To: Council
From: Rob Stovel
Date: July 18, 2018

Applicant: Robert Long, on behalf of Tri-County Aggregates Ltd. ("Tri-County") and Jacob Kamphuis and Jonathan Kamphuis

Subject: Applications to amend the Official Plan and the Zoning By-law
To allow for the establishment of a mineral aggregate operation (pit) restricted to extracting aggregate material no closer than 1.5 metres above the established groundwater table and to identify and protect a significant forest and wetland areas
Township File Numbers: (OPA-15 and Z1-15)
Part of Lots 2 and 3, Concession 18

Proposed Official Plan Designation: Agricultural to Extractive Industrial Special Policy 2 and Environmental Protection

Proposed Zoning: Agricultural to Extractive Industrial Exception 2 (H) (MX-2(H)) and Environmental Protection (EP)

Attachments: 1 – Location Map
2 – Draft Official Plan Amendment
3 – Draft Zoning By-law Amendment
4 – Draft Development Agreement
5 – Site Plan

RECOMMENDATIONS:
It is recommended that,
The Council of the Township of East Garafraxa adopt the Official Plan Amendment (OPA 5) and pass Zoning By-law Amendment (Z1-15) as outlined in Attachments 2 and 3 respectively;
And
The Township enter into a Development Agreement in the same form or in substantially the same form, as outlined in Attachment 4, with the landowners, being Tri-County Aggregates Ltd. Jacob Kamphuis and Jonathan Kamphuis and that the Mayor and Clerk be authorized to execute same;
And
Council is satisfied that the Site Plan including the applicable notes and conditions as attached to this report as outlined in Attachment 5 including the required revisions addresses the concerns of the Township and that the Township has no further objections to the proposed Class A – Category 3 Licence (Extraction of Aggregate material No Closer than 1.5 Metres Above The Established Groundwater Table) in accordance with Attachment 5, and provided that Tri-County Aggregates Ltd. requests that the Ministry of Natural Resources and Forestry issue the proposed licence in accordance with Attachment 5, and provided the Ministry of Natural Resources and Forestry confirms that it is prepared to issue a licence in accordance or substantially in accordance with Attachment 5, then Township staff, together with its Solicitor, Engineer and Consulting Planner are authorized to withdraw the Township objection to the issuance of the licence.

Note: Full scale copies of the Site Plan will be available at the Township offices and will be available at the Council meeting.

And

Council authorize Township staff, together with its Solicitor, Engineer and Consulting Planner to take all steps necessary to implement the above recommendations.

BACKGROUND
On March 24, 2015, the Township of East Garafraxa ("Township") received an Official Plan Amendment ("OPA") and Zoning By-law Amendment ("ZBA") applications for portions of Part of Lots 2 and 3, Concession 18 to permit the establishment of a gravel pit, with extraction limited to a depth of 1.5 m above the established water table (see Attachment 1). The proposed pit is known as the Tri-County Pit.

The proposed Tri-County Pit is approximately 61.9 ha in size and consists of portions of two farm parcels as described below:

a) Tri-Kamp Farm is located along the western portion of the proposed pit (West 1/2 of Lot 3, Concession 18). Approximately 12.5 ha of the Tri-Kamp Farm are included in the proposed aggregate licence and associated OPA/ZBA. The Tri-Kamp Farm provides access to 17th Line. The Tri-Kamp Farm is an active livestock farm.

b) Tri-County Farm (formerly the Nodwell Estate) is located on the eastern and central portion of the proposed pit (East 1/2 of Lot 2 and Part of the East 1/2 of Lot 3, Concession 18). The proposed extraction area is approximately 44.8 ha of the Tri-County Farm. There are natural areas associated with the local reach of Shaw's Creek, including an intermittent stream and woodlot with the Applicant's adjacent property, located north of the proposed licence area.

On April 16, 2015, the Township deemed the OPA and ZBA applications to be complete. A statutory public meeting under the Planning Act was held on June 21, 2016 for the subject applications. During the intervening time period, the Township Development Review Team made various requests/comments and received information to satisfy concerns that were raised. A Planning Report (June 16, 2016) was presented for Council's information which included a technical analysis and overview of the comments received.

In addition to the planning applications, Tri-County made an application to the Ministry of Natural Resources and Forestry ("MNRF") under the Aggregate Resources Act ("ARA") for a Class A Pit – Category 3 Licence (Extraction to Remain 1.5 m above the Established Groundwater Table). The Township and County of Dufferin ("County") are objectors to the licence. Should Council accept the recommendations contained in this report, the objection under the ARA could be removed.
On August 22, 2017, a second public meeting under the Planning Act was held. The purpose of the public meeting was to consider the proposal to re-designate and rezone a woodlot and wetland areas located on the East Part of Lot 3, Concession 18 (on lands owned by Tri-County Aggregates Ltd.) from Agriculture to Environmental Protection. This woodlot was identified as being a significant natural heritage feature by the Credit Valley Conservation ("CVC") during the course of the circulation process for the proposed Tri-County Pit. In addition, an update on the proposed pit application and concerns of residents was provided.

Since the August 22, 2017 meeting, the Township and the applicant have had numerous discussions regarding changes to the Site Plan and the Development Agreement, including meetings with residents that previously raised concerns. This report summarizes the main changes.

PLANNING ANALYSIS
The following paragraphs set out the planning analysis related to the subject applications, based on the most recent submission of the Site Plan (dated June 04, 2018).

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.

As part of the technical report submissions for the Tri-County Pit applications, a planning report was prepared by a registered professional planner. This report included a detailed review and analysis of the applications relative to the applicable policy framework including the 2014 PPS, Greenbelt Plan, Growth Plan, County of Dufferin Official Plan and Township of East Garafraxa Official Plan. A summary of this planning assessment was presented at the public meeting in 2016.

The following provides a summary of the planning assessment related to the PPS. Under section 4.4, the PPS is to be read in its entirety and all relevant policies are to be applied to each situation.

Agricultural Resources
The Province 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 Plan 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 after rehabilitation based on the definition in the PPS as a result of slopes (i.e. 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.

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The progressive rehabilitation identified on the Site Plan 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.

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.

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. Additionally, Section 1.2.6.1 requires the design, buffering and separation of the proposed pit to mitigate adverse effects such as noise and dust. The technical reports prepared in support of the proposed applications set out a broad range of mitigation measures in order to minimize the impacts of extraction. These reports have been reviewed and have been found to be acceptable subject to the adoption of the Official Plan Amendment and the passage of the implementing Zoning By-law Amendment together with the implementation of the Development Agreement and the approval of the Site Plan by MNRF.

Section 2.5.3.2 requires comprehensive rehabilitation planning where there is a concentration of mineral aggregate operations. The proposed Tri-County Pit abuts existing pit operations (licensed to Greenwood Construction). Provisions are contained within the ARA that permit the removal and extraction of common boundaries between licensed pits, subject to both pit operators entering into a Common Boundary Agreement. Tri-County has indicated a willingness to enter into such an Agreement with the neighbouring pit operator and a provision to this effect has been included on the Site Plan. The Development Agreement includes provisions to ensure that the Township is notified of such amendment requests under the ARA. The removal of aggregate within the common boundaries between pits would have the dual benefit of recovering valuable mineral aggregate resources (which would otherwise have been sterilized) and blending the slopes between the pits to maximize the area of land that could be returned to an agricultural condition. In this respect, comprehensive and integrated rehabilitation would be achieved. The Zoning By-law yard provisions have been designed to permit same.

It is important to note that the mitigation measures, including perimeter berms and a noise enclosure for the processing plant, are included on the Site Plan and are enforceable under the ARA. As well, there are provisions within the Development Agreement to ensure that the operator carries out the operations in accordance with the proposal before Township Council including enforcement provisions.

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 Tri-County lands feature a woodlot on the northern portion of the site. However, this woodlot is well separated from the proposed pit operations and is not included within the area proposed to be licensed.

The woodlot was assessed through the processing of the OPA and ZBA applications and it was determined that the woodlot does satisfy the criteria for significance set out in the MNRF's Natural Heritage Reference Manual.

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At the recommendation of Credit Valley Conservation ("CVC"), the woodlot will be re-designated and re-zoned to allow for protection of the natural heritage features.

A tributary of Shaw's Creek traverses north of the site on lands owned by the Licensee. This tributary was identified as a significant natural heritage feature. At the recommendation of the CVC, this tributary will be designated and zoned to allow for protection of the natural heritage feature.

A 0.21 ha reforestation planting area immediately north of the extraction area adjacent to the existing woodland and tributary of Shaw's Creek has been proposed by the applicant. The reforestation plan will provide a localized enhancement of the ecological function of the feature through planting of native deciduous trees and contribution to the linkage function and forest cover on lands immediately north of the proposed pit. Details of the reforestation plan are to be to the Township’s satisfaction and are secured through the Development Agreement.

It was determined that the subject lands and adjacent lands may provide habitat for species that are protected under the Endangered Species Act (ESA). These species include: Bobolink and Barn Swallow. Relevant conditions have been implemented in the Site Plan to ensure protection of these species. These measures are acceptable to the MNRF. The MNRF is the public agency responsible for the protection of species listed under the ESA.

**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 East Garafraxa. 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 the proposed applications. 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.

The Province has issued The Growth Plan, 2017. Policy 4.2.8.7 of The Growth Plan, 2017 reads as follows:

"7. Where an application under the Aggregate Resources Act has been received and deemed complete by the Province as of July 1, 2017, any application 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."

**GREENBELT PLAN**

The subject lands are located mainly within the Protected Countryside and the Natural Heritage and Agricultural System overlay designations of the Greenbelt Plan. The majority of the site, i.e. 61.7 ha, is within the Protected Countryside but outside the Natural Heritage System (approximately 0.21 ha of the site is within the Natural Heritage System). The applicant has submitted technical reports that confirm that there will be no impact on key natural heritage features or hydrologic features. The Township's Development Review Team, CVC and MNRF have reviewed these technical documents and are satisfied that no key natural heritage features or hydrologic features will be affected.

The maximum disturbed area within the subject pit has been restricted to 32.2 ha and this will be shown on the Site Plan. Tri-County has also agreed to this provision within the Development Agreement. The disturbed area will be minimized through progressive rehabilitation. Consistent with the policies of the Greenbelt Plan, the Progressive Rehabilitation and Final Rehabilitation Plans have included measures that will ensure that an agricultural condition is achieved. A small wetland pond (approximately 0.6 ha), identified within the Protected Countryside area of the property, will be naturalized.
A 0.21 ha reforestation planting area immediately north of the extraction area (and located within the Natural Heritage System) is adjacent to the existing woodland and tributary of Shaw's Creek. The reforestation plan will provide a localized enhancement of the ecological function of the feature through planting of native deciduous trees and contribution to the linkage function and forest cover on lands immediately north of the proposed pit. The 0.21 ha reforestation area represents 35% of the licensed lands that are within the Natural Heritage System.

In my opinion, the proposed applications conform to the Greenbelt Plan.

**COUNTY OF DUFFERIN OFFICIAL PLAN**

The County of Dufferin Official Plan represents the County's policy framework with respect to development, infrastructure, and resources including mineral aggregate resources. The Official Plan designates the subject property as a Sand and Gravel Resource Area. An amendment to the County of Dufferin Official Plan is not required to permit the establishment of a mineral aggregate operation on the subject land.

For site specific purposes, the County Official Plan defers to the policy framework set out in the official plans of local municipalities.

The applications satisfy all the requirements of the County of Dufferin Official Plan, subject to the implementation of the Development Agreement which addresses improvements at the intersection of 17th Line and County Road 3, as required by the both the Township and County reviewers as part of haul route upgrades.

**TOWNSHIP OF EAST GARAFRAXA OFFICIAL PLAN**

The subject lands are designated Agricultural on Schedule A and are also identified on Schedule B as High Potential Aggregate Resources.

The subject lands are subject to the Greenbelt Protected Countryside and Natural Heritage System overlays, with much of the site being located within the Agricultural policies (Schedule D - Greenbelt). A small portion of the site is mapped within the Natural Heritage System policies (Schedule E - Greenbelt Natural Heritage Features). The subject lands shall remain subject to the Greenbelt Protected Countryside overlay and Natural Heritage System overlay with the corresponding Greenbelt Protected Countryside policies (as set out in Section 5.9 of the Township of East Garafraxa Official Plan) of Extractive Industrial and Environmental Protection being applicable.

Section 5.6.5 sets out a series of policies that shall apply to the development of new extractive operations. The applicable policies are summarized in the following table.

