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# The Regional Municipality of Durham Report

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To: Planning and Economic Development Committee  
From: Commissioner of Planning and Economic Development  
Report: #2023-P-\*\*  
Date: November 7, 2023

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**Subject:**

Decision Meeting Report

Application to Amend the Durham Regional Official Plan, submitted by CBM Aggregates, to permit the expansion of Aggregate Resource Extraction Area No. 2 in the Township of Brock, File: OPA 2022-003.

Amendment #195 to the Durham Regional Official Plan

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**Recommendation:**

That the Planning and Economic Development Committee recommends to Regional Council:

- A) That Amendment #195 to the Durham Regional Official Plan to permit the expansion of an existing Aggregate Resources Extraction Area, as detailed in Attachment #3 to Commissioner's Report #2023-P-\*\*, be approved, and
  - B) That a "Notice of Adoption" be sent to the applicant, the Township of Brock, the Lake Simcoe Region Conservation Authority, the Ministry of Municipal Affairs and Housing, the Ministry of Natural Resources and Forestry, and to all persons or public bodies who made a submission or requested notification of the decision.
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**Report:****1. Purpose**

- 1.1 The purpose of this report is to recommend approval of an amendment to the Durham Regional Official Plan (ROP) to permit the expansion of Aggregate Resource Extraction Area #2 in the Township of Brock. A map illustrating the location of the subject site is provided in Attachment #1.

**2. Background**

- 2.1 An application to amend the ROP was submitted by Esher Planning Inc., on behalf of CBM Aggregates, a division of St. Mary's Cement Inc. (Canada) ("CBM") on July 18, 2022. The application was deemed complete on July 25, 2022.
- 2.2 Aggregate Resource Extraction Area #2 (known as the Sunderland Pit) is an existing licensed aggregate pit operated by CBM. The Sunderland Pit encompasses a total land area of 203 hectares (502 acres) and is comprised of three separate extraction areas (the North, Main and South Pits) that operate under Ministry of Natural Resources and Forestry Aggregate License 6538. Its current annual extraction limit is 1,250,000 tonnes.
- 2.3 The proposed expansion to the aggregate extraction area is east of the south pit. Further planning approvals from the Township of Brock are required, including approval of an Official Plan and Zoning By-law Amendment applications. Additionally, the Ministry of Natural Resources and Forestry (MNRF) is required to approve a new Aggregate License Site Plan under the Aggregate Resources Act (ARA).

**3. Subject Site and Surrounding Lands**

- 3.1 The area of proposed expanded license (the "subject site") is generally located on the north side of Brock Concession Road 2, south of Regional Road 13, and west of Sideroad 17. The site is municipally located at S895 Regional Road 13 and legally described as Part of Lot 7 & 8, Concession 2, Township of Brock.
- 3.2 The subject site is approximately 35.3 hectares (87 acres) in size, with extraction proposed to occur on 22.4 hectares (55 acres). The majority of the subject site is actively cultivated with no buildings or structures. The eastern portion of the subject site is adjacent to the Beaverton River Provincially Significant Wetland (PSW) Complex. Extraction will not occur within the PSW.

3.3 The following land uses surround the proposed expansion to the extraction area:

- North – Aggregate Resource Extraction Area #2 operated by St. Mary's Cement;
- East – Beaver River Provincially Significant Wetland;
- South – rural residential, woodlands and wetlands; and
- West – existing aggregate area, rural residential and agricultural uses.

#### **4. Aggregate Resources Act Application**

4.1 A license for a Category 1, Class A permit has been filed with the Ministry of Natural Resources and Forestry (MNRF). This type of permit is required by MNRF under the Aggregate Resources Act for pit operations which propose to extract aggregate material from below the established groundwater table. The subject application proposes extraction above and below the water table. Extraction above the water table will remove approximately 5 to 10 metres of material, and extraction below the water table would be to a depth of approximately 12 metres.

4.2 Extraction is to be conducted in phases, in accordance with progressive rehabilitation principles. Extraction would begin by entering the centre of the expansion area, then moving north and then south. Extraction below the water table would occur in three ponds located in the north, centre and south of the proposed pit. The proposed pit will utilize an existing entrance/exit to the north on Regional Road 13.

