

**PLANNING DEPARTMENT  
REPORT – 17/24**

**TO:** THE MAYOR AND MEMBERS OF COUNCIL

**FROM:** NEAL DERUYTER & DAN CURRIE

**MEETING DATE:** MONDAY MARCH 20, 2017

**SUBJECT:** Tri City Lands Ltd. Spencer Pit  
Zoning By-law Amendment 02/17

**LOCATION & WARD:** 6939 Wellington Road 124, Ward 1

**ATTACHMENTS:**

- 1 – Location Map
- 2 – Draft Zoning By-law Amendment (Option 1)
- 3 – Draft Zoning By-law Amendment (Option 2)
- 4 – Additional Public and Agency Comments
- 5 – Confirmation Letter from Applicant
- 6 – Planning Department Report 17/17, March 6, 2017  
(includes all agency and public comments, and Tri City  
Lands Ltd. Township Planning Report, April 27, 2016)

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**RECOMMENDATION:**

It is recommended that the Council of the Township of Guelph/Eramosa approve Zoning By-law Amendment 02/17 as outlined in Attachment 2; and

That the Township advises the County of Wellington that they have no objections to proposed Wellington County Official Plan Amendment OP-2016-11.

**BACKGROUND:**

In 2014, the Township of Guelph/Eramosa received a Zoning By-law Amendment application to rezone lands municipally addressed as 6939 Wellington Road 124 to permit an above the water table pit known as the Spencer Pit (Part of Lots 14, 15 & 16, and Lots 17 & 18, Division B) (see Attachment 1).

On May 2, 2016, the Township approved By-law No. 26-2016 which rezoned the subject lands from Agricultural (A) to Extractive Industrial (M3) to permit the Spencer Pit. The By-law was appealed to the Ontario Municipal Board by an adjacent landowner. There

were also four landowners who maintained objections to the licence application under the Aggregate Resources Act (ARA). As a result, the Ministry of Natural Resources and Forestry (MNR) referred the licence application to the Ontario Municipal Board. The hearing on both matters was scheduled to commence in January 2017.

On August 8, 2016, the Township repealed and replaced its Comprehensive Zoning By-law (By-law 57/1999) with a new Comprehensive Zoning By-law (By-law 40/2016). The subject lands remained zoned Agricultural (A) in Zoning By-law 40/2016 as the Extractive Industrial (M3) Zone had not come into effect due to the outstanding appeal. As a result, Tri City Lands Ltd. submitted a “housekeeping amendment” to permit the proposed pit under the new Comprehensive Zoning By-law. The zoning amendment is essentially the same application as the one approved by Council in May 2016.

In addition to the amendment to the new Comprehensive Zoning By-law, Tri City Lands Ltd. submitted an application to amend the County of Wellington Official Plan (County File OP-2016-11). The purpose of the application is to permit the pit and identify the lands within the Mineral Aggregate Area on Schedule A of the County’s Official Plan.

On February 6, 2017, the Township deemed Zoning By-law Amendment Application 02/17 complete. A joint public meeting was held on March 6, 2017 for Zoning By-law Amendment Application 02/17 and County Official Plan Amendment OP-2016-11. A planning report was presented for Council’s information which included a planning analysis and overview of the comments received.

### **PROVINCIAL POLICY STATEMENT:**

The 2014 Provincial Policy Statement (PPS) was issued by the Province in accordance with Section 3 of the Planning Act. The PPS applies to all decisions that affect a planning matter made on or after April 30, 2014. All decisions shall be consistent with the PPS. It should be noted that the previous zoning application was also subject to the 2014 PPS as a planning decision was made after April 30, 2014.

As part of the review of the original Spencer Pit application, a planning report was prepared for Council’s consideration in May 2016 which included a detailed review and analysis of the application relative to the applicable policy framework including the 2014 PPS (see Attachment 6). This review and analysis is still relevant to the proposed application as it is essentially the same application approved by Township Council last year. However, we have included an updated analysis based on comments received by the agencies and public through the current zoning application.

### **Agricultural Resources**

The PPS recognizes that the Province’s agricultural and mineral aggregate resources provide important environmental, economic and social benefits. The wise use and management of these resources over the long term is a key provincial interest. The

protection of agricultural resources, and the conservation and management of the mineral resource base are matters of provincial interest outlined in the Planning Act.

The subject lands are located within a prime agricultural area. Section 2.3.1 of the PPS provides that prime agricultural areas shall be protected for long-term use for agriculture. In addition to agricultural uses, Section 2.3.6.1 provides that the extraction of mineral aggregate resources is permitted in accordance with the policies of the PPS pertaining to mineral aggregate resources.

Section 2.5.4.1 permits the extraction of mineral aggregate resources as an interim land use in prime agricultural areas provided that the site will be rehabilitated back to an agricultural condition. The PPS defines agricultural condition in regard to prime agricultural land, outside of specialty crop areas, as follows: “*a condition in which substantially the same area and same average soil capability for agriculture are restored*”.

The ARA Site Plans demonstrate that the subject lands will be progressively rehabilitated back to agriculture. It is noted that some of the lands extracted will not be considered prime agricultural land based on the definition in the PPS as a result of slopes (i.e. lands adjacent to existing hydro towers and rehabilitated side slopes). However, the rehabilitated area not impacted by slopes is considered to be substantially the same area as the existing prime agricultural lands in accordance with the definition of agricultural condition in the PPS.

The progressive rehabilitation identified on the Site Plans demonstrates that the proposed aggregate extraction operation is an interim land use. As the lands will be rehabilitated to agriculture, the long term use of the subject lands will be agricultural.