<table>
<thead>
<tr>
<th>OP Policy Number</th>
<th>Policy Description</th>
<th>Assessment</th>
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<tbody>
<tr>
<td>5.6.5 a)</td>
<td>Extractive Operations to be generally screened from public view</td>
<td>Satisfied, through setbacks and use of perimeter berms</td>
</tr>
<tr>
<td>5.6.5 b)</td>
<td>Extraction operations to be generally setback from adjoining residential areas, 300 m. Council to require studies to assess impacts and establish buffer areas based on those studies.</td>
<td>Satisfied, through use of setbacks and perimeter berms. Township required satisfactory acoustic, air quality and hydrogeological reports to ensure compatibility.</td>
</tr>
<tr>
<td>5.6.5 c)</td>
<td>No excavation within 30 m of road right-of-way and 15 m from adjoining property lines unless the adjoining property is also zoned for Extractive Industrial uses.</td>
<td>Satisfied.</td>
</tr>
</tbody>
</table>
5.6.5 e) All extractive industrial uses must satisfy MOECP requirements – water, disposal of liquid wastes, noise, dust and control of air pollution.  
Satisfied. Monitoring measures and complaint procedures implemented on Site Plan and in Development Agreement.

5.6.5 f) Aggregate extraction may occur in the Agricultural areas provided rehabilitation is carried out and approximately the same acreage and average soil capability for agriculture are restored.  
Satisfied.

5.6.5 g) Rehabilitation shall be progressive as extraction proceeds.  
Satisfied. Maximum disturbed area condition set out on Site Plan and in Development Agreement.

5.6.5 h) Protect sensitive sites, protect surface/groundwater, maintain/rehabilitate agricultural areas, minimize impacts on residences, preserve natural/cultural landscapes, maximize safety and prevent traffic conflicts on haul routes.  
Satisfied, through conditions on Site Plan and Development Agreement.

5.6.5 i) Extractive operations shall be screened.  
Satisfied.

A site-specific Official Plan Amendment, being Special Policy 2, was developed to ensure that the proposed pit will remain 1.5 m above the water table and to ensure that the site will be rehabilitated to an agricultural condition. Further, the site-specific Official Plan Amendment re-designates significant natural heritage features, i.e. woodlot and wetland area to the northeast of the extractive area, to Environmental Protection. The site-specific Official Plan Amendment requires a Development Agreement be entered into with the Township and County.

Should Township Council adopt the site-specific Official Plan Amendment, it will be forwarded to the County for approval pursuant to the Planning Act.

Tri-County has reviewed the site-specific Official Plan Amendment and has agreed to its provisions.

**TOWNSHIP OF EAST GARAFRAXA ZONING BY-LAW 60-2004**

The subject lands are currently zoned Agricultural ('A') by Township Zoning By-law 60-2004. The proposed Zoning By-law Amendment would rezone the subject lands to Extractive Industrial ('MX') with a site-specific exception under this rezoning. The permitted uses in the MX zone would be as follows: farm (restricted to cultivation of field crops together with any associated farm storage buildings), pit (with extraction permitted to a maximum depth of 1.5 m above the established groundwater table), and resource management activities.

The following table illustrates the Township Zoning By-law requirements for the MX zone in relation to the proposal.

<table>
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<tr>
<th>Applicable Regulation</th>
<th>Zoning By-law Requirements</th>
<th>Proposed Application</th>
</tr>
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<tbody>
<tr>
<td>Minimum Lot Area</td>
<td>8.0 ha</td>
<td>Satisfied</td>
</tr>
<tr>
<td>Minimum Lot Frontage</td>
<td>200 m</td>
<td>Rezoning required to reduce Lot Frontage (Kamphuis) from 200 m to 150 m.</td>
</tr>
</tbody>
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| Minimum Yard Requirements | Front Yard = 30 m  
Interior Side Yard = 15 m  
Exterior Side Yard = 30 m  
Rear Yard = 15 m | Rezoning required to reduce the Interior Side Yard and Rear Yard setbacks to 0 m for aggregate extraction only (not for any other uses, for instance ancillary buildings). The reduction of the Interior Side Yard setback will permit extraction of common boundary next an existing licensed pit and the reduction of the Rear Yard setback will permit extraction internal to the subject pit (as the proposed licence consists of portions of two farm parcels). |
| Minimum Setback from Residential Lot | 120 m | Rezoning required from 120 m to 20 m and is supported through the completion of technical reports. |
| Maximum Lot Coverage (Structures) | 1 % | Satisfied |
| Minimum Landscaped Open Space | 10 % | Satisfied |
| Maximum Height | 12 m | Satisfied |
| Planting Strip in any yard abutting a Residential Zone | At least 30 m | Satisfied |

The implementing zoning by-law amendment needs to take into account the following:

- Reduced setback to a residential lot – the separation distance from the proposed pit to adjacent residential uses was evaluated through technical reports prepared by qualified engineers. The reduced setback is 20 m. The extraction area is setback 200 m from 17th Line.
- The following uses will not be permitted: a) extraction below 1.5 m above the established groundwater table, b) peat extraction, c) portable and/or permanent asphalt and concrete production and/or batching plants, and d) quarries.
- Concrete and asphalt recycling operations are not permitted on the site. This provision is also included within the Development Agreement.
- Limited importation of aggregate for the purpose of blending will be permitted. This provision is also included within the Development Agreement.
- Limited importation of clean, inert topsoil for the purpose of establishing the slope faces will be permitted, but all other fill importation will not be permitted. This provision is also included within the Development Agreement.

Following the guidance of the CVC, a significant natural heritage feature in the north/northeast portion of the property will be rezoned from Agriculture to Environmental Protection.

The applicant is not proposing additional zoning changes from the standards set out in Zoning By-law 60-2004.

A Holding Provision has been established to allow for the execution and registration of a Development Agreement between the proponent and the County of Dufferin and the Township of East Garafraxa. Additionally, the Holding provision requires that the MNRF confirm that the agreed to Site Plan with applicable notes and conditions is acceptable. Once the haul route improvements have been designed,
approved and secured to the satisfaction of the Township of East Garafraxa and the County of Dufferin, the final part of the Holding provision can be lifted in accordance with the terms of the Development Agreement.

AGENCY COMMENTS
The OPA and ZBA applications were circulated by the Township to the prescribed Agencies pursuant to the requirements of the Planning Act. The Township received “no objection” letters from the following agencies and utilities:

- Region of Peel,
- Town of Caledon,
- Credit Valley Conservation,
- Dufferin Peel District Secondary School Board, and
- Enbridge Gas Distribution.

Six Nations of the Grand River ("Six Nations") submitted a letter requesting to be informed of the approvals process. Township staff have provided a copy of this report to Six Nations and will provide notice of Council's decision on the subject applications to the Six Nations when such a decision is made.

The County of Dufferin – Infrastructure and Environmental Services Department (formerly the Public Works Department) has responded that they have concerns with regard to the maintenance and improvement of the proposed haul road and concerns related to the Traffic Study. Those concerns have been addressed through the haul route upgrades contained within the recommended development agreement, to which the County will be a party. It is anticipated that the development agreement will satisfy the County’s issues and the County has been involved throughout with the development agreement. Provided Township Council endorse the recommendations of this Report, it is anticipated that County staff together with the County Solicitor will recommend that the Development Agreement be approved by the County.

The Ministry of Municipal Affairs and Housing ("MMAH") provided comments on the applications (dated August 28, 2015). MMAH advised that the following matters should to be addressed before the applications moves forward:

- The need for additional work to confirm the presence of endangered species habitat (i.e. little brown myotis and northern myotis);
- The need to identify potential impacts from water taking on the water resource system, including adjacent key natural heritage features and key hydrological features related to the Shaw's Creek tributary;
- The need to clarify rehabilitation with respect to the proposed wetland pond; and
- Consideration of the comprehensive rehabilitation of the area, given the concentration of existing and proposed mineral aggregate operations.

These comments were taken into account during the review process of the applications.

The Township received correspondence from Credit Valley Conservation ("CVC") dated March 10, 2016. The CVC noted the following:

- The Subject Site contains no watercourses or associated hazards (flood plan or erosion).
- The proposed licence area contains no significant natural heritage features of concern to the CVC.
- However, a tributary of Shaw's Creek traverses north of the site on lands owned by the Licensee.
- In addition, a portion of a significant woodland is located on lands owned by the Licensee. The woodland also contains wetlands.
• CVC is satisfied with the response regarding hydrogeological comments.
• The proponent has agreed to include the CVC in the Permit To Take Water ("PTTW") application process which will confirm their preliminary analysis.
• Although the watercourse, woodlot and associated significant wildlife habitat and buffers are located outside the licence area, the proponent has agreed to rezone the features from Agriculture to Open Space. This will ensure their long-term protection.

Based on this, the CVC removed their objection with respect to the approval of these applications. The applicant has agreed to re-designate and rezone the adjacent natural heritage features referenced in the CVC letter. To this end, the environmental lands owned by Tri-County have been added to the applications by the applicant and will be re-designated and rezoned accordingly. It is recommended that the Township as part of its Official Plan review and mapping process underway determine whether additional environmental lands owned by Tri-Kamp to the west be re-designated to Environmental Protection.

Tri-County has had input into the site-specific Zoning By-law Amendment.

PUBLIC MEETING
The Township scheduled the statutory Public Meeting for the proposed applications on June 21st, 2016. The purpose of the Public Meeting was to obtain input from the public and the government agencies.

The following issues were raised at the Public Meeting:
• Operations on Saturdays.
• Noise.
• Impact on Land Values.
• Truck Traffic and Haul Route, and
• Impact on Water Table.

A second Public Meeting was held on August 22, 2017. The purpose of the Public Meeting was provide an update on the proposed applications and to introduce the draft Official Plan Amendment and Zoning By-law Amendment as it relates to the protection of significant natural heritage features. A Planning Report (dated August 18, 2017) was presented.

PUBLIC CONSULTATION
Several letters of objection were received by the Township. The types of concerns follow closely with what was addressed at the Public Meetings.

The Township received several letters and email correspondence related to the Tri-County applications from the public. Concerns identified by members of the public included the following:
• Need: why another pit in the area.
• Traffic-related concerns due to increased truck traffic and safety on the Township and County roads.
• Impacts on water and private drinking wells.
• Impacts on health.
• Increased noise and hours of operation, including Saturday operations.
• Increased dust.
• Impacts on the natural environment and wildlife.
• Impacts on property values.
• Who and how will their complaints be handled.
• Visual impacts.
The applicant's consultant, Bob Long (Long Environmental Consultants Inc.), responded to these concerns in letters that were submitted to the complainants and copied to the Township.

The Township Engineer and myself met with a number of residents with concerns to advise regarding technical information being received.

The following table overviews how the issues have been addressed by the proponent.