4.3 The Aggregate Site Plan illustrates a berm 4 metres in height to be constructed on the south side of the property. In response to public input, the berm would be increased to 6 metres in locations where extraction would occur below the water table. The berm will remain in place until final rehabilitation of the pit has occurred (see Attachment 2).

4.4 The extraction limit of 1,250,000 tonnes per year is not proposed to change (i.e., there will be no capacity increase due to the expansion). The license will extend the life of the existing operation.

#### **5. Provincial Plans and Policies**

5.1 The proposed expansion to the existing Aggregate Resource Extraction Area may be permitted by the Provincial Policy Statement (PPS), the Greenbelt Plan, and the Lake Simcoe Protection Plan (LSPP) subject to the following policies highlighted below.

## **Provincial Policy Statement**

- 5.2 The Provincial Policy Statement (PPS) requires natural features and hydrologic features to be protected for the long term. It further states that natural heritage systems should be maintained, restored or where possible, improved.
- 5.3 The PPS encourages mineral aggregate resources to be available as close to markets as realistically possible. It further requires mineral aggregate operations to be protected from development and other activities which would preclude or hinder their expansion, or continued use which would create incompatibility for public health, public safety, or environmental reasons.
- 5.4 Section 2.5.4 indicates that mineral aggregate resource extraction is permitted as an interim use in prime agricultural areas, provided that the site will be rehabilitated to an agricultural condition when the pit ceases to operate.

## **Greenbelt Plan**

- 5.5 Within the Greenbelt Plan, non-renewable resources such as mineral aggregates are recognized as building materials for communities and infrastructure. The Greenbelt Plan also recognizes the importance of providing aggregates close to market for both economic and environmental reasons.
- 5.6 The subject site is designated “Protected Countryside” in the Greenbelt Plan which permits mineral aggregate resource operations. The subject site is also within the Greenbelt Natural Heritage System. Aggregate operations within the Natural Heritage System shall be permitted, only if significant wetlands, habitat for endangered species and threatened species, and significant woodlots are protected.

## **Lake Simcoe Protection Plan**

- 5.7 The Lake Simcoe Protection Plan (LSPP) is a plan designed to protect and restore the ecological health of Lake Simcoe. It also applies to its watershed which includes the subject lands. Sections 4.16 to 4.21 apply to construction activities in the watershed. Section 4.19SA encourages the aggregate industry to adopt best management practices as a proactive measure to reduce potential contributions of phosphorus loading to the watershed.
- 5.8 Sections 4.20DP and 4.21HR apply to Mineral Aggregate Resource activities and require the following measures to be incorporated into the site plan agreements. Any site alteration is to be undertaken in a manner which incorporates the following measures:

- a. Keeping the removal of vegetation, grading and soil compaction to the minimum necessary to carry out the development activity;
- b. Removal of vegetation shall not occur more than 30 days prior to grading or construction;
- c. Putting in place structures to control and convey runoff;
- d. Minimizing sediment that is eroded offsite during construction;
- e. Seeding exposed soil once construction is complete and as season conditions permit; and
- f. Ensuring erosion and sediment controls are implemented effectively.

## **6. Durham Regional Official Plan**

- 6.1 The subject site is within the Regional Greenlands System and is designated “Prime Agricultural Areas” and “Major Open Space Areas” within the Regional Official Plan (ROP). Schedule ‘B’ – Map ‘B1d’ identifies key natural heritage and hydrologic features on the eastern portion of the site. As well, the subject site is wholly within the Greenbelt Natural Heritage System, a “high aquifer vulnerability area” and an area of High Potential Aggregate Resources.
- 6.2 Regional Road 13 is designated as a Type ‘B’ Arterial Road.
- 6.3 Policy 9D.2.2 of the ROP states that no new pits or expansion of existing pits or quarry operations will be permitted beyond the applicable Resource Extraction Areas identified in Schedule ‘A’ and described in Schedule ‘E’, Table ‘E1’, other than by amendment to the ROP.
- 6.4 Policy 9D.2.9 of the ROP indicates that an application to amend the Plan for aggregate-related industrial uses is to be accompanied by technical studies that assess potential impacts on water resources and natural heritage features, impacts related to noise and air quality, as well as truck traffic, haul routes, and any associated costs to the Region or area municipality.