County planning staff were satisfied that substantially the same areas for agriculture that currently exist can be restored to agriculture post-extraction as required by Provincial and County policy. The Prime Agricultural designation in the County’s Official Plan will remain in place and will continue to apply to the subject lands.

### Mineral Aggregate Resources

Section 2.5 of the PPS sets out policies with respect to mineral aggregate resources. Section 2.5.2.1 requires that as much of the mineral aggregate resource as is realistically possible shall be made available as close to market as possible. Demonstration of the need for mineral aggregate resources, including any type of supply/demand analysis, shall not be required, notwithstanding the availability, designation or licensing for extraction of mineral aggregate resources locally or elsewhere.

Section 2.5.2.2 states that extraction shall be undertaken in a manner which minimizes social, economic and environmental impacts. Extracting valuable resources close to market helps ensure that social, economic and environmental impacts are minimized

compared to the incremental impacts of extracting and transporting resources farther from market.

Section 2.5.3.1 requires progressive and final rehabilitation of aggregate operations to accommodate subsequent land uses, promote land use compatibility, recognize the interim nature of extraction and mitigate negative impacts to the extent possible.

The technical reports prepared in support of the proposed application set out a broad range of mitigation measures in order to minimize impacts of extraction. These reports have been reviewed and accepted by the applicable review departments and agencies and the proposed mitigation measures have been determined to be acceptable. The mitigation measures are included on the Site Plans and are enforceable under the ARA.

### Natural Heritage

Section 2.1.5 of the PPS provides that development and site alteration shall not be permitted in significant natural features unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

The subject lands feature a 6 ha woodlot on the southern portion of the site. The woodlot was assessed through the processing of the previous zoning application and it was determined that the woodlot does not satisfy the criteria for significance set out in the MNRF's Natural Heritage Reference Manual. The GRCA, MNRF and County agreed with this interpretation.

It was determined that the woodlot contains habitat for the Little Brown Myotis (Little Brown Bat). The Little Brown Bat is listed as endangered and therefore receives general habitat protection under the Endangered Species Act (ESA).

Section 2.1.7 provides that development and site alteration shall not be permitted in habitat of endangered or threatened species, except in accordance with provincial and federal requirements. The following definitions from this policy are relevant:

#### Habitat of endangered species and threatened species: means

- a) *with respect to a species listed on the Species at Risk in Ontario List as an endangered or threatened species for which a regulation made under clause 55(1)(a) of the Endangered Species Act, 2007 is in force, the area prescribed by that regulation as the habitat of the species;*
  - b) *with respect to any other species listed on the Species at Risk in Ontario List as an endangered or threatened species, an area on which the species depends, directly or indirectly, to carry on its life processes, including life processes such as reproduction, rearing, hibernation, migration or feeding, as approved by the Ontario Ministry of Natural Resources; and*
- places in the areas described in clause (a) or (b), whichever is applicable, that are used by members of the species as dens, nests, hibernacula or other residences.*

Provincial and federal requirements: means

*c) in regard to policy 2.1.7, legislation and policies administered by the provincial government or federal government, where applicable, for the purpose of protecting species at risk and their habitat.*

The habitat of endangered and threatened species is determined through the ESA as regulated habitat or as otherwise approved by MNRF. Unlike other significant natural features, the habitat of endangered and threatened species is not identified by municipalities. Development and site alteration are only permitted within such habitat in accordance with provincial and federal requirements (i.e. ESA).

Most of the significant natural features identified in the PPS are primarily identified and protected through the Planning Act and implementing tools such as Official Plans and Zoning By-laws (e.g. significant woodlands and wetlands, etc.). However, species at risk habitat is provided specific protection through the Endangered Species Act in addition to the Planning Act. This is one of the reasons why the PPS treats the 'no development' test differently for species at risk habitat compared to other significant natural features (PPS 2.1.5 vs. 2.1.7) similar to fish habitat which is administered under the Fisheries Act (2.1.6).

The applicants have identified the habitat of the Little Brown Bat on the ARA Site Plans and included a conditional limit of extraction around this area. Extraction is not permitted in the woodlot until the following has been addressed to the satisfaction of the MNRF:

1. Issuance of authorization under the ESA permitting the removal of the woodlot, or
2. Licensee demonstrating that the woodlot no longer represents protected habitat under the ESA.

The MNRF determined that this approach meets the legislative requirements of the ESA for the protection of the Little Brown Bat. MNRF is no longer an objector to the ARA application and has no concerns with the proposed zoning application.

The applicant has confirmed that they will amend the ARA Site Plans to notify the Township and County if either action identified above is undertaken (see Attachment 5). In other words, the Township and County will be notified if an ESA authorization is issued by MNRF permitting the removal of the woodlot or if MNRF determines that the woodlot no longer represents protected bat habitat.

PPS Summary

Based on the foregoing and previous analysis contained in Attachment 6, the proposed Zoning By-law Amendment for the Spencer Pit is consistent with the PPS.

## **GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE:**

The Growth Plan for the Greater Golden Horseshoe (Growth Plan) was approved by the Province on June 6, 2006. The Growth Plan applies to the Greater Golden Horseshoe, which includes the Township of Guelph/Eramosa. The Growth Plan applies to all decisions on matters, proceedings and applications made under the Planning Act.

The Growth Plan does not include specific policies that would apply to this proposed application. The Growth Plan states that a balanced approach to the wise use and management of all resources, including natural heritage, agriculture, and mineral aggregates, will be implemented.