<table>
<thead>
<tr>
<th>Issue</th>
<th>How Was Issue Addressed by Applicant</th>
<th>Township's Position and Comments</th>
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<tbody>
<tr>
<td>Need</td>
<td>Proponent referred to Provincial Policy that specifies that “Demonstration of need for mineral aggregate resources, including any type of supply/demand analysis shall not be required.”</td>
<td>Township’s Planning Consultant is satisfied with this explanation.</td>
</tr>
<tr>
<td>Truck Traffic, Haul Road (including the use of the 18th Line) and Safety</td>
<td>Proponent submitted Traffic Impact Study by qualified engineer. Proponent has agreed to upgrade the Township and County Road, including culverts, to satisfaction of the Township and County.</td>
<td>Township’s Engineering Consultant is satisfied with technical submission by Proponent. Township’s Engineering Consultant was of the opinion that the use of the 17th Line is superior to the 18th Line. Development Agreement contains requirements to ensure proponent pays for the upgrade and maintenance of haul road including intersection upgrades at County Road 3. See paragraph 32 of the Development Agreement.</td>
</tr>
<tr>
<td>Impacts on water and private drinking wells</td>
<td>Proponent submitted a Water Resources Assessment by qualified hydrogeologist. Pit to remain 1.5 m above the established groundwater table. Impacts on domestic water supply are not anticipated. Water monitoring program to be implemented via provisions on the Site Plan. An Emergency and Spill Response Plan Provisions will be implemented via conditions in the Development Agreement.</td>
<td>Township’s Engineering Consultant is satisfied with technical submission by Proponent. Development Agreement contains requirements to ensure proponent pays for the upgrade and maintenance of haul road. OPA and ZBA contains provisions to ensure extraction is 1.5 m above the groundwater table. The Site Plan will contain the monitoring provisions. An Emergency and Spill Response Plan Provisions will be implemented via conditions in the Development Agreement. See paragraph 25 of the Development Agreement.</td>
</tr>
<tr>
<td>Impacts on health</td>
<td>Proponent submitted Traffic Impact Study and Air Quality Assessment by qualified engineers. Proponent has agreed to upgrade the Township and County Road to satisfaction of municipalities. Proponent completed a Best Management Plan to control and contain fugitive dust emissions.</td>
<td>Township's Engineering Consultant is satisfied with technical submissions by Proponent. Development Agreement contains requirements to ensure proponent pays for the upgrade and maintenance of haul road. Development Agreement and Site Plan implement the Best Management Plan. See paragraphs 32 to 38 of the Development Agreement re the haul road upgrades.</td>
</tr>
<tr>
<td>Increased noise and hours of operation, including Saturday operations and early morning truck traffic.</td>
<td>Proponent submitted Noise Control Study by qualified engineer. Proponent has agreed to not operate on Saturdays. Specific approval from Township Council is required to extend operating hours.</td>
<td>Township retained a qualified Acoustical Consultant (i.e. Valoustics) to peer review the Noise Control Study. Valoustics is satisfied that the technical submission by Proponent meets applicable Ministry of the Environment, Conservation and Parks requirements. The proposed hours of operation, as set out on the Site Plan, reflect this. The Development Agreement, see paragraph 17, b, c and d, together with Site Plan contain requirements to implement the hours of operation. Saturday morning operations would be the exception and only with Township approval. There is to be no trucking prior to 6 am on weekdays, and noise mitigation protocol. The Site Plan includes a provision for a noise audit and is also referenced at paragraph 58 a. of the Development Agreement.</td>
</tr>
<tr>
<td>Impacts on the natural environment and wildlife.</td>
<td>Proponent submitted Natural Environment Assessment by qualified consultant. Proponent has agreed to protect an offsite woodland and to reforest an area of 0.21 ha adjacent to the woodlot to improve ecological functions and corridor.</td>
<td>MNRF, CVC and Township are satisfied with technical submissions by Proponent. OPA and ZBA protects the woodlot by identifying it as Environmental Protection.</td>
</tr>
<tr>
<td>Who and how will their complaints be handled?</td>
<td>Proponent submitted complaint protocols related to dust and noise concerns. These provisions are referenced on the Site Plan.</td>
<td>The Township reviewed the complaint protocol and are satisfied. The Development Agreement references a specific complaint protocol process. See paragraph 63 of the Development Agreement.</td>
</tr>
<tr>
<td>Impacts on Property Values</td>
<td>Proponent is of the opinion that the pit will not have a negative impact on property values. Proponent met with Helene and John Kamphuis. The Kamphuis' removed their objection to the licence. Other nearby neighbours are also concerned about a potential drop in land values.</td>
<td>The Township Solicitor has advised that the Ontario Municipal Board (now the Local Planning Appeal Tribunal) has consistently ruled that this issue is not one that it will consider.</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Visual impacts.</td>
<td>Proponent submitted Visual Impact Assessment by qualified planner. Views from the 17th Line will be well-shielded by existing farm operations and berms. Views from the 18th Line will be partially screened by perimeter berms until excavation advances to Stage 2, below surface grade.</td>
<td>Township is satisfied with technical submission by the Proponent. ZBA contains requirements to implement vegetative screening to the satisfaction of the Township. See also paragraph 60 of the Development Agreement.</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Proponent technical reports with extensive monitoring requirements for noise, water/hydrogeology and dust.</td>
<td>Township is satisfied with monitoring requirements set out by the Proponent. The Site Plan implements these monitoring programs and the Development Agreement also deals with these programs. See paragraph 58 a. of the Development Agreement.</td>
</tr>
</tbody>
</table>

Additional concerns were noted during the meetings with concerned residents. These included the following:

- Where is the gravel – the mapping schedules attached to the Official Plan were reviewed. In particular, Schedule B – Environmental Features was examined to illustrate the location of the High Potential Aggregate Resources in the local area;
- Backup beepers – the noise from trucks reversing at an existing pit in the area was a constant irritation for concerned residents. It is understood that trucks are required to have beepers for safety reasons. "Growlers" as opposed to "Bepers" are proposed to be used on some of the internal equipment, subject to Ministry of Labour requirements. See paragraph 71 a. of the Development Agreement;
- Loss of water from the washing operation – the potential for impact on neighbouring wells and natural environmental features was a concern. These types of issues will be examined in detail when the applicant requests a Permit To Take Water from the Ministry of Environment, Conservation and Parks. The Township will be circulated with this permit application and will be providing comment. From a preliminary perspective, the Township Engineers do not anticipate that there will be a drawdown. See paragraphs 11 and 22 of the Development Agreement;
- Blasting – residents were concerned that the impacts related to blasting would affect their property. The residents informed that the proposal is for a pit and not a quarry, therefore blasting will not occur. See paragraph 26 of the Development Agreement.

**CONCLUSION**

The proposed site-specific Official Plan Amendment and Zoning By-law Amendment, as outlined in Attachments 2 and 3, are consistent with the PPS, conforms to the Growth Plan for the Greater Golden Horseshoe as transitioned, Greenbelt Plan, County of Dufferin Official Plan and the Township of East Garafraxa Official Plan based on the following:

- The site is located within an identified aggregate resource area. This aggregate resource area contains valuable mineral aggregate resources that are close to market. Access to the market will
be via a recognized haul road. The haul road will be improved as a result of the implementation of a Development Agreement between the applicant, the Township of East Garafraxa and the County of Dufferin. 

- The technical reports and ARA Site Plan prepared in support of the proposed pit set out a broad range of mitigation measures in order to minimize the impacts of extraction. These reports have been reviewed and accepted by the applicable government agencies, including the CVC, MNRF and Ministry of Tourism, Culture and Sport. The Township also completed an extensive peer review of the applications.

- The proposed pit will be rehabilitated back to an agricultural condition in accordance with the PPS and the Township's Official Plan. Provisions have been included within the Site Plan to promote comprehensive rehabilitation between the proposed pit and existing/proposed pits on abutting parcels.

- Potential impacts on the natural environment will be appropriately mitigated. Natural features will be maintained and enhanced over the long-term in the Environmental Protection lands. The Development Agreement has been prepared with input from the Township Development Review Team (Planning, Treasury, Public Works, Engineering and Legal) together with the County Engineer. The Development Agreement has been reviewed with Tri-County and this Agreement provides the Township with assurances so that the operation is carried out as designed and approved.

Based on the foregoing, it is my professional opinion that the proposed OPA and ZBA represent good planning.

It is recommended that the Township approve OPA Application OPA1-15 and ZBA Application Z1-15 adopting Official Plan Amendment 5 and passing the Zoning By-law Amendment as outlined in Attachments 2 and 3, and that the Township enter into a Development Agreement with the applicant together with the County of Dufferin to ensure that the proposal is implemented as before Township Council including ensuring that the haul road is improved and maintained over the life of the proposed pit.

Subject to approval of the OPA and ZBA, it is recommended that the Township advise the MNRF that the Township has no further objections to the proposed Class A – Category 3 Pit Licence provided the MNRF issue the Licence in accordance with the prescribed conditions, the Site Plan and accompanying notes and conditions found on the Site Plan in accordance with the process set out in the Recommendations on page 1 of this Report.

Respectfully submitted by:

[Signature]

Robert P. Stovel MCIP, RPP
Consulting Planner to the Township of East Garafraxa
ATTACHMENT 2

THE CORPORATION OF THE
TOWNSHIP OF EAST GARAFRAXA
BY-LAW NUMBER _____- 2018

ADOPTION BY-LAW FOR AMENDMENT TO THE OFFICIAL PLAN

The Council of the Corporation of the Township of East Garafaxa in accordance with the provisions of Sections 17 and 21 of the Planning Act, R.S.O. 1990 as amended hereby enact as follows:

1. THAT Official Plan Amendment Number Five (5) to the Official Plan of the Township of East Garafaxa being the attached text and Schedules A1, A2 and A3 is hereby adopted.
2. THAT the Clerk is hereby authorized and directed to make application to the County of Dufferin for approval of the aforementioned Official Plan Amendment Number 5 to the Official Plan of the Township of East Garafaxa and to provide such information as required by section 17(7) of the Planning Act, R.S.O 1990, cP.13 as amended.
3. THAT this By-law shall come into force and take effect on the date of final passing thereof, subject to receiving the approval of the County of Dufferin.

ENACTED and PASSED THIS _______ DAY of ________________, 2018

_____________________________   _______________________
HEAD OF COUNCIL               CLERK
AMENDMENT NUMBER FIVE
TO THE OFFICIAL PLAN
FOR THE
TOWNSHIP OF EAST GARAFRAXA

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THE CONSTITUTIONAL STATEMENT

PART A – THE PREAMBLE does not constitute part of the Amendment.

PART B – THE AMENDMENT consisting of the text and Schedules “A1”, “A2”, and “A3” constitutes Amendment Number Five (5) to the Official Plan of the Township of East Garafraza.

PART C – THE APPENDICES do not constitute part of this Amendment. They contain a record of the public involvement and background studies associated with this amendment.
AMENDMENT NUMBER 5
TO THE OFFICIAL PLAN
FOR THE
TOWNSHIP OF EAST GARAFRAXA

PART A – THE PREAMBLE

1.0 LOCATION
This Amendment applies to East Part of Lots 2, 3, and the West Part of Lot 3, Concession 18 in the Township of East Garafraxa.

1.1 PURPOSE OF THE AMENDMENT
The purpose of this amendment to the Official Plan is to re-designate lands described as East Part of Lots 2, 3, and the West Part of Lot 3, Concession 18 from Agricultural to Extractive Industrial Special Policy 2 to permit the establishment of a mineral aggregate operation licenced under the Aggregate Resources Act as a Category 3 – Class A Pit Above Water being an operation which is restricted to extracting aggregate no closer than 1.5 metres above the established groundwater table. As well, a portion of East Part of Lot 3, Concession 18 will be re-designated from Agricultural to Environmental Protection to identify and protect significant natural heritage features (i.e. woodlot and stream corridor) as shown on Schedules “A-1”, “A-2” and “A-3” attached hereto.

The lands are subject to the Greenbelt Protected Countryside overlay and shall remain subject to the corresponding policies of the Official Plan.

1.2 BASIS OF THE AMENDMENT
The Tri-County Pit consists of portions of two properties: a) former Nodwell Estate is located on the East Part of Lots 2 and 3, Concession 18, and b) the Kamphuis Farm is located on the West Part of Lots 3 and 4, Concession 18. For the Kamphuis Farm, only a portion of the West Part of Lot 3 is being re-designated under this Amendment. Both properties are designated Agricultural in the Township of East Garafraxa Official Plan.

As per Section 5.1.3, the proposed Category 3 – Class A Pit Above Water mineral aggregate operation is not a permitted use within the Agricultural designation. Therefore, Official Plan Amendment No. 5 will add an Extractive Industrial designation Special Policy 2 to the subject properties. The Extractive Industrial Special Policy 2 designation is an interim designation with the underlying Agricultural designation remaining pursuant to section 5.1.5 f) of the
Official Plan as amended by Official Plan Amendment No. 4 as modified. Additionally, certain lands on the former Nodwell Estate as shown on the mapping to this Amendment shall be re-designated from Agricultural to Environmental Protection. The Extractive Industrial designation Special Policy 2 will permit the operation of a mineral aggregate operation whereby extraction is limited to a depth 1.5 m above the established groundwater table. Extraction is permitted on an interim basis only and the site will be rehabilitated progressively back to agriculture. Upon the rehabilitation being final and the surrender of the licence being accepted by the Ministry of Natural Resources and Forestry the interim designation for Extractive Industrial shall cease and shall have no further force and effect.

The Tri-County Pit will be licensed under the Aggregate Resources Act as a Category 3 – Class A Pit Above Water. The Site Plan under the Aggregate Resources Act are a legally enforceable document to ensure that Progressive Rehabilitation and Final Rehabilitation is achieved. The Site Plan clearly set out the requirements to restore, rehabilitate and where possible, improve the agricultural productivity of the Tri-County Pit.

The Township of East Garafraxa and County of Dufferin require the owners of the subject properties to enter into a Development Agreement with the owners of the subject properties. The Development Agreement sets out requirements to improve the 17th Line and the intersection with County Road 3 to ensure that this municipal road and the intersection is maintained as a haul road for the Tri-County Pit. Additional matters included within the Development Agreement relate to (but are not limited to) the following: mitigation and monitoring requirements, hours of operation, complaint protocol and rehabilitation standards.

The lands to be designated Environmental Protection represent a significant woodland and stream corridor located in the northeast portion of the lands owned by the applicant. As part of the agency review of the application, the Credit Valley Conservation recommended that the woodland and stream be designated such that the features would be recognized in the Official Plan and protected accordingly. The Environmental Protection designation and associated mapping will achieve this.