## **7. Applicant’s Reports and Peer Review Conclusions**

- 7.1 In support of the application, the following technical reports were submitted:
  - “Planning Justification Report and Aggregate Resources Act Summary Statement”, dated July 2021, prepared by Esher Planning Inc.;
  - “Water Resources Assessment Report”, dated July 2021, prepared by Golder Associates Ltd.;

- “Natural Environment Technical Report”, dated July 2021, prepared by Golder Associates Ltd.;
- “Stage 1 and 2 Archaeological Assessment”, dated March 31, 2020, prepared by Golder Associates Ltd.;
- “Air Quality Impact Assessment”, dated March 2022, prepared by Golder Associates Ltd.;
- “Noise Impact Assessment Report”, dated July 2021, prepared by Golder Associates Ltd.; and
- “Aggregate Resources Act Site Plans”, dated July 2022, prepared by Harrington McAvan Ltd.

7.2 Some of the key findings and recommendations of the reports submitted in support of the application include the following:

### **Noise**

7.3 The Noise Impact Assessment concluded that predicted sound levels associated with the expansion area will operate below the noise limits established by the Province of Ontario. Noise within the site will be mitigated through the use of berms and equipment controls.

### **Air and Dust**

7.4 The Air Quality Assessment demonstrated that the proposed pit expansion can occur within the prescribed limits and provisions as set out by the Province of Ontario. The report concluded that no exceedances to the Province’s regulatory standards are expected, and no significant off-site dust is expected. On-site dust suppression will further reduce any dust impacts.

### **Natural Heritage**

7.5 The proposed rehabilitation plan is based on a progressive rehabilitation approach to restoring the site. The rehabilitation plan will require rehabilitation of each phase of the site prior to the commencement of extraction within other areas. Rehabilitation of the licensed area is expected to have a net-positive impact on the ecological conditions and functions of the valleyland through an increase in natural cover, increase in riparian buffer, and enhancing wildlife habitat.

## **Groundwater**

7.6 The Water Resources Report examined ground water quality and quantity and concluded that the below water extraction on the site can be carried out with no well interference or hydrogeological effects on groundwater in the area.

## **8. Consultation**

8.1 The proposed Official Plan Amendment application was circulated to a number of agencies for review and comment including the Township of Brock, the Ministry of Municipal Affairs and Housing (MMAH), the Lake Simcoe Region Conservation Authority (LSRCA), the Regional Works Department and the Regional Health Department.

## **Public Consultation**

8.2 The public meeting for the application was conducted at the Planning & Economic Development Committee meeting on September 6, 2022. At the meeting six delegations spoke regarding their concerns with the application. In addition, approximately 20 written submissions have been received from 12 residents to date. Concerns raised related to:

- Protection of the adjacent Provincially Significant Wetland;
- Protection of groundwater and wildlife;
- Noise and dust concerns;
- Potential flooding and damage to surrounding roads and infrastructure; and
- Concerns over impacts on property values.

## **Township of Brock**

8.3 On June 26, 2023, the Township of Brock Council directed staff to organize an in-person meeting with interested parties to investigate aggregate best practices that could be applied to the proposed extraction expansion area prior to considering a staff recommendation.

8.4 On July 26, 2023, a meeting was hosted by Township staff to hear from interested residents. A total of 22 residents appeared at the meeting who provided input on a variety of issues, including noise, dust, groundwater, roads and traffic, the natural environment and other issues.

8.5 Township staff subsequently met and reviewed the area resident comments with the proponent. In response to area resident concerns, the proponent agreed to a series of revisions to the ARA Site Plan package.

On September 11, 2023, the Council of the Township of Brock adopted a resolution supporting the approval of the ROP Amendment application subject to a number of revisions to the aggregate site plan, including that:

- The zoning by-law and site plan demonstrate that no extraction is to be permitted to take place in the EP zone;
- The annual groundwater monitoring reports be provided to the Township, as well as MNRF and the Region;
- The well water complaint protocol be revised to require that the Township should also be notified in the event of a complaint;
- A tree screen be included along Concession Road 2;
- A Community Liaison Committee be established;
- Notes be included on the Site Plan regarding the haul route and hours of operation;
- Erosion and Sediment Control fencing will be monitored after major rainfall events;
- All equipment be equipped with directional backup alarms to be used on site;
- A noise audit be completed on an annual basis to ensure the MECP noise limits are being adhered to;
- The berm along the southern limit of the licensed area be increased to a height of 6 metres, and that a single row of 1 metre high conifer trees be added as a visual screen across from the driveways on Concession 2;
- The plantings on top of the berm would be in addition to the tree screen at the base of the berm; and
- The trees on top of the berm would be removed as part of final rehabilitation, and the trees at the base of the berm would remain post extraction.