In May 2016, the Province released a Proposed Growth Plan for the Greater Golden Horseshoe, 2016 for public review and comment. A public comment requested that the implications of the Proposed Growth Plan be considered by the Township.

A final decision on the Proposed Growth Plan is expected in the coming months. At this time, the policies of the draft Growth Plan are not in effect and have no formal status (any changes to the Growth Plan require Provincial Cabinet approval). It would not be reasonable or fair to delay this application or any other development application currently before the Township until the Proposed Growth Plan is approved and formally comes into effect.

## **COUNTY OF WELLINGTON OFFICIAL PLAN:**

In December 2014, the Ontario Municipal Board approved County Official Plan Amendment 81 (OPA 81) which included several new policies and policy revisions. The key difference between OPA 81 and the previous County Official Plan as it relates to the Spencer Pit application is that new or expanded aggregate operations now require an amendment to Schedule A of the County's Official Plan (Section 6.6.5).

The original Spencer Pit application that was submitted in 2014 was prior to OPA 81 coming into effect so the policy requiring an amendment to the County's Official Plan was not applicable at that time. However, the current application is subject to the policies of OPA 81 including the requirement for an amendment for new aggregate operations.

Tri City Lands Ltd. submitted an application to amend the County's Official Plan in November 2016. The purpose of the Official Plan Amendment is to identify the lands within the Mineral Aggregate Area on Schedule A3 of the County's Official Plan. There are currently no special policies or provisions proposed with the draft amendment.

The following reviews the policies of OPA 81 relative to the proposed application (for a detailed review of other relevant County Official Plan policies, please refer to the previous planning report in Attachment 6).

The subject lands are designated Prime Agricultural on Schedule A3 and are also identified on Schedule C Mineral Aggregate Resource Overlay as “*sand and gravel resources of primary and secondary significance*” (these areas were previously designated on Schedule A).

Section 4.1 provides enhanced policy direction for identifying and protecting cultural heritage and archaeological resources. An Archaeological Assessment Report determined there were no sites of cultural heritage value or interest on the subject lands which was confirmed by the Ministry of Tourism, Culture and Sport. Accordingly, the proposed extraction is not anticipated to impact any cultural heritage resources.

The subject lands are not located within the Paris and Galt Moraine Policy Area or any Wellhead Protection Areas as identified on Schedule B3 of OPA 81 (or as further amended by OPA 98).

OPA 81 includes updated and revised environmental policies and mapping. The subject lands were not designated Core Greenlands or Greenlands through the updated mapping exercise.

Prior to OPA 81, Section 5.4.2 stated that development and site alteration was not permitted in significant habitat of endangered and threatened species. The County Council adopted version of OPA 81 inserted “*except in accordance with appropriate authorization under the Endangered Species Act*”. The Province modified this policy through the approval of OPA 81 to read “*except in accordance with provincial and federal requirements*”. This change is consistent with the 2014 PPS and may recognize that authorizations are not always needed to meet the requirements of the ESA.

Section 5.4.2 also states that proponents will be directed to the federal or provincial agency that has jurisdiction over the species or habitat to be protected. The definition of ‘significant habitat of endangered and threatened species’ in the County’s Official Plan means that habitat as approved by MNR.

The County, GRCA and MNR did not have concerns with the applicant’s proposed approach to protecting species at risk habitat in the previous zoning application which is the same approach being used with the current applications. The County’s Official Plan recognizes that development may be permitted in species at risk habitat in accordance with the ESA.

Woodlands over 4 ha in the Rural System are now considered to be significant by the County and are included within the Greenlands system (10 ha prior to OPA 81). The policies recognize that detailed studies may be used to identify, delineate and evaluate the significance of woodlands based on other criteria (Section 5.5.4).

Although the woodlot meets the minimum size of 4 ha, the applicant’s ecologist stated that the woodlot is not identified as a significant woodland nor is it identified in the Greenlands or Core Greenlands mapping in the County’s Official Plan. They concluded

that the woodlot does not exhibit any of the ecological functions identified in the MNRF Natural Heritage Reference Manual. The MNRF, County, GRCA and Burnside (Township’s peer reviewer) do not have any concerns with this interpretation.

Tri City Lands Ltd. included a Planning Addendum Report from Harrington McAvan Ltd. which reviewed the policies of OPA 81. The applicant’s planner concluded that the proposed applications conform to OPA 81. In addition, the applicant’s technical experts provided correspondence that their respective reports address OPA 81.

Based on the foregoing and the detailed analysis provided in Attachment 6, the proposed application conforms to the County’s Official Plan:

- The subject lands are designated Prime Agricultural and are identified within the Mineral Aggregate Resources Overlay.
- Aggregate operations are permitted on lands designated Prime Agricultural subject to appropriate zoning and an amendment to the County’s Official Plan to establish the Mineral Aggregate Area.
- The proposed pit satisfies the ‘criteria’ for the establishment of new aggregate operations.
- The proposed pit will not impact any significant features within or adjacent to the subject lands, subject to mitigation measures outlined on the ARA Site Plans.

**TOWNSHIP OF GUELPH/ERAMOSAZONING BY-LAW 40/2016:**

The subject lands are currently zoned Agricultural (‘A’) by Township Zoning By-law 40/2016. Similar to the previous application, the proposed Zoning By-law Amendment would rezone the subject lands to Extractive Industrial (‘M3’).

Permitted uses in the M3 zone are as follows: accessory use; accessory wholesale outlet or office; aggregate processing facility; agricultural use; conservation; pit; asphalt plant; quarry; wayside pit or quarry.