The lands are subject to the Greenbelt Protected Countryside overlay and the redesignations conform with the provisions of the Greenbelt Plan.
AMENDMENT NUMBER FIVE
TO THE
OFFICIAL PLAN
FOR THE
TOWNSHIP OF EAST GARAFFRAKA

PART B – THE AMENDMENT

2.0 INTRODUCTION TO THE AMENDMENT

2.1 DETAILS OF THE AMENDMENT

The Official Plan of the Township of East Garafraxa is amended as follows:

1. Schedule “A” to the Official Plan of the Township of East Garafraxa is amended by changing the following:

   a) The land use designation of the subject lands being the East Part of Lots 2 and 3 and the West Part of Lot 3, Concession 18, in the Township of East Garafraxa as shown on Schedule “A1” attached hereto is re-designated as follows:

   For the lands shown as mapped as Extractive Industrial Special Policy 2, (MX-2), Extractive Industrial Special Policy 2 is added to the existing Agricultural designation, subject to the policies of this Amendment; and,

   For the lands shown as mapped as Environmental Protection, the lands are re-designated from Agricultural to Environmental Protection.

2. Schedules “B” and “E” to the Official Plan of the Township of East Garafraxa are amended by changing the following:

   a) For the lands shown as mapped as Environmental Protection as shown on Schedule “A1”, Schedule “B” is amended to add Significant Forest Area and Wetland as shown on Schedule “A2” attached hereto and Schedule “E” is amended to add Wooded Areas as shown on Schedule “A3” attached hereto.

3. Extractive Industrial Special Policy 2
a) Section 5.6.7 Special Policy 2 for East Part of Lots 2, 3, and the West Part of Lot 3, Concession 18” is added to the Official Plan for the Township of East Garafraxa as Extractive Industrial Special Policy 2 (MX-2). The following polices are applicable to Extractive Industrial Special Policy 2 (MX-2):

i. Extraction of sand and gravel shall be permitted as an interim land use together with crushing, processing, washing, screening and haulage of the extracted aggregate;

ii. Extraction shall be permitted to a maximum depth of 1.5 m above the established groundwater table, i.e. pit above water table;

iii. Limited importation, being no more than 5% per annum of the annual production, is only permitted as part of blending of aggregate with such blending limited to the importation of sand and gravel, but the recycling and/or importation of concrete and/or asphalt shall not be permitted;

iv. The area disturbed on the site shall be limited as much as possible through the use of staged stripping, extraction and progressive rehabilitation operations, with a maximum disturbed area to be 32.2 ha;

v. Development Agreement(s) shall be entered into with the Township and the County of Dufferin to the satisfaction of each respective municipality;

vi. The importation of topsoil only for the purposes of backfilling for final rehabilitation slopes – and with all other importation of fill prohibited save and except for iii. above or as specifically authorized otherwise as per the Development Agreement with the Township;

vii. The hours of operation shall be as per the Development Agreement with the Township;

viii. Uses such as a permanent or portable concrete batch plant or permanent or portable asphalt batch plant or any other extractive industrial use not specifically permitted or enumerated above shall not be permitted;

ix. Agricultural use is permitted as set out in the implementing zoning by-law;

x. Rehabilitation shall to be to an agricultural condition;

xi. Upon the agricultural rehabilitation being final and the surrender of the licence being accepted by the Ministry of Natural Resources and Forestry, the interim designation for Extractive Industrial Special Policy 2 shall cease and shall be removed from Schedule “A” to the Official Plan for the Township of East Garafraxa and the underlying Agricultural designation shall remain and shall be shown on the
subsequent mapping of Schedule “A” to the Official Plan for the Township of East Garafraxa.

b) Section 5.6.7 Zoning is renumbered section 5.6.8 Zoning.

4. Environmental Protection

The existing policies of the Environmental Protection designation, including existing agricultural operations being permitted shall be applicable in this Amendment to the lands being designated in Environmental Protection in this Amendment.

5. Greenbelt Protected Countryside

The lands as mapped on Schedules “A1”, “A2” and “A3” are subject to the Greenbelt Protected Countryside overlay in the Official Plan and shall remain subject to the corresponding policies.

2.2 IMPLEMENTATION
Section 9 “Implementation” of the Official Plan shall apply to the implementation of this Amendment.

2.3 INTERPRETATION
The provisions of the Official Plan, as amended from time to time, regarding the interpretation of the Plan shall apply with respect to this Amendment.
SCHEDULE B - ENVIRONMENTAL FEATURES
TOWNSHIP OF EAST GARAFRAXA OFFICIAL PLAN

ADDED DESIGNATION:
SIGNIFICANT FOREST AREA
AND WETLAND

SCHEDULE 'A2' TO
OFFICIAL PLAN AMENDMENT NO. 5
ATTACHMENT 3

THE CORPORATION OF THE TOWNSHIP OF EAST GARAFRAXA

BY-LAW NUMBER ______

BEING A BY-LAW TO AMEND ZONING BY-LAW NUMBER 60-2004,
AS AMENDED

WHEREAS the Council of the Corporation of the Township of East Garafraxa is empowered to pass By-laws to regulate the use of land pursuant to Sections 34 and 36 of the Planning Act, R.S.O. 1990, c. P. 13, as amended;

AND WHEREAS the owners of the East Part of Lots 2 and 3, Concession 18 and West Part of Lot 3, Concession 18, Township of East Garafraxa, County of Dufferin has filed an application to amend By-law Number 60-2004, as amended (Township File No.: Z1-15 Tri-County Pit);

AND WHEREAS it is deemed appropriate to amend By-law 60-2004 as amended to rezone the subject lands to permit an extractive industrial use (i.e. a pit 1.5 m above the established groundwater table) together with rezoning environmental lands;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF EAST GARAFRAXA ENACTS AS FOLLOWS:

1. That Schedule ‘A’ to By-law 60-2004, as amended, is further amended by rezoning the lands described as East Part of Lots 2 and 3, Concession 18 and West Part of Lot 3, Concession 18, identified on Schedule ‘A’ to this By-law from Agricultural to the following zones:

   Extractive Industrial Exception Two (H) (MX-2 (H)) Zone
   Environmental Protection (EP) Zone

2. Section 4.12.3 of Zoning By-law 60-2004 (Extractive Industrial Exceptions) is hereby amended by adding the following new sub-section as 4.12.3.2:

   a) Extractive Industrial Exception Two (H) (MX-2 (H))

   Notwithstanding the provisions of the Extractive Industrial (MX) Zone to the contrary, on lands zoned Extractive Industrial Exception Two (H) (MX-2 (H)) the following shall apply:

   Only the following uses shall be permitted:
i) farm which shall restricted to the cultivation of field crops together with any associated farm storage buildings;

ii) a pit (1) with extraction permitted to a maximum depth of 1.5m above the established groundwater table;

iii) notwithstanding section 4.12.1 of the Extractive Industrial (MX) Zone and section 5.110 definition of pit, a pit is defined for the purposes of this By-law as the extraction of aggregate 1.5 m above the established groundwater table; together with crushing, processing, washing, screening, stockpiling and haulage of extracted aggregate, along with staged stripping and progressive rehabilitation;

iv) the accessory use of the importation of sand and gravel as part of the blending of aggregate with such blending limited to the importation of sand and gravel with such importation being no more than 5% per annum of the annual production of the pit — and with all other recycling including the importation of concrete or asphalt prohibited;

v) the accessory use of the existing farmhouse as a dwelling occupied by manager and/or staff and related persons employed by the extractive industrial operation and/or as an office for the extractive industrial operation;

vi) the importation of clean, inert fill being topsoil only for the purposes of establishing the slope faces for final rehabilitation slopes — and with all other importation of fill prohibited unless specifically authorized in this By-law or as per the Development Agreement;

vii) hours of operation as per the Development Agreement;

viii) Notwithstanding section 4.12.1 of the Extractive Industrial (MX) Zone and section 5.110 definition of pit, the following uses shall not be permitted: a pit (1) with extraction permitted 1.5 m below the established groundwater table, peat extraction, recycling, portable and/or permanent asphalt/concrete production and/or batching plant, quarries, resource management
activities save and except as set out in sections ii, iii), iv), v, and vi) above;

ix) Notwithstanding section 5.48 definition of farm, the only permitted farm use is as set out in 2 a) i) for the time period that the pit remains licenced; and subsequently all farm uses are permitted, including the occupation of the existing dwelling as a farm residence, save and except a single-family dwelling or associated residential uses are not permitted to be established without a further rezoning.

b) Notwithstanding section 4.12.2 of the Extractive Industrial (MX) Zone, the following regulations shall apply to the permitted uses:

i) Minimum Lot Area 8 ha

ii) Minimum Lot Frontage 150 m

iii) Minimum Front Yard 30 m

iv) Minimum Interior Side Yard to the Environmental Protection Zone 15 m

v) All Other Interior Side Yards 15 m

Notwithstanding this regulation b) v), should there be an abutting licenced aggregate operation and should a Common Boundary Agreement be entered into as per the Development Agreement the applicable interior side yard shall be reduced to 0 m for extraction only (and for any other uses including the erection of buildings and/or structures shall remain at 15 m)

vi) Minimum Rear Yard 15 m

Notwithstanding this regulation b) vi), the rear yard regulation is further reduced as follows: i) for the lands zoned under this By-law for the lands between the East Part of Lots 2 and 3, Concession 18 and West Part of Lot 3, Concession 18 is reduced to 0 m for extraction only (and for any other uses including the erection of buildings and/or structures shall remain at 15 m) and ii) should there be an abutting
licenced aggregate operation and should a Common Boundary Agreement be entered into as per the Development Agreement the applicable rear yard shall be reduced to 0 m for extraction only (and for any other uses including the erection of buildings and/or structures shall remain at 15 m)

vii) Maximum Lot Coverage 1 %

ix) Minimum Setback of Extraction to a Rural Residential Lot 20 m

x) Maximum Area that can be Disturbed by Extraction including the establishment of berms, planting strips, internal haul roads, at any one time 32.2 ha

xi) Maximum Lot Coverage for Buildings and Structures Related to the Operation of the Pit 1 %

xii) Minimum Landscaped Open Space 10%

xiii) Maximum Height of Buildings 12 m

xiv) In the yard abutting 18th Line a planting strip of at least 30 m or grassed berming shall be required to be established and maintained to the satisfaction of the Township. Notwithstanding this regulation and section 5.113 definition of the planting strip, the planting strip of at least 30 m along the frontage of 17th Line may be cultivated for common field crops or grassed or otherwise planted without achieving a minimum height of 1.5 metres, which plantings are to be established and maintained to the satisfaction of the Township as per the Development Agreement.

3. Notwithstanding anything else to the contrary in Zoning By-law No. 60-2004 as amended, the following Holding Provision applies to the Extractive Industrial Exception Two (H) (MX-2 (H)) Zone in this By-law:

HOLDING PROVISION
i) A Holding (H) Provision is hereby established and identified on Schedule 'A' attached hereto, by the letter "H" in parentheses following a zoning symbol established in this By-law.

ii) Where a zoning symbol is followed by the letter "H" in parentheses, the provisions of the By-law applicable to the zone symbol shall only apply upon the removal of the letter "H" by an Amendment By-law as approved by Council in accordance with the provisions of Section 36 of the Planning Act.

iii) Until the removal of the letter "H":

a) No land, building or structure shall be used for any purpose other than that for which it was lawfully used prior to the passing of this By-law with the exception of a use by a public authority or existing agricultural use or for use of the lands for site preparation (excluding aggregate extraction and production) once the specific items listed in section iv) (a), (b) and (c) have been satisfied;

iv) The (H) Holding Provision shall only be lifted for all other uses when the Township of East Garafraxa is satisfied that the following items have been addressed:

a) A development agreement(s) between the Owner, the Township of East Garafraxa and the County of Dufferin has been executed and registered on title in accordance with the terms of the development agreement(s);

b) The Owner's developer account is in good standing;

c) The Ministry of Natural Resources and Forestry has confirmed that the Category 3 - Class A Pit Above Water Licence being issued shall include the agreed to Site Plan with applicable notes and conditions; and,

d) That the haul route improvements have been designed, approved and secured, all to the satisfaction of the Township of East Garafraxa and the County of Dufferin in accordance with the terms of a development agreement(s).

4. For the lands zoned Environmental Protection (EP), the provisions of section 4.15 shall apply.
5. Notwithstanding any other provisions of this by-law, to the contrary, public uses in accordance with section 3.18 of Zoning By-law No. 60-2004 shall be permitted in all zones under this By-law.

6. In all other respects, the provisions of Zoning By-law 60-2004, as amended shall apply.

7. Upon approval of Official Plan Amendment No. 5 by the County of Dufferin, this by-law shall take effect from date of passing thereof, providing no appeal has been filed. Where objections to the by-law are received in accordance with provisions of the Planning Act, the by-law shall come into effect upon approval of the Local Planning Appeal Tribunal.