### **Ministry of Municipal Affairs and Housing**

8.6 On June 27, 2023, as part of the Province's "one-window" planning process, MMAH has advised that MMAH, the MNRF and the Ministry of Environment, Conservation and Parks (MECP) have no concerns with the application, or the reports submitted in support of the application.



## **Lake Simcoe Region Conservation Authority**

- 8.7 LSRCA has reviewed the application and the Natural Environment Report, the Water Resources Report and the Planning Justification Report. The LSRCA also reviewed supplemental information from the applicant's consultant to address outstanding issues.
- 8.8 On December 1, 2023, LSRCA confirmed that the application meets the requirements pertaining to natural heritage and natural hazards.

## **Other Agencies**

- 8.9 The application was circulated to Regional Works Department, Regional Health, the school boards and utility companies. None of these agencies raised any objection to the application.

## **Regional Peer Review**

- 8.10 R.J. Burnside was retained to undertake a peer review of the Air Quality Impact Assessment, Noise Impact Assessment, and Water Resources Assessment report and Dust Assessment reports.
- 8.11 Based on the peer review findings, R.J. Burnside concurred with the operation and mitigation recommendations contained in the technical reports. The peer review also recommended some additional measures be implemented in the approval of the future site plan, they included:
- a. On-site refueling should be restricted to areas where spill contaminant is in place; and
  - b. All annual reports completed for groundwater monitoring should be provided the Township of Brock along with a water complaint response plan.

## **9. Planning Analysis**

### **Natural Heritage**

- 9.1 Natural heritage features were identified within and adjacent to the subject site. A Provincially Significant Wetland is located at the southeast corner, and significant woodlands are located along the eastern boundary of the site. Aggregate extraction can occur adjacent to the PSW where it is determined that there will be no adverse impacts to the features or its ecological function. The Region's peer reviewer and LSRCA have confirmed that the proposed pit expansion and rehabilitation will not

adversely affect the function of on-site or off-site key natural heritage or hydrologic features. In order to protect and enhance the natural heritage features, a series of mitigation measures will be implemented, including:

- a buffer/limit of extraction from the Provincially Significant Wetland;
- a tree screen which will include a mix of native and indigenous species;
- erosion and sediment control fencing; and
- a progressive rehabilitation plan that is expected to result in a net-positive impact on the ecological functions of the valleyland, increase in riparian buffer and enhancing wildlife.

- 9.2 Rehabilitation of the site will include three separate ponds surrounded by nearshore, riparian and upland habitats. The rehabilitation plan will use non-invasive species. Side slopes will be graded to a 3:1 slope to ensure stability. The remainder of the site will include tree and shrub plantings between the adjacent PSW and the rehabilitated pit.
- 9.3 The Region's Peer Review Consultant concluded that the extraction boundary is sufficiently set back so that there will be no direct impacts on the PSW or significant woodland. In addition, a number of mitigation measures will be required and form conditions on the Aggregate Resources Act Site Plan with the MNRF.
- 9.4 The Lake Simcoe Region Conservation Authority (LSRCA) and the Region's peer reviewer have reviewed the application and technical studies in support of the proposed application, including a review of the Water Resources Report. Their review of the proposed extraction of resources, both above and below the water table have confirmed that the aggregate pit expansion is not expected to negatively impact the quantity and quality of groundwater in the area.
- 9.5 A groundwater monitoring program will be initiated prior to any extraction taking place below the water table. A private well survey is also to be completed by an independent third party for all residences with 500 metres of the site, subject to the landowner's permission. The monitoring program will continue during extraction activities.
- 9.6 Water level and quality monitoring will be documented in an annual report by a qualified professional by April 30 of each year, and will be available to MNRF, Durham Region and Brock Township for review for the duration of the extraction.

- 9.7 A contingency plan, including the establishment of water well complaint plan should any impacts arise, provides for a number of options and specific actions to ensure there is no impact on groundwater quality and quantity.

### **Noise Impact Assessment**

- 9.8 The Region's peer review has confirmed that the implementation of noise mitigation measures will allow the proposed aggregate pit expansion to comply with Ministry of