The following table illustrates the Township Zoning By-law requirements for the M3 zone in relation to the proposed Site Plan.

| <b>Applicable Regulation</b> | <b>Zoning By-law Requirements</b>   | <b>Proposed Development</b>  |
|------------------------------|---|--|
| Setback for excavation       | Within 15 m (49.2 ft) of any lot line   | The proposed extraction is set back at least 15 m from lot lines.  |
|                              | Within 30 m (98.4 ft) from any part of the boundary of the site that abuts: a public road or highway or land zoned or used for residential purposes | The proposed excavation is set back 30 m from lot lines that abut Wellington Road 124 and lands used for residential purposes. |



|   |   |  |
|---|---|--|
|   | Within 30 m (98.4 ft) from any body of water that is not the result of excavation below the water table                 | N/A  |
| Setbacks for buildings, structures and stockpiles | Within 30 m (98.4 ft) of any lot line   | The proposed structures and stockpiles are set back greater than 30 m from any lot line.                                 |
|   | Within 90 m (295.3 ft) from any part of the boundary of the site that abuts land zoned or used for residential purposes | The proposed structures and stockpiles are set back greater than 90 m from lands zoned or used for residential purposes. |
| Maximum building height                           | 25 m (82.0 ft)  | The proposed maintenance building is less than 25 m in height.   |

The same zoning provisions apply within the M3 zone as they did in the previous Zoning By-law 57/1999. The applicant is not proposing any variations to these zoning provisions.

**AGENCY AND PUBLIC COMMENTS:**

In addition to the standard public and agency circulation, the Zoning By-law Amendment application was also circulated to additional agencies and members of the public who provided comments on the original zoning application. Comments are enclosed in Attachments 4 (comments received following public meeting) and 6 (comments prior to public meeting).

Agency Comments

| <b>Agency</b>                   | <b>Comment Summary</b>  | <b>Concerns Addressed</b>   |
|---------------------------------|---|---|
| City of Guelph                  | -Similar to previous application<br>-Sourcewater protection   | No concerns but noted potential presence of future Wellhead Protection Area (Feb 21, 2017). |
| CN                              | -Extraction setbacks from rail line<br>-Drainage pattern<br>-Security and fencing   | Same comments received as previous application. Applicant responded to comments last year.  |
| County of Wellington (Planning) | -Comments remain unchanged except for:<br>•Protecting species at risk<br>•Mining below the water table<br>•Wellington Road 124 drainage | No objections to previous application. Additional comments discussed below.                 |

|   |   |   |
|---|---|---|
| County of Wellington (Roads)                                    | -Agreement for entrance permit<br>-Future road widening<br>-Wellington Road 124 drainage  | Comments discussed below.   |
| Grand River Conservation Authority                              | -Proposed extraction will not have adverse impacts on significant features  | No objections but provided advisory comments on species at risk habitat (Feb 15, 2017).                                     |
| Ministry of Natural Resources and Forestry                      | -No outstanding concerns with proposed application  | No longer objector to ARA application (Feb 22, 2017).   |
| Township of Guelph/Eramosa (Engineering Consultants – Burnside) | -Previous comments still valid  | No outstanding concerns with hydrogeology, natural environment, acoustic assessment, traffic and site plans (Feb 21, 2017). |
| Township of Guelph/Eramosa (Public Works)                       | -No comments regarding transportation or grading and servicing.   | N/A   |
| Upper Grand District School Board                               | -No objection provided condition included requiring applicant to post notice sign in pit advising drivers of school bus routes. | Applicant confirmed request on March 14, 2017 (Attachment 5).   |
| City of Cambridge   | -Notice area<br>-Mitigate adverse impacts<br>-Confirmation of haul routes   | Haul route confirmed for City. No further comments received.  |

The majority of the agencies circulated either have no objections to the proposed zoning application or no comments.

CN's comments are the same as the previous application which were more directly related to the ARA process. The applicant responded to their comments in February 2016 and noted that several of the comments were related to the adjacent quarry site. CN did not provide any comments in response to the applicant's supplemental information.

County planning staff noted that the zoning application is a resubmission of the previously approved ZBA 01/14. The County's comments remain essentially unchanged except to provide comments with regard to the following:

- Protecting species at risk (bat habitat in woodland)
- Mining below the water table (vertical zoning)
- Wellington Road 124 drainage

The County noted that the Roads Department has raised concerns about drainage relative to Wellington Road 124 that should be addressed. The applicant has confirmed that the Site Plans will be revised to show the culvert and drainage (see Attachment 5).

The County stated that Council should satisfy itself that the rezoning, on its own, is consistent with the PPS relative to species at risk, and should not defer the matter to the ARA licence and site plan amendment process. The County recommends that the Township add a holding zone to the woodland such that Council could remove the hold after it is satisfied that the requirements of the ESA have been met.

The County also noted that other municipalities in the County have approved site-specific regulations for holding provisions to limit extraction to a specified depth above the water table. They recommend that similar zoning tools be used with this application.

These matters were not raised in comments on the previous zoning application which Council approved less than a year ago. In our opinion, we do not see the rationale for incorporating holding provisions for the species at risk habitat or to regulate depth of extraction which are already enforced on the ARA Site Plans through the MNRF.

The Endangered Species Act (ESA) is administered by MNRF. They are no longer an objector to the ARA application and are satisfied with the applicant's approach to protecting bat habitat as outlined on the Site Plans.

The County stated that "*Council could remove the Holding Zone after it is satisfied that the Endangered Species Act requirements have been met*". MNRF confirmed that the applicant has met the requirements of the ESA relative to protecting bat habitat through an enforceable instrument (ARA Site Plans) (comments dated Nov 13, 2015 & Dec 24, 2015).