BY-LAW READ A FIRST AND SECOND TIME THIS OF JULY, 2018
BY-LAW READ A THIRD TIME AND PASSED THIS OF JULY, 2018

_________________________  ____________________________
Susan M. Stone, CAO/Clerk      Guy Gardhouse, Mayor
SCHEDULE A - LAND USE
TOWNSHIP OF EAST GARAFRAXA ZONING BY-LAW

SCHEDULE 'A' TO ZONING BY-LAW -2017
A BY-LAW TO AMEND ZONING BY-LAW 60-2004
ATTACHMENT 4

DEVELOPMENT AGREEMENT

THIS AGREEMENT made this day of , 2018.

BETWEEN:

TRI-COUNTY AGGREGATES LTD.,
JACOB KAMPHUIS and JONATHAN MARK KAMPHUIS
(Collectively the “Owner”)

Party of the FIRST PART

-and-

THE CORPORATION OF THE TOWNSHIP
OF EAST GARAFRAXA

(the “Township”)

Party of the SECOND PART

-and-

THE CORPORATION OF THE COUNTY OF DUFFERIN

(the “County”)

Party of the THIRD PART

WHEREAS Tri-County Aggregates Ltd. (“Tri-County”) warrants that it is the owner in fee simple of the lands described as Part of Lots 2 and 3, Concession 18, Township of East Garafrxaxa, County of Dufferin (“Tri-County lands”) and which lands are more particularly described in Schedule “A” hereto;

AND WHEREAS Jacob Kamphuis and Jonathan Mark Kamphuis as Joint Tenants warrants that they are the owners in fee simple of lands described as the Southwest Part of Lot 3 and Part of Lot 4, Concession 18, Township of East Garafrxaxa, County of Dufferin (“the Kamphuis lands”) and which lands are more particularly described in Schedule “A” hereto;

AND WHEREAS the Tri-County Lands and the Kamphuis Lands are collectively the “Subject Lands”;
AND WHEREAS the Owner has applied to the Township and to the Ministry of Natural Resources and Forestry ("MNRF") for approvals under the Planning Act and the Aggregate Resources Act to permit the approval and licensing of a pit on the Subject Lands (the "Tri-County Pit");

AND WHEREAS the Township and the County is of the opinion that the provisions of this Agreement are necessary to ensure that the Tri-County Pit is operated in accordance with the public interest;

AND WHEREAS the Township, the County and the Owner (together the "Parties") have agreed to enter into this Agreement;

NOW THEREFORE in consideration of mutual covenants, agreements and promises herein contained and the sum of two dollars ($2.00) of lawful money of Canada now paid by each of the parties hereto to the other (the receipt and sufficiency of which is hereby acknowledged) and other good and valuable consideration and the mutual agreements contained herein, the parties hereto covenant and agree as follows:

DEFINITIONS

1. In this agreement, the following terms shall have the meanings set out herein:

   a. "Accessory Uses" shall mean all uses carried on the Subject Lands other than extraction of aggregates and rehabilitation as set out in the amending Zoning By-law passed by Township Council and shall exclude permanent and/or portable concrete/asphalt batching and/or production;

   b. "Aggregate" shall have the meaning set out in the Aggregate Resources Act;

   c. "Agricultural Condition" shall mean a condition in which substantially the same areas and same average soil capability for agriculture are restored;

   d. "Disturbed Area" has the meaning given to it in MNRF Policy AR 5.00.04, and includes all areas within the boundaries of a licenced site which have been altered from their original condition and where final rehabilitation in accordance with the Aggregate Resources Act, the regulations and the site plan has not been completed;

   e. "Local Delivery" shall mean any delivery to a destination that cannot be reached except by means of a Township road; and,

   f. "Site Plan" shall mean the site plan for the Tri-County Pit, and shall include all terms, conditions and requirements set out therein as well as any reports, guidelines, standards, protocols, technical recommendations or other documents referenced therein.
2. Every reference to the Owner in this Agreement shall be deemed to be a reference to the Owner, its officers, directors, employees, agents, affiliates, subsidiaries, successors and assignees.

SCHEDULES

3. The following Schedules are attached to the paper version of this Agreement and form part of this Agreement:

    SCHEDULE “A” Legal Description of Subject Lands
    SCHEDULE “B” Tri-County Pit Site Plan
    SCHEDULE “C” Official Plan Amendment
    SCHEDULE “D” Zoning By-law Amendment
    SCHEDULE “F” Tri-County Emergency and Spill Response Plan
    SCHEDULE “G” Reforestation Area

FRAMEWORK FOR APPROVALS

4. It is acknowledged by the Owner that the Township/County has relied on the Official Plan Amendment, the Zoning By-law Amendment, together with the Site Plan, all included as Schedules to this Agreement, as the basis for the analysis of the terms required for this Agreement and as part of the fundamental framework for entering into and executing this Agreement. The Official Plan Amendment, Zoning By-law Amendment, together with the Site Plan and this Agreement itself, have been relied upon by the Township/County for approval of the Tri-County Pit. This analysis includes reliance on the fact that the Applications are for a Category 3 Licence for extraction 1.5 m above the established groundwater table and not for extraction 1.5 m below the established groundwater table. The Owner further acknowledges that the Official Plan Amendment and Zoning By-law Amendment do not authorize extraction 1.5 m below the established groundwater table and amendments would be required to these planning instruments to permit such extraction. The Owner shall, at all times, carry on all activities on the Subject Lands, including but not limited to site preparation, extraction and rehabilitation, in accordance with the Zoning By-law, Licence/Site Plan and this Agreement, together with any applicable legislation or policies.

5. The Owner shall preconsult with the Township/County prior to seeking any amendment to the Licence including the Site Plan from MNRF. The Owner shall provide the Township/County with written notice of any applications for an amendment to Licence including amendments to the Site Plan. Such written notice shall be delivered to the Township/County within five (5) days of submission to MNRF, and shall also include copies of any materials filed, including the application or request, amended site plan, and all reports. It is
recognized that this is an ongoing obligation of the Owner to keep the Township apprised as the application or request is considered by MNRF, and includes any subsequent revisions, clarifications or filings by the Owner with MNRF with respect to the amendment application or request.

6. The Owner acknowledges that the Township/County may object to any application or request to amend the Licence including amendments or revisions to the Site Plan and may reference the commitments made in this Agreement as part of the grounds of any objection, together with MNRF Aggregate Resources Policies and Procedures Document A.R. 2.03.

7. Without limiting the generality of the foregoing, and in accordance with paragraph 13 of this Agreement, the Owner acknowledges and agrees that it shall not seek any increase in the annual tonnage limit for the Tri-County Pit that would result in a total annual tonnage limit in excess of 1,000,000 tonnes without providing such additional haul route upgrades, and such additional securities for haul route maintenance, beyond those upgrades and securities provided for in this agreement, as the Township/County, after considering any haul route analysis/study as provided by the Owner together with any peer reviews and acting reasonably, may deem appropriate, in their sole discretion. Should such increase be legally authorized, the Owner agrees that an amended Development Agreement is and shall be required prior to any increase coming into full force and effect.

8. Where any approval authority having jurisdiction seeks to amend or amends any of the Approvals, being the Official Plan, Zoning By-law and the Licence/Site Plan applicable to the Subject Lands, of its own accord, the Owner shall, within 5 business days, provide notice in writing of such amendment or proposed amendment to the Township/County. In such case, the Owner shall not object to the Township/County making submissions to the relevant authority having jurisdiction with respect to any such amendment.

9. In the event that any amendment to the Licence/Site Plan is made, the Parties shall consider and settle any modifications to this Agreement as may be necessary to effect the amendment and/or to preserve the intent of this Agreement in light of such amendment.

**ADDITIONAL APPROVALS**

10. The Owner shall be responsible for obtaining any and all additional approvals which may be required for the operation of the Tri-County Pit on the Subject Lands from any regulatory authority having jurisdiction. This includes obtaining any demolition permit(s) as may be required for demolition of any existing buildings on the Subject Lands.

11. The Owner shall provide the Township/County, together with Credit Valley
Conservation, with written notice of any application or request for any such approval, including any Permit to Take Water or Environmental Compliance Approval. Such written notice shall be delivered to the Township/County, together with Credit Valley Conservation, within five (5) days of submission and shall include all reports and other supporting documentation to be submitted to the regulatory authority having jurisdiction. It is recognized that this is an ongoing obligation of the Owner to keep the Township/County, together with Credit Valley Conservation, apprised of the application or request is considered by the regulatory authority, and includes any subsequent revisions, clarifications or filings by the Owner with the regulatory authority with respect to the application.

SPECIFIC REQUIREMENTS AND PROHIBITIONS

12. The Owner shall not conduct any excavation or extraction at any location in the Tri-County Pit below 1.5 metres above the established groundwater table. Should the required monitoring program determine an elevated seasonal variation to the established groundwater table then the elevated seasonal variation shall be deemed to be the resultant established groundwater table. Excavation or extraction shall be adjusted accordingly to maintain the required 1.5 metres separation. Additional test pits shall be dug as may be necessary to confirm that the separation is being maintained.

13. The Owner shall not haul and/or ship more than 1,000,000 tonnes of aggregate from the Tri-County Pit in any calendar year.

14. The total Disturbed Area at the Tri-County Pit shall not exceed 32.2 ha (approximately 79.5 acres) at any given time.

15. The Owner shall minimize the amount of lands open to active extraction to the extent possible at all times and shall promote progressive rehabilitation to an agricultural condition on an ongoing basis.

16. The Owner shall comply with the Best Management Plan for dust control prepared by Arcadis Canada Inc. dated July 18, 2016 for the Tri-County Pit and is attached as Schedule “D” to this Agreement. It is agreed that the Best Management Plan may be revised or amended from time to time by Tri-County subject to Tri-County demonstrating to the satisfaction of the Township that the revised or amended plan is an upgraded plan and that it remains compliant with MNRF and Ministry of Environment, Conservation and Parks ("MOECP") requirements. Additionally, it is agreed that the Owner shall maintain a log of daily site inspections as described in the Site Plan attached as Schedule “B” and referenced as Note D 2 on Drawing 1 – Existing Features Plan, and shall provide a copy of the log if requested by the Township.

17. The Owner shall comply with the following provisions:
a. Subject to the notice provision under paragraph 57 of this Agreement, earthwork preparation and construction preparation activities for the Tri-County Pit shall not be carried out during July and August but during the other months of the year. All such activities shall comply with the Township Noise By-law, and in addition shall not be carried out on weekends (Friday evenings, Saturdays and Sundays). All such activities shall be subject to paragraph 16 of this Agreement.

b. Operation of the Tri-County Pit, including excavating, processing and operating the aggregate crusher/screening plant in the processing area, shall be permitted only between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, save and except that loading, shipping and all related truck haulage to and from the Tri-County Pit shall be permitted only between the hours of 6:00 a.m. and 6:00 p.m. Monday through Friday and all operations including loading, shipping and all related truck haulage shall be prohibited all day Saturday (save and except as specifically may be authorized below), Sunday and on statutory holidays.

c. Trucks destined for the Tri-County Pit shall not be permitted to arrive, wait, queue or otherwise idle on any road allowance within the municipalities including Township 17th Line and County Road 3 prior to the opening of the Tri-County Pit. Trucks destined for the Tri-County Pit shall not be permitted to wait, queue or otherwise idle on Township 17th Line and County Road 3 at any time. Trucks shall not be permitted to arrive, wait, queue or otherwise idle on the internal haul route between 17th Line and the gate to the pit prior to 6:00 a.m. Tri-County shall ensure that trucks are not arriving prior to 6:00 a.m.

d. The Owner has requested that it be permitted to open the Tri-County Pit on limited occasions on Saturdays. The Township agrees that in exceptional and limited circumstances it shall consider this request provided same is made in writing in sufficient time to be added to the Township Council agenda to be considered by Township Council and such request shall be consistent with the following provisions: (a) no Saturday openings shall be requested or permitted for Saturdays during the months of January to April inclusive; (b) that any request be restricted to maintenance, loading, shipping and/or haulage of aggregate and is not to include excavating, crushing, processing or the importation of any materials such as sand for blending; (c) shall be limited to opening from 7:00 a.m. to 12:00 Noon; (d) shall not occur without the written approval by the Township. In considering the request, the request shall be made to Township Council, unless Council delegates the authority to Township administration, and in so considering the request, Council may consider input from the surrounding neighbours. Administratively it is anticipated that the Owner shall request a limited number of Saturday openings, if any, prior to May each calendar year, and that Council would consider approval of a limited number of Saturday.
openings, with the exact dates to be determined in accordance with the following sentences. Upon written approval by the Township, the Owner shall notify the Township Director of Public Works no later than 12:00 Noon on the Friday that the opening shall be on Saturday following. It is specifically agreed that any such opening may be cancelled by the Township Director of Public Works should any severe weather warnings be received.

