identified and assessed the resulting traffic projected to use the identified haul route being made up of Ledge Road, Quarry Road and the intersection of Quarry Road and part of County Road 36. Mr. Copeland P. Eng. discussed the extent of operation of the proposed quarry with Mr. Paul Ritchie; Owner of Dewdney Mountain Farms Ltd. and projected the 24-hour daily total DMF related two-way heavy truck traffic would 148 trucks;
- B. The Noise Impact Assessment Report completed by Mr. Hugh Williamson, Ph.D., P.Eng., is a 'No Mitigation' option and is based on the following criteria set out in the Noise Study Traffic Report:
 - The maximum hourly DMF related two-way heavy truck traffic is 14, say 6 trucks in and 8 trucks out.
 - The 24-hour daily total DMF related two-way heavy truck traffic is 148 trucks, 74 trucks in and 74 trucks out. (In the assessment, 4 empty trucks are assumed to arrive at the entry to the DMF quarry between 6 and 7 a.m., the remaining 144 two-way truck traffic is assumed to take place during the operating hours of the Quarry, 7 a.m. to 7 p.m.);
 - The speed limit on the proposed Haul Route is to be 40 km/hour.;
 - The daytime (7 am to 11 pm) no-mitigation limit of 53 dBA as established in the 2014 by the OMB;
 - A nighttime (11 pm to 7 am) no-mitigation limit of 48 dBA; and
 - DMQ proposes to operate only during the hours 7 am to 7 pm.

The Noise Impact Assessment Report (May 25, 2020) concluded based on the projected traffic counts there would be no need to incorporate noise mitigation measures such as berms, walls or vegetation or any combination thereof into the re-design of the Haul Route corridor and the re-construction of the haul route roadways within the municipal and County highways nor on private lands.

C. Dewdney Mountain Quarry Road Improvements (July 2020) completed by Mr. Roy Hylkema P.Eng. of Lakeview Engineering consists of;

- Identified the extent of the proposed designated Haul Route to consist of municipal roads Ledge Road and Quarry Road and part of County Road 36;
- Road improvement recommendations;
- New road designs required along the proposed Haul Route corridor to accommodate the projected heavy truck traffic use and the projected permissible travelling 40 km/h speed limit travelling to and from the proposed DMF Quarry operation.

Recommendation:

Based on the above Planning Review it is my professional planning opinion the proposed fresh Zoning By-law Amendment application for the purpose of permitting a Quarry Use complete with; 1) a 'No Mitigation Haul Route Option'; and 2) a Haul Route Road Improvement Development Agreement, has had regard to the Planning Act, is consistent with the Provincial Policy Statement (2020), is not subject to the policies of the provincial plan entitled A Place to Grow Growth Plan for the Greater Golden Horseshoe, conforms to the County of Peterborough Official Plan, conforms to the Municipality of Trent Lakes' Official Plan and maintains the purpose and intent of the Municipality's Comprehensive Zoning by-law.

It is recommended the proposed Zoning By-law Amendment be approved.

All of the above is respectfully submitted for the Municipality's consideration.

Sincerely;



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