As previously noted, the applicant confirmed that they will amend the ARA Site Plans to notify the Township and County if an ESA authorization is issued by MNRF permitting the removal of the woodlot or if MNRF determines that the woodlot no longer represents protected bat habitat.

In our opinion, the previous zoning application was consistent with the PPS including the proposed approach to protecting species at risk. The zoning application before Council is essentially the same application.

Regarding the County Roads Department comments on the entrance permit and potential road widening, these are matters that can be addressed outside of the zoning application. The applicant has been made aware of these comments. An entrance permit and agreement with the County will be required prior to the opening of the pit.

## Public Comments

As a result of the notice of complete application, six members of the public provided comments on the proposed application (these six members are associated with the same address near the proposed pit).

At the public meeting held on March 6, 2017, three members of the public provided comments to Township Council. Following the meeting, two additional letters were submitted by the same people who provided written and oral comments on the proposed application.

Though this application the Township received comments from only two addresses, a significant reduction in the amount of comments received compared to the previous application.

The following identifies the main concerns expressed by the public with a response relative to the proposed application.

- New policies and plans applicable to application

The resident is correct in stating that the application is subject to OPA 81, the new PPS and the Township's new Comprehensive Zoning By-law. The proposed application has been assessed relative to these policies and plans. It should be noted that the previous zoning application was also assessed relative to the 2014 PPS and determined to be consistent with those policies (as approved by Council last year).

It was recommended that the implications of the Proposed Growth Plan be considered by the Township. As previously discussed in this report, the policies of the draft Growth Plan are not in effect and have no formal status. It would not be reasonable or fair to delay this application or any other development application currently before the Township until the Proposed Growth Plan is approved and formally comes into effect.

- Timing and process of zoning application

A concern was raised regarding the tight schedule for processing this zoning application. This is essentially the same zoning application as the version previously processed by the Township in 2014-16 which underwent significant agency, public and technical review. The timelines and processing of the zoning application has been undertaken in accordance with the Planning Act.

- Potential negative economic impact due to recent MPAC gravel pit property value assessment changes

It was recommended that the Township consider the recent MPAC changes to gravel pit valuation in the decision making process and not approve the proposed zoning application due to the changes which has resulted in a lower assessment value.

The potential valuation or assessment of a property should not be used as a determinant for making land use planning decisions. For the reasons outlined in this report and previous reports, the applicant has demonstrated that extraction can be undertaken in a manner which minimizes social, economic and environmental impacts consistent with the PPS.

- Permanent loss of prime agricultural land

Concerns were raised regarding the inability of aggregate sites to be rehabilitated back to agriculture. It was recommended that the Township require an Agricultural Impact Assessment prior to making a decision on the zoning application.

As discussed in the PPS section of this report, aggregate extraction is permitted as an interim use within prime agricultural areas subject to rehabilitating the site back to an agricultural condition (Section 2.5.4.1).

The ARA Site Plans demonstrate that the subject lands will be progressively rehabilitated back to agriculture and that the proposed pit is an interim land use. As the lands will be rehabilitated to agriculture, the long term use of the subject lands will be agricultural. The applicant will be required to operate the pit in accordance with these Site Plans as enforced under the ARA.

The County is satisfied that substantially the same areas for agriculture that currently exist can be restored to agriculture post-extraction as required by Provincial and County policy. The Prime Agricultural designation in the County's Official Plan will remain in place and will continue to apply to the subject lands.

Regarding the recommendation for an Agricultural Impact Assessment, the Township and County did not request such a study through this application or the previous zoning application. Aggregate operations are permitted in the Prime Agricultural Area designation and the applicant is proposing an above the water table pit. At this time, we are not aware of any outstanding concerns from agencies including the Province regarding the applicant's proposed rehabilitation plans back to agriculture.

- Potentially significant woodland and impacts on bat habitat

It was stated that the on-site woodland now meets the definition for significance in the 2014 PPS and OPA 81, and that if the woodland contains bat habitat it should be redesignated to Core Greenlands.

As discussed in the OPA 81 section of this report, woodlands over 4 ha in the Rural System are now considered to be significant by the County and are included within the Greenlands system. The policies recognize that detailed studies may be used to identify, delineate and evaluate the significance of woodlands based on other criteria.

Although the woodlot meets the minimum size of 4 ha, the applicant's ecologist stated that the woodlot is not identified as a significant woodland nor is it identified in the Greenlands or Core Greenlands mapping in the County's Official Plan. They concluded that the woodlot does not exhibit any of the ecological functions identified in the Natural Heritage Reference Manual. The MNR, County, GRCA and Burnside (Township's peer reviewer) do not have any concerns with this interpretation.

OPA 81 states that development and site alteration is not permitted in significant habitat of endangered and threatened species except in accordance with provincial and federal requirements. The definition of 'significant habitat of endangered and threatened species' means that habitat as approved by MNR. Unlike other significant natural features, the habitat of endangered and threatened species is not identified by municipalities.

The applicants have identified the habitat of the Little Brown Bat on the ARA Site Plans and included a conditional limit of extraction around this area. Extraction is not permitted within this area unless the MNR authorizes such activity. The MNR determined that this approach meets the legislative requirements of the ESA for the protection of the Little Brown Bat.

- Public safety hazard due to increased truck traffic volume on Wellington Road 124 haul route

It was stated that traffic volumes appear to have reached dangerous levels and that traffic from the proposed pit would pose a public safety hazard.