18. The Owner agrees that it shall not import soil or other fill material to the Subject Lands without prior written approval from the Township. The Township agrees to importation of clean and inert topsoil for rehabilitation purposes in compliance with Table 1 of MOECP's "Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act" as detailed on Schedule "B" Tri-County Site Plan as forming part of this Agreement. Soil importation shall comply with MOECP guidelines and shall be subject to monitoring by Qualified Persons as defined by the MOECP. The Owner shall provide the Township with evidence of compliance with this paragraph on request, including production of any sampling results. In addition to paragraphs 5, 6 and 7, the Owner agrees that any request to MNRF for an amendment for any additional importation of soil or other fill material to be added to the Site Plan is specifically subject to the consent of the Township. The Owner further agrees to apply to amend its licence to modify the Site Plan to remove the importation of topsoil for rehabilitation purposes and/or reduce the quantity of topsoil to be imported should the Owner reach a common boundary agreement with the abutting licensee (Greenwood) to extract the common setback areas. Any common boundary agreement is to address these requirements and is therefore subject to review with the Township and consent by the Township prior to it being finalized.

19. The Owner acknowledges and agrees that the importation onto the Subject Lands of concrete, asphalt and/or aggregate for recycling shall not be permitted. This prohibition excludes the materials required for hard surfacing the internal haul route as detailed in paragraph 31 and this prohibition excludes the limited blending of aggregate permitted as follows: It is acknowledged that the Owner may import onto the Subject Lands aggregate including sand - with the exception that the importation of asphalt and/or concrete remains excluded - for blending with aggregate being produced from the Tri-County Pit, provided however that such importation shall be restricted to a maximum of 5% of production per annum and included within that production. Upon request the Owner shall provide documentation to the satisfaction of the Township and/or County to demonstrate compliance with this production limitation. Any documentation produced with respect to tonnage amounts by the Owner to the Township and/or County shall be subject to the confidentiality provisions of section 10 of the Municipal Freedom of Information and Protection of Privacy Act.

20. The Owner shall not operate an asphalt plant or concrete batching plant on the Subject Lands without Township/County approval.
21. The Owner covenants and agrees to continue the extraction of aggregates and progressive rehabilitation on the Subject Lands diligently until the available resource has been exhausted. The Owner further covenants and agrees to discontinue usage of the Accessory Uses on the Subject Lands once the extraction of aggregates from the Subject Lands is complete.

22. The Owner shall not install or operate a washing plant at any location on the Tri-County Pit without the written consent of the Township and subject to any other regulatory required approvals, including compliance with paragraph 5 and 11 of this Agreement.

23. No scrap, garbage or derelict materials shall be stored on the Tri-County Pit except on a temporary basis and is limited to those areas as described on the Site Plan attached as Schedule “B” referenced as Note 11 on Drawing 2 -- Operational Plan.

24. Fuel storage is limited to those areas as shown on the Site Plan for the Tri-County Pit and shall be limited to the operations as described and noted on the Site Plan.

25. The Owner shall take all necessary precautions and safeguards, including complying with the Tri-County Emergency and Spill Response Plan, as specifically referenced on the Site Plan, to comply with the Technical Standards and Safety Authority (“TSSA”) fuels safety program and shall comply with the Technical Standards and Safety Act, S.O. 2000 as amended, the regulations thereunder and any and all guidelines of the TSSA concerning the handling of petroleum products and other substances. The Tri-County Emergency and Spill Response Plan attached as Schedule “F” to this Agreement shall be implemented by the Owner if an event occurs. It is agreed that this program may be revised or amended from time to time by Tri-County subject to Tri-County demonstrating to the satisfaction of the Township that the revised or amended program is an upgraded program and that it remains compliant with TSSA requirements.

26. Explosives shall not be stored or detonated on the Subject Lands.

SURVEY AND LAND DEDICATIONS

27. It is acknowledged that the Owner has deposited on June 7, 2018 in the Land Registry Office for the County of Dufferin, Reference Plan 7R-6538 prepared by Cullen & Associates, Ontario Land Surveyor, which delineates the following:

a. Part 3 as a road widening along the frontage of the Subject Lands on 17th Line; and,

b. Part 4 as a road widening along the frontage of the Subject Lands on 18th Line.
28. a. Upon execution of this Agreement, the Owner shall proceed at its cost to carry out an archeological stage 3 or 4 investigation of the lands described in the preceding paragraph so as to obtain clearance of the “no disturbance within 50 m of ALHB-13”. Within 60 days of such clearance being obtained, the Owner shall gratuitously convey to the Township the road widening listed in the preceding paragraph at 27. a.

b. Within 60 days of the execution of this Agreement, the Owner shall gratuitously convey to the Township the road widening listed in the preceding paragraph at 27. b.

c. All such lands shall be transferred in fee simple free and clear of any encumbrances to the satisfaction of the Township Solicitor, and the transfers shall be carried out at the Owner’s cost.

HAUL ROUTE

29. All trucks, both loaded and empty, proceeding to and from the Tri-County Pit, shall travel along 17th Line from the entrances to the Tri-County Pit north to County Road 3, and shall not use any other highway under the jurisdiction of the Township except for the purpose of a Local Delivery. The Haul Route is defined as being 17th Line from the entrance to the Tri-County Pit to County Road 3, including the intersection of County Road 3 with 17th Line.

30. All aggregate trucking and aggregate equipment access to and from the Tri-County Pit shall be by means of the entrance to the Tri-County Pit from 17th Line. It is acknowledged that the existing farm entrance from 18th Line may be used for automobiles, pick up trucks, and tractors, in accordance with the same level of usage that would be permitted in accordance with a farm entrance and in the case of emergencies. Further, it is acknowledged that the Township Director of Public Works may require and impose additional limitations on this permitted usage should difficulties arise from the usage.

31. Entrance onto 17th Line from the Tri-County Pit shall be paved and continuously maintained in a dust free condition throughout the duration of extraction activities on the Subject Lands. The internal haul route from the paved area to the scale house shall be hard-surfaced using recycled asphalt and grindings.

ROAD WORKS

32. The Owner agrees, as a result of the approvals of Tri-County Pit, that it is necessary to carry out road works on 17th Line and County Road 3 and the Owner shall be responsible for paying all costs to have such road works designed, constructed and installed to the satisfaction of the Township and County. As of the date of execution of this Agreement, the identified Road Work Improvements
include vertical realignment of 17th Line; pulverization of 17th Line and top up of 17th Line with 100 mm of gravel and 140 mm of asphalt; together with the replacement of any culverts crossing 17th Line that the Township Engineers determine is necessary (all collectively “the Township Road Works”); and the provision of a left turn lane on County Road 3 (“County Road Works”). These required Township Road Works and County Road Works include the reconstruction of the intersection of 17th Line and County Road 3, including as a minimum correction of sight visibility issues and the provision of a left turn lane for westbound to southbound movements complete with recovery lanes on the west side of the intersection and including, if deemed necessary by the Township/County Engineers, an acceleration lane for eastbound trucks entering County Road 3. For greater certainty the works required for the reconstruction of the intersection of 17th Line and County Road 3 shall be deemed to be part of the County Road Works. Additionally, for greater certainty, the Township Road Works are required to be constructed from the existing pit entrances utilized by Greenwood Construction Company Limited to access 17th Line to County Road 3 (and the County Road Works). The Township Road Works and County Road Works are collectively referred to as the “Road Works.”

33. The Owner has advised and provided the Township and County with notice that, subject to the issuance of all required approvals, being the execution of this Development Agreement, final approval of the Official Plan Amendment No. 5 attached as Schedule “C” and passage of the applicable Zoning By-law attached as Schedule “D”, together with the issuance of the Licence including the Site Plan attached as Schedule “B”, that the Owner intends to open the Tri-County Pit during the 2019 construction season. Provided the approvals are in place and subject to the Owner being in good standing with its obligations under this Development Agreement, and subject to the Owner depositing in a timely manner the necessary funds as set out in paragraphs 35 and 36, and subject to the satisfaction of paragraph 28 a., the Township and County shall make best efforts to have the Road Works completed by June 30, 2019 to permit the shipping of aggregate from the Tri-County Pit after this date. Should the Road Works not be completed by June 30, 2019, it is acknowledged that the Owner may request permission to commence limited shipping of aggregate after that date until completion of the Road Works, provided that the Road Works are substantially completed, and provided that the additional new traffic from the Tri-County Pit would not be adversely impacting traffic safety and/or operations. Provided those provisions are met the Township and the County shall jointly consider granting this request on such terms and conditions as may be reasonable. If the approvals are not in place or if the Owner has not met the requirements of the foregoing part of this section, then the notice is deemed to void, and the Owner shall provide new notice to the Township and the County at least six (6) months in advance of the next construction season of its intention to open the Tri-County Pit. The Owner further acknowledges its obligations to obtain an entrance permit from the Township and to have the entrance completed in accordance with that permit.
34. The notice under the above paragraph shall therefore commence the process described in the following paragraphs to have the Road Works constructed in the next construction season. Should such notice not be given prior to October 31, 2019, it is agreed that for the Road Works purposes that notice shall be deemed to have been given on that date so that the Road Works shall be constructed during the 2020 construction season at the Owner’s Cost. Such deeming provision does not relieve the Owner from giving the notice required under paragraph 33.

35. The Owner requests, and the Township and County agrees, that the Township Engineers shall design the Road Works at the Owner’s cost. As part of the design process, the Township Engineers, shall at that time, using their professional judgment, determine if any supplemental Road Works or improvements are required to be constructed, and if so, the Owner shall also be responsible for the costs of those supplemental Road Works. The Road Works and any supplemental Road Works are collectively referred to as the “Required Road Works” and are allocated between the County and Township as set out in paragraph 32 above. The Township Engineers shall prepare all necessary drawings and documents to permit the Required Road Works to be tendered for construction as public works (“the tender package”). The County, including the County Engineer, shall be consulted throughout this process and should the County wish to have additional consulting engineering advice provided for any peer review, same shall be at the Owner’s cost.

36. The Township Engineers shall prepare the tender package, in accordance with municipal requirements, at the Owner’s cost. The Township Engineers shall provide a budget of its estimated fees and the Owner shall provide a deposit in the amount of this budget prior to the Township Engineers proceeding under paragraphs 35 and 36. This deposit is in addition to that required under paragraphs 51 and 54. The deposit shall be drawn to pay the actual fees, and should the actual costs be in excess of the budget, those additional costs shall be reimbursed by the Owner within 30 days of the costs being invoiced to the Owner. The County, including the County Engineer, shall be consulted throughout this process and should the County wish to have additional consulting engineering advice provided for any peer review, same shall be at the Owner’s cost. As part of the documentation an estimated total budget for the Required Road Works shall be provided in a public report. If the Owner is satisfied with the estimated total budget of the Required Road Works, the Owner shall deposit the monies as security with the County. The Owner shall be entitled to include as part of the monies to be deposited the monies remaining on deposit under paragraphs 51 and 54 less $60,000.00. If the Owner is not satisfied with the estimated total budget of the Required Road Works, then the Owner can delay and have the Required Road Works re-budgeted for the next construction season, but in all circumstances the Owner is to proceed no later than the 2020 construction season. Upon the finalization of the tender package and receipt of the monies as security, the County, in conjunction with the Township, shall proceed to issue the tender for the construction of the Required Road Works in accordance with
County municipal procurement and tender policies, procedures and procurement by-law. If the successful bid is less than the estimated total cost of the Required Road Works, the County shall award the contract for the Required Road Works to the successful bidder. If the successful bid is more than the estimated total cost of the Required Road Works, the County shall only award the contract to the Required Road Works to the successful bidder upon receipt of additional monies for security from the Owner. If the Owner declines to provide the additional monies, then the process shall be restarted in the next construction season, but in all circumstances, the Owner is to proceed no later than the 2020 construction season. As constructions proceeds, should there be any unforeseen construction costs over and above those budgeted, the Owner shall be consulted and the Owner shall be responsible for and shall reimburse the County for same. The Township Engineers, in consultation with the County, shall carry out all contract administration and the Owner shall reimburse the Township and County all invoices incurred for same within 30 days of the costs being invoiced by the Township and County, together with the reimbursement of any costs incurred by the Township and County for the involvement of the Township and/or County Solicitor during this design, tender and construction process, if such involvement is so required. At the completion of the Required Road Works project, the Township Engineers shall issue an accounting of the costs incurred, including the amounts paid out under the Road Works contract; amounts paid out under any amendments to the Road Works contract; the invoices of the Township Engineer; the invoices of the peer review engineer, if any, used by the County; and the invoices of the Township and/or County Solicitor. This accounting shall be used and be the determinative amount for calculating any amounts owed by the Owner, and any payments required to be made under the section entitled Cost Sharing of Road Works.