The applicant prepared a traffic study to assess impacts as a result of the pit. The study applied an annual growth rate of 5% to the baseline 2013 traffic flows to predict future volumes in the 2015 and 2020 scenarios (the Fairway Road Bridge was open at the time of the baseline flows in 2013). Under the 2020 scenario, the pit would result in 5 return truck trips in the peak hour (i.e. worst case) on Wellington Road 124.

This report was reviewed by the County and Burnside (Township's peer reviewer). The County indicated that the location of the proposed site entrance is suitable subject to an entrance permit and agreement with the County.

Based on the applicant's materials and comments from Burnside and the County, it has been demonstrated that impacts on the transportation system including Wellington Road 124 as a result of the proposed pit are acceptable.

- Public health hazards due to dust and airborne particulate matter

It was stated that studies show that aggregate extraction has negative impacts on air quality caused by dust and airborne particulate matter.

The ARA Site Plans state that water or calcium chloride will be applied to internal haul roads and processing areas as often as required to mitigate dust. The proposed dust mitigation measures represent accepted standard practice to suppress dust and ensure air quality is not adversely impacted by the proposed pit. In addition, a 4 m berm is proposed along the frontage of Wellington Road 124 and adjacent to the residential property in Cambridge.

### **POTENTIAL ZONING OPTIONS:**

Based on the County's comments for the proposed zoning application, the recommendations contained in this report and Council's previous decision on this matter, we have prepared the following two options for Council's consideration.

#### **OPTION 1 (Rezoning) (Recommended)**

Approve the Zoning By-law Amendment application included in Attachment 2 (Agricultural to Extractive Industrial).

Should Council decide to move forward with this option, the Zoning By-law Amendment application will not come into force until a decision is made by the County on the corresponding Official Plan Amendment application.

That being said, we have been made aware by County planning staff that if Township Council does not include a holding provision for the bat habitat, they will recommend that County Council include a special policy in the Official Plan Amendment addressing the same matter.

Depending on the language of the special policy in the Official Plan Amendment, the Zoning By-law Amendment may or may not have to be revised to conform with the special policy but this would not be known until a decision is made by County Council. It is not certain that including a special policy in the Official Plan Amendment would create an issue for the Zoning By-law Amendment.

#### **OPTION 2 (Holding Zone for Species at Risk Habitat)**

Approve the Zoning By-law Amendment application with a holding provision addressing the species at risk habitat within the woodlot as outlined in Attachment 3. The holding provision would only apply to the woodlot.

The holding provision could only be removed and extraction permitted subject to confirmation from MNR that the requirements under the ESA have been met. Township Council would be responsible for deciding whether the applicable condition(s) have been met and whether to remove the holding provision. Only the landowner (Tri City Lands Ltd.) would have the ability to appeal Council's decision on the holding provision.

While we do not believe such an option is required to address the PPS or ESA, Option 2 would address the County's comments and concerns.

If this option is approved, the applicant may be required to further amend the ARA Site Plans to reflect the approved zoning.

**CONCLUSION:**

The proposed Zoning By-law Amendment application as outlined in Attachment 2 is consistent with the PPS, conforms to the Growth Plan for the Greater Golden Horseshoe and the County of Wellington Official Plan based on the following:

- The site is located within an identified aggregate resources are containing close to market sand and gravel resources.
- The technical reports and ARA Site Plans prepared in support of the proposed pit set out a broad range of mitigation measures in order to minimize impacts of extraction. These reports have been reviewed and accepted by the applicable review departments and agencies.
- The proposed pit will be rehabilitated back to an agricultural condition in accordance with the PPS and the County's Official Plan.
- Potential impacts on the natural environment will be appropriately mitigated. Natural features will be maintained over the long-term.

Based on the foregoing, the proposed zoning application is in the public interest and represents good planning. It is recommended that the Township approve Zoning By-law Amendment Application 02/17 as outlined in Attachment 2 and that the Township advises the County of Wellington that they have no objections to proposed Wellington County Official Plan Amendment OP-2016-11.

Respectfully submitted by:



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Neal DeRuyter, BES  
MHBC Planning

Reviewed and approved by:



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Dan Currie, RPP, MCIP  
MHBC Planning

Reviewed by:

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Ian Roger, P. Eng  
CAO



**ATTACHMENT 1: LOCATION MAP**



**ATTACHMENT 2: DRAFT ZONING BY-LAW AMENDMENT (OPTION 1)**

**The Corporation of the Township of Guelph/Eramosa**

**By-law Number \_\_\_/2017**

**A by-law to amend  
Township of Guelph/Eramosa Zoning By-law 40/2016**

**Part of Lots 14, 15 & 16, and Lots 17 & 18, Division B, former Township  
of Guelph, now in the Township of Guelph/Eramosa**

**WHEREAS** the Council of the Corporation of the Township of Guelph/Eramosa deems it expedient to enact this By-law to amend Zoning By-law Number 40/2016;

**AND WHEREAS** Council is empowered to enact this By-law under the authority of Section 34 of the *Planning Act*, R.S.O. 1990, Chapter P. 13, as amended;

**NOW THEREFORE** the Council of the Corporation of the Township of Guelph/Eramosa hereby enacts as follows:

1. That Zoning By-law Number 40/2016 is hereby amended as follows:
  - a) The lands as identified on Schedule 'A' of this By-law be rezoned from Agricultural (A) to Extractive Industrial (M3).
2. All other applicable provisions of By-law 40/2016 shall continue to apply to the lands affected by this amendment.
3. That this By-law shall become effective from the date of passing hereof.

READ three times and finally passed

this \_\_\_th day of **March, 2017**.

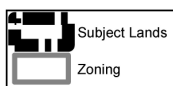
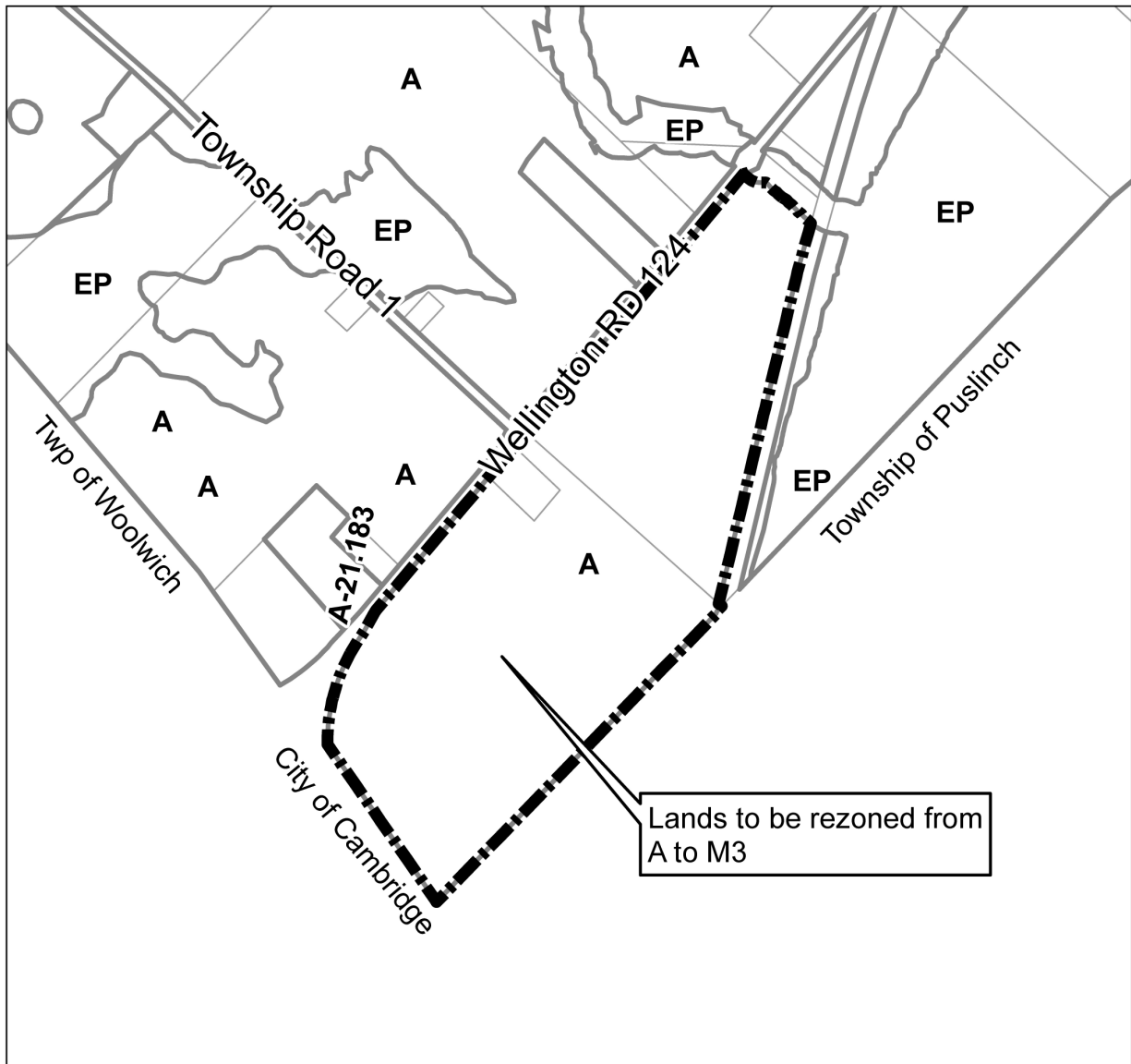
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Chris White, Mayor

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**OPTION 1**

SCHEDULE "A" TO BY-LAW NUMBER \_\_\_\_/2017



To be read in conjunction with Zoning By-law 40/2016  
DO NOT USE FOR SURVEY OR NAVIGATION PURPOSES  
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Some data gathered by Wellington County, 2016.  
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## **ATTACHMENT 3: DRAFT ZONING BY-LAW AMENDMENT (OPTION 2)**

### **The Corporation of the Township of Guelph/Eramosa**

#### **By-law Number \_\_\_/2017**

#### **A by-law to amend Township of Guelph/Eramosa Zoning By-law 40/2016**

#### **Part of Lots 14, 15 & 16, and Lots 17 & 18, Division B, former Township of Guelph, now in the Township of Guelph/Eramosa**

**WHEREAS** the Council of the Corporation of the Township of Guelph/Eramosa deems it expedient to enact this By-law to amend Zoning By-law Number 40/2016;

**AND WHEREAS** Council is empowered to enact this By-law under the authority of Section 34 of the *Planning Act*, R.S.O. 1990, Chapter P. 13, as amended;

**NOW THEREFORE** the Council of the Corporation of the Township of Guelph/Eramosa hereby enacts as follows:

1. That Zoning By-law Number 40/2016 is hereby amended as follows:

a) The lands as identified on Schedule 'A' of this By-law be rezoned from Agricultural (A) to Extractive Industrial (M3) and Extractive Industrial with Special Provisions and a Holding Zone (M3-21.194(H)).

b) The lands as identified on Schedule 'A' of this By-law be subject to the following Special Provisions:

21.194 Notwithstanding the provisions of the Extractive Industrial (M3) zone on the lands illustrated on Schedule 'A' to this By-law, the following provisions shall apply:

#### **Holding Zone**

##### Purpose:

To ensure that the requirements of the Endangered Species Act are satisfied prior to aggregate extraction or related activities occurring within the confirmed habitat of the Little Brown Myotis (Little Brown Bat) on the Spencer Pit lands.