37. It is specifically agreed by the parties that the Required Road Works shall be procured and tendered in accordance with municipal standard policies and procedures including the applicable procurement by-law, which requires competitive bidding. If the Required Road Works are tendered by the County, including the Township Road Works, then the County standard procurement and tendering policies and procedures and the County procurement by-law shall govern. Subject to the Owner abiding by the County procurement and tender policies, procedures and the County procurement by-law the Owner, is permitted to bid on the tender. For convenience of drafting, the County is identified as the lead municipality on the process detailed in paragraph 36. Notwithstanding paragraph 36, the Township may at its discretion chose to have the Township Required Road Works tendered separately utilizing the Township procurement and tender policies, procedures and Township procurement by-law. In such circumstances, it is specifically agreed that the Township shall proceed with the necessary wording changes understood to the process set out in paragraphs 36 and 37 for the Township Required Road Works and without further amendment being required to this Agreement.
38. In all circumstances, the Required Road Works shall be designed, constructed and installed at the Owner's cost to the satisfaction of the Township for the Required Road Works under its jurisdiction and to the satisfaction of the County for the Required Road Works under its jurisdiction.

**COST SHARING OF ROAD WORKS**

39. The Owner, the Township and the County acknowledge that there is another Owner, Greenwood Construction Company Limited, ("Greenwood") which currently operates two existing pits located on Lots 2, Concessions 17 and 18 (Licence #10606) and Part 1, Concessions 17 and 18 (Licence #80956) (collectively the "Existing Greenwood Pits"). Greenwood is also seeking Planning Act and Aggregate Resources Act approvals to permit the establishment of two new pits being licenced and located on the West Half of Lot 2, Concession 17 and the East Half of Lot 1, Concession 18 ("the Proposed Greenwood Pits"). Greenwood shall be using the same haul route as the Owner, and as such, it is fair and equitable that Greenwood and the Owner cost share the required road improvements and maintenance of the haul route as detailed in this Agreement. For the purposes of this Agreement, Greenwood includes any operator securing a licence on the above lands.

40. The Township and the County shall undertake to make best efforts to have Greenwood enter into an agreement that deals with the paragraphs under the sections under the headings entitled **Road Works, Cost Sharing of Road Works** in the same manner as this Agreement.

41. The Owner acknowledges and agrees that, should the Township and/or County as the case may be, in its sole discretion, wish to proceed, or wish to permit Greenwood to proceed with any or all of the Road Works, in advance of notice being given by the Owner in accordance with paragraphs 33 and 34 of this Agreement, then the Township and/or County may at any time proceed, or allow any person to proceed, to carry out the said improvements, using such contractors, consultants, equipment and materials as the Township and/or County may deem appropriate. The Owner agrees, that in such circumstances, that it shall contribute its proportionate share of the Road Works, in accordance with the paragraphs under this section of the Agreement entitled **Cost Sharing of Road Works**.

42. If the Owner and Greenwood proceed at the same time, then the sections under the heading entitled **Road Works** shall jointly apply, and the proportionate payment shall be 50% by the Owner and 50% by Greenwood. Should one Owner proceed in advance of the other, then the first Owner shall be required to pay for the Required Road Works and shall only be entitled to reimbursement as set out in this Agreement. In the event that one Owner does not deposit the required sums under paragraph 36 when requested to do so, then the other Owner shall be deemed to be proceeding in advance of the other, with the consequent obligations, subject to the reimbursement paragraphs under this section of the Agreement.
entitled Cost Sharing of Road Works.

43. The second Owner acknowledges and agrees that it is responsible to make payment to the first Owner for its share of the cost of the Required Road Works as apportioned. As the Required Road Works are to be constructed no later than the 2020 construction season as per paragraph 34, reimbursement shall be due and owing prior to the Second Owner proceeding to haul aggregate from the new Pit(s) or no later than December 31, 2020, whichever date comes first.

44. The proportionate cost payable by the second Owner shall be calculated using the amount paid under the contract for the Required Road Works, together with the costs paid by the Owner to reimburse the Township/County for its costs incurred under the heading entitled Road Works.

45. Should the Second Owner not have given notice under paragraph 33 prior to December 31, 2020, then when the second Owner gives the required notice under paragraph 33 of this Agreement (or the companion section of its own Agreement) an engineering assessment of the state of the haul route along 17th Line and at the intersection of County Road 3 shall be required. The Owner acknowledges that such engineering assessment may conclude that additional road improvements are required to maintain, upgrade or rehabilitate the Required Road Works previously constructed ("the Additional Road Works"). The Owner requests and the Township and County agree that the Township Engineers, using their professional judgment, shall carry out such assessment at the Owner’s cost. The County shall be consulted throughout this process and should the County wish to have additional consulting engineering advice provided for any peer review, same shall be at the Owner’s cost. If Additional Road Works are required, then paragraphs 35 to 38 shall apply mutatis mutandis, (save and except that should the cost of the Additional Road works be less than the threshold required under Township and/or County processes for tendering, then the contract for such required works shall be awarded in accordance with standard Township and/or County processes).

46. It is agreed that the Township and/or County obligation is to be limited in making best efforts to enforce the Agreement against the Second Owner. The best efforts do not require the Township and/or County to commence Court action unless either the Township and/or County see fit to do so in their sole discretion, and if they see fit to do so, they may require the First Owner to indemnify the Township and/or County for any Court action. Should the Township and/or County decline to take action in the Courts against the Second Owner when requested to do so by the First Owner with respect to cost sharing, then the Township and/or County shall assign on request to the First Owner their rights under this section entitled Cost Sharing of Road Works.

ONGOING MAINTENANCE OF 17th LINE

47. The Owner acknowledges and agrees that 17th Line requires maintenance caused
by the usage of 17th Line by haulage from the Tri-County Pit once open. The Owner agrees and undertakes to annually meet with the Township’s Director of Public Works and the Township Engineer to agree on such maintenance works as may be required to keep 17th Line in a good state of repair suitable for its continued use as a haul route by the Owner, and the Owner shall carry out such maintenance works or pay for the costs of carrying out such maintenance works. As part of this process, the County shall also be consulted to ensure that the intersection of 17th Line and County Road 3 is also maintained. Should the Township/County and the Owner be unable to agree on the maintenance works or their cost, then the parties agree to retain a mutually agreeable engineer to make such determination which shall be final and binding upon the Owner and the Township/County. This responsibility shall be shared with Greenwood and the works and/or payment as the case may be, shall be apportioned as per paragraph 42 of the Agreement. Ongoing maintenance includes any clean out of culverts as may be required.

LIFESPAN OF ROAD WORKS

48. The Owner agrees and acknowledges that the Required Road Works and the Additional Road Works, if any, have a lifespan, and should the Tri-County Pit continue to operate beyond the year 2031, unless such date is mutually extended, then the Owner shall be obliged and obligated to carry out such Subsequent Road Works (“Subsequent Road Works”) as may be assessed and determined by the Township Engineers using their professional judgment, at the Owner’s cost, (and the County shall be consulted throughout this process and should the County wish to have additional consulting engineering advice provided for any peer review, same shall be at the Owner’s cost), which Subsequent Road Works shall be at the expense of the Owner, subject to paragraphs 35 to 38 mutatis mutandis, (save and except that should the cost of the Subsequent Road Works be less than the threshold required under Township and/or County processes for tendering, then the contract for such required works shall be awarded in accordance with standard Township and/or County processes). Subsequent to Tri-County utilizing 17th Line as a haul route together with Greenwood, this responsibility shall be shared and the obligation shall be apportioned as per paragraph 42 of the Agreement.

HAUL ROUTE USAGE PROHIBITION

49. Any commencement of earthwork preparation for the opening of the Tri-County Pit is strictly prohibited prior to the giving of notice pursuant to paragraph 33 of this Agreement. Any and all extraction within the Tri-County Pit is strictly prohibited until the monies for the Required Road Works have been deposited with the Township pursuant to paragraph 36 or 41 of this Agreement as the case may be; or there has been payment of the proportionate amount to Greenwood in accordance with paragraph 43, together with the satisfaction of paragraph 45 as the case may be; or the Subsequent Road Works in accordance with paragraph 59. Any and all haulage of aggregate from the Tri-County Pit is strictly prohibited.
until the Township authorizes and confirms that 17th Line can be used for that purpose. The Township shall so authorize and confirm in writing once the Required Road Works or Additional Road Works or Subsequent Road Works, as the case may be, are completed and are operational and all other obligations of the Owner under this Agreement are in good standing.

**ADDITIONAL AGGREGATE PROPOSALS**

50. Should any other operator make application for approvals to license an aggregate operation utilizing 17th Line as a haul route, including using all or part of the haul route being used by the Owner, then the Township and/or County as the case may be, agrees to provide notice of such planning application to the owner. The Township and/or County acknowledge that the Owner may take the position that the applicant should share in the haul route obligations and responsibilities under this Agreement.

**PERFORMANCE SECURITY**

51. In order to secure completion of the Road Works as set out in this Agreement, save and except Road Works under the County jurisdiction (County Road 3 including the intersection), and to also secure the Owner’s obligations set out in this Agreement, the Owner shall, upon execution of this Agreement, provide the Township with a security deposit in the amount of Ninety Thousand Dollars ($90,000.00) in the form of cash or an irrevocable renewable Letter of Credit, the terms of which shall be satisfactory to the Township (the “Performance Security”). The Performance Security shall be reduced to $50,000.00 once there is compliance with paragraph 49. If the Performance Security is less than $50,000.00 at any point in time, the Owner shall be required to replenish the Performance Security so that it is at all times, no less than $50,000.00.

52. The Performance Security deposited with the Township in accordance with this Agreement may be applied and used by the Township not only towards the matters for which the Performance Security is expressly required, but may also be applied and used by the Township towards the fulfillment of any other matter, expense or obligation of the Owner related to this Agreement. Should the Performance Security be applied towards the fulfillment of any other matter, expense or obligation of the Owner, it is agreed that the Performance Security is deemed to be expressly received for such purpose.

53. The Owner acknowledges and agrees that should it breach paragraph 49 of this Agreement, and fails to correct the breach within 30 days of receiving written notice of the breach, the Performance Security shall be forfeited to the Township as a consequence of the breach of this Agreement and shall be deemed to be fees and charges to which the Township is entitled under the Municipal Act, 2001.

54. In order to secure completion of the Road Works under the County jurisdiction,
and to also secure the Owner’s obligations set out in this Agreement, the Owner shall upon execution of this Agreement, provide the County with a security deposit in the amount of Two Hundred and Ten Thousand Dollars ($210,000.00) in the form of cash or an irrevocable renewable Letter of Credit, the terms of which shall be satisfactory to the County (the “County Performance Security”). The County Performance Security shall be reduced to $10,000.00 once there is compliance with paragraph 49. If the County Performance Security is less than $10,000.00 at any point in time, the Owner shall be required to replenish the County Performance Security so that it is at all times, no less than $10,000.00. Paragraphs 51, 52, and 53 apply to the County Performance Security and are read with respect to the County Performance Security with the substitution of the word County for Township.

55. The Owner further acknowledges and agrees that in the event of a breach of paragraph 49 as set out above, the Owner consents to and will not oppose an application by the Township/County for an injunction ordering that site disturbance, and aggregate extraction within the Tri-County Pit cease immediately.

56. In addition to paragraph 55, the Owner shall also consent to an Order reimbursing the Township for all its costs in enforcing this Agreement, including those of the Township/County Solicitor, Township/County Engineer, Township/County Consulting Planner, and/or any other consultants so involved, which Order shall include the term that the costs can be collected in like manner as municipal taxes, in addition to any other civil remedies the Township/County may have to collect said costs.

MONITORING AND REPORTING

57. The Owner shall be required to advise the Township/County at least thirty (30) days prior to it commencing any earthmoving activities to open the Tri-County Pit, which obligation is in conjunction with its obligation under paragraph 17 a. of this Agreement. This notice provision cannot be exercised until after this Development Agreement has been executed, Official Plan Amendment No. 5 attached as Schedule “C” has received final approval, the applicable Zoning By-law attached as Schedule “D” has been passed and is in full force and effect and the MNRF has issued the Licence including the Site Plan attached as Schedule “B”. Further, the Owner shall permit the Township/County and its agents to enter upon the Subject Lands at any reasonable time to verify that no physical activities have been taken to open Tri-County Pit prior this requirement to give notice and to ensure compliance with paragraph 49 of this Agreement.

58. The Owner shall, at its sole expense, carry out and comply with all monitoring and reporting requirements set out in of the Site Plan attached as Schedule “B”. All data gathered and reports or other information produced in the course of such monitoring and reporting shall be provided to the Township.
This obligation shall include but shall not be limited to the following:
   a. water, dust monitoring data and noise data including the acoustic audit to be carried out by a 3rd party qualified consultant, which audit is as detailed on the Site Plan attached as Schedule “B” referenced as Note N 11 on Drawing 2 – Operational Plan;
   b. fertility and compaction data related to progressive and final rehabilitation; and
   c. annual compliance assessment reports.

59. The Owner shall carry out progressive and final rehabilitation of the Tri-County Pit so as to return the Subject Lands to an agricultural condition, in accordance with the rehabilitation requirements of the Site Plan attached as Schedule “B”. The Owner agrees to enter into negotiations to achieve a common boundary agreement with the abutting potential licensee – Licence No. 10606 – (Greenwood) to deal with the common setback areas. Any common boundary agreement shall be reviewed with the Township and be consented to by the Township prior to it being finalized. Subsequently and subject to paragraph 5 of this Agreement, Tri-County agrees to amend the Site Plan to show revised rehabilitated contours and cross-sections for the areas subject to the common boundary agreement.

60. The Owner shall provide a planting plan for approval by the Township and upon such approval shall establish a tree screen along 18th Line, Entrance Landscaping, plantings on the planting strips (as described in the Zoning By-law) together with carrying out reforestation in the 0.21 ha area as shown on Schedule “G” in the vicinity of the woodlot/stream, and together with the vegetation plan for the wetland pond being created, and shall maintain same and replace any diseased or failing plantings and/or shrubbery/trees, all to the satisfaction of the Township.

61. The total area of the Subject Lands rehabilitated to an agricultural condition and to other uses shall be documented upon request by the Township, should such area not be adequately documented to the Township’s satisfaction in the compliance assessment reports provided under paragraph 58 c.

MITIGATION AND COMPLAINT RESOLUTION

62. The Owner shall carry out and undertake all mitigation measures set out in the Site Plan attached as Schedule “B”.

63. The Owner shall, at its own expense, implement and carry out the complaints protocol for all complaints relating to the Tri-County Pit, the operation thereof and the related haul routes. At a minimum, the complaints protocol shall include signage at the internal haul route entrance from 17th Line visible from 17th Line that advises the public that should there be any complaints that Tri-County may be contacted at [Cell No.] or [Email] so as to have the complaints addressed. The
Cell No. contact shall be accessible 24/7. As part of the complaint protocol, Tri-County shall collect the following information: contact details of complainants; the nature, location and time of the incident giving rise to the complaint together with any other relevant information. Tri-County shall keep a log book containing a record of all complaints as well as complaint responses. The log book shall be produced to the Township and/or County on request. It is agreed that this complaint protocol may be revised or amended from time to time between the Parties.

64. The Owner agrees that if, in the opinion expressed in writing of an appropriate official of the MNRF, the Wellington Dufferin Guelph Health Unit or the MOECP, that the operation of the Pits causes or has caused any well in the Township and/or the Town of Erin to become depleted, damaged or otherwise adversely affected, the Owner shall either deepen the well so that it will again be useable or cause a new well to be drilled for the owner of any well so affected. Such work shall be carried out to the satisfaction of the owner of the well and the appropriate Ministry or agency, at the Owner’s expense.

REGISTRATION, SUCCESSORS AND ASSIGNS

65. This Agreement shall be binding on and enure to the benefit of the parties and their respective heirs, executors, administrators, successors and assigns. The covenants, provisions and conditions contained herein shall have the same force and effect as a covenant running with the Subject Lands. The Township/County shall be entitled to enforce the provisions hereof against the Owner and, subject to the provisions of the Registry Act, R.S.O. 1990, c. R.20 or Land Titles Act, R.S.O. 1990, c. L.5 (whichever applies to the Subject Lands), against any and all subsequent owners of the Subject Lands;

66. The Parties agree that this Agreement shall be registered on title to the Subject Lands at the Owner’s expense and shall be maintained in first priority on title to the Subject Lands and the Owner consents to the registration of this Agreement on title. For the Tri-County Lands, Tri-County shall obtain postponement agreements from any encumbrancer or charge on title which postponement agreements to be registered on title at the Owner’s expense. For the Kamphuis Lands, Messrs. Kamphuis shall obtain postponement agreements from any encumbrancer or charge on title, including Farm Credit Canada, which postponement agreements to be registered on title at the Owner’s expense or should such postponement agreements not be provided, it is agreed by Tri-County that should the internal haul route across the Kamphuis Lands ever cease to become operative that aggregate operations shall cease.

67. The Owner covenants and agrees that it shall not sell, transfer, assign, set over, convey, mortgage or otherwise encumber the Subject Lands or any portion thereof without obtaining an assignment of this Agreement to the transferee or encumbrancer of the Lands or portion thereof, to the satisfaction of the Township/County.
68. Without limiting the generality of the preceding paragraph, the Owner covenants and agrees that all of the Subject Lands shall continue to be utilized by one licensee for the term of this Agreement and that the Owner shall not, without first obtaining the consent of the Township and County, which consent shall not be unreasonably withheld, sell, transfer, assign, set over, convey, mortgage or otherwise encumber any portion of the Subject Lands without so selling, transferring, assigning, setting over, conveying, mortgaging or otherwise encumbering the entirety thereof.

69. The Owner shall ensure that all property taxes are paid in full on an ongoing basis. Should there be any arrears on property taxes at the time of execution of this Agreement, the Owner shall make payment of those arrears in full, and the Owner shall bring its development account, including all fees and charges into good standing, with all payments made prior to the Township/County executing this Agreement.

GENERAL

70. This Agreement shall terminate upon the MNRF having confirmed that final rehabilitation has been completed and having accepted the surrender of the Licence under the Aggregate Resources Act pertaining to the Subject Lands. Upon termination of the Agreement, the Owner may have the Agreement deleted from title at its cost, and the Township and County so consent to such deletion.

71. The Owner agrees that:

a. All necessary precautions will be taken in the operation of the Tri-County Pit on the Subject Lands to avoid dust, noise, and other nuisances, and to provide for public safety. The Owner agrees with respect to noise measures that broadband backup alarm systems shall be implemented on pit trucks, pit machinery and pit equipment as opposed to back up beepers where legally permissible. The Owner further agrees that the existing farmhouse(s), including the Kamphuis farmhouse(s), shall only be occupied by persons with a legal interest in this agreement together with related persons and/or manager/staff of the Tri-County Pit together with related persons;

b. The failure of the Township/County to insist on strict performance of any of the terms, provisions, covenants or obligations herein shall not be deemed to be a waiver of any rights or remedies that the Township/County may have, and shall not be deemed to be a waiver of any subsequent breach or default of the terms, provisions, covenants and obligations contained in this Agreement;

c. The Owner shall not call into question, directly or indirectly, in any
proceedings whatsoever in law or in equity or before any court or administrative tribunal, the right of the Township/County to enter into this Agreement and to enforce each and every term, covenant and condition herein contained, and this clause may be pleaded as estoppel against the Owner in any such proceedings;

d. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any event, be invalid or unenforceable, the remainder of this Agreement, or the application of such term covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law;

e. This Agreement shall be construed in accordance with and governed by the laws of the Province of Ontario;

f. Any notices that may be required to be given pursuant to this Agreement shall be properly given if delivered by prepaid registered mail to the parties at the addresses set out:

To the Township at: Township of East Garafraxa
Attention: Chief Administrative Officer
374028 6th Line
Amaranth, Ontario
L9W 0M6
Fax: 519-941-1802

To the County at: County of Dufferin
Attention: Director of Public Works and County Engineer
55 Zina Street
Orangeville Ontario
L9W 1E5
Fax: 519-941-4565

To the Owner at: Tri-County Aggregates Ltd.
Attention: President
92 Kenhar Drive
Suite 200
North York, Ontario
M9L 1N2
Fax: xxx-xxx-xxxx

Any notice, if mailed, shall be deemed to have been given on the fifth (5th) day following such mailing and if delivered by hand or by facsimile transmission, shall be deemed to have been given on the day of delivery.
Each of the foregoing parties shall be entitled to specify a different address for service by giving written notice as aforesaid to the other;

g. The Owner agrees that, within seven (7) days of receiving written notice from the Township/County, if it is not in compliance with any term or condition of this Agreement, it will forthwith take all such steps as are necessary to comply or shall cease all extraction activities and the operation of the concrete batching plant, if one is so permitted, until compliance is achieved. Should the Owner fail to take sufficient steps to comply with the requirements of any part of this Agreement within thirty (30) days of receiving written notice from the Township/County, the Township/County shall be entitled to undertake or authorize any work necessary to satisfy the terms and conditions of this Agreement and shall be entitled to draw on the Performance Security and/or the County Performance Security to the full extent of any costs incurred in this respect or shall be entitled to collect this debt in any other manner authorized by law;

h. The Owner shall pay such reasonable fees as may be invoiced to the Township/County by the Township/County Solicitor, the Township/County Planner and/or the Township/County Engineer, in connection with all services performed as a result of the rezoning and/or redesignation applications of the Owner, including the cost of the preparation and enforcement of this Agreement, and all reasonable costs incurred as a result of hearings before a Court, Board or administrative tribunal, or proceedings resulting from said rezoning and redesignation applications. Upon receipt of copies of invoices from the Township/County for the above professional services, the Owner shall reimburse the Township/County for the amount of the invoices. Should the Owner fail to make such reimbursement within thirty (30) days of the delivery of copies of the invoices, the Township/County may draw on the Performance Security and/or the County Performance Security without notice to the Owner, or shall be entitled to collect this debt in any other manner authorized by law. The Owner shall maintain on deposit with the Township a cash deposit in the amount of $20,000.00 to be drawn on to reimburse the invoices rendered by the Township Solicitor, the Township Planner and/or the Township Engineer, and such deposit shall be replenished from time to time as required by the Township Treasurer. Subsequent to the approval of the Official Plan Amendment, the Zoning By-law and the issuance of the License, the Township shall reimburse any monies remaining from the $20,000.00 deposit. Notwithstanding such reimbursement, the Owner remains obligated to reimburse the Township, together with the County, for any professional costs, including engineering and/or legal costs, it may incur from time to time, as a result of this Agreement.
i. The due dates of any sum of money payable herein shall be thirty (30) days after the date of the invoice. Interest at the rate of one and a quarter percent (1.25%) per month shall be payable by the Owner to the Township/County on all sums of money payable herein for overdue accounts which are not paid on the due dates, calculated from such due dates;

j. The parties shall act reasonably throughout this Agreement. In the event of any dispute between the Parties, the Parties agree to submit the dispute to non-binding mediation prior to pursuing any other civil remedies.

k. For interpretation purposes, the phrase Township/County should be read as being the Township and County, and each municipality may independently of the other, or jointly, act in accordance with the applicable provision. For administrative purposes, it is recognized that each of the Township and County is bound to act in accordance with its own by-laws, procedures, policies and processes, and the Township and the County agree to implement and administer this Agreement in accordance with same. Should this cause minor variations in the administration of this Agreement, it is agreed that those variations form part of the Agreement, and are agreed to by the Owner;

l. Tri-County and Jacob Kamphuis/Jonathan Mark Kamphuis acknowledge and agree that they are jointly and severally liable for and responsible to fulfill all obligations, commitments and requirements of this Agreement.

m. Section headings in this Agreement are not to be considered part of this Agreement and are included solely for ease of reference and are not intended to be full or accurate descriptions of the contents thereunder; and,

n. The Owner acknowledges being advised that it should obtain independent legal advice prior to executing this Agreement and that, should it choose to execute this Agreement without having obtained independent legal advice, the Owner has done so of its own accord.

IN WITNESS WHEREOF the Owner has hereunto affixed its corporate seal under the hands of its duly authorized officers and the Township and County have hereunder set their corporate seals attested by the hands of the Mayor and Clerk and Warden and Clerk, on the date and year first above written.

THE CORPORATION OF THE TOWNSHIP OF EAST GARAFRAXA
Mayor

Clerk

THE CORPORATION OF THE COUNTY OF DUFFERIN

Warden

Clerk

TRI-COUNTY AGGREGATES LTD.

Per: ______________________ c/s President

I have authority to bind the corporation

Witness (Signature) ______________________ JACOB KAMPHUIS (in his personal capacity)

Witness (Print Name)

Witness Address

Witness (Signature) ______________________ JONATHAN MARK KAMPHUIS (in his personal capacity)

Witness (Print Name)

Witness Address
SCHEDULE “A”
Legal Description of Subject Lands

Tri-County Lands

Part of Lots 2 and 3, Concession 18 as more particularly described in Instrument No. MF 141727, in the Township of East Garafraxa, County of Dufferin and as set out in PIN No. 34083-0010 (LT).

Kamphuis Lands

Southwest Half of Lot 3, Concession 18, save and except Parts 1 and 2 as shown on Plan 7R 3679;

Togetherness with

Part of Lot 4, Concession 18, as shown on Plan 7R 4880 in the Township of East Garafraxa, County of Dufferin and as set out in PIN No. 340083-0132 (LT).
ATTACHMENT 5 – SITE PLAN