Permitted Interim Uses:

Notwithstanding the Holding Zone provisions of Section 2.12 of this By-law, on the lands subject to M3-21.194(H) only the following interim uses shall be permitted with the Holding Symbol "H".

- a) Existing Uses; and
- b) Conservation Uses.

Condition:

Prior to removal of the Holding Symbol "H" on that portion of the property described as Part of Lots 16 & 17, Division B, as illustrated on Schedule "A", the owner shall complete the following condition to the satisfaction of the Township:

1. The owner provides confirmation that the requirements of the Endangered Species Act have been satisfied regarding the removal of the Little Brown Myotis (Little Brown Bat) habitat within the woodlot on the Spencer Pit lands.
2. All other applicable provisions of By-law 40/2016 shall continue to apply to the lands affected by this amendment.
3. That this By-law shall become effective from the date of passing hereof.

READ three times and finally passed

this \_\_\_**th** day of **March, 2017**.

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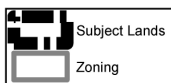
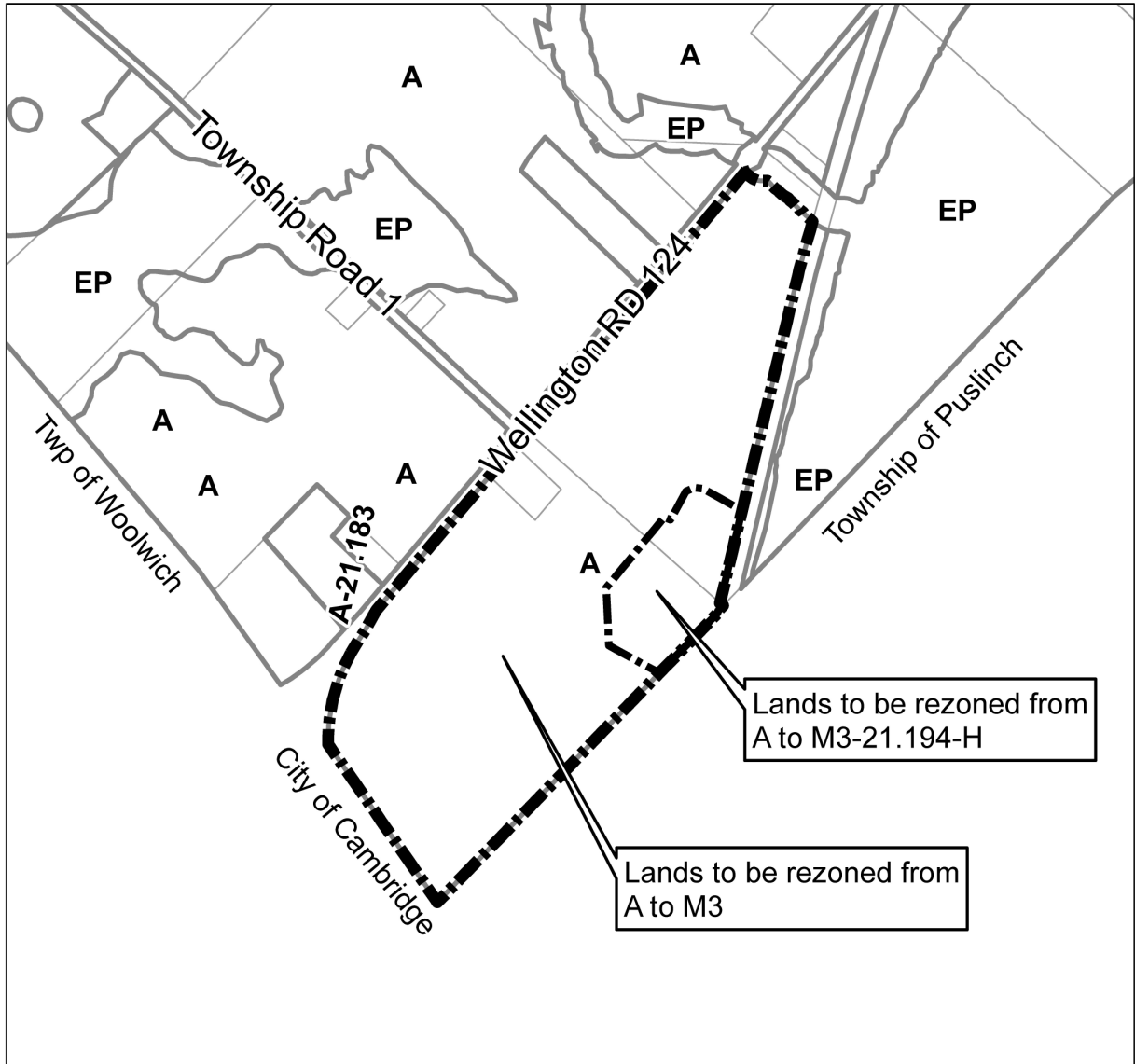
Chris White, Mayor

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Amanda Knight, Acting Clerk

**OPTION 2**

SCHEDULE "A" TO BY-LAW NUMBER \_\_\_\_/2017



To be read in conjunction with Zoning By-law 40/2016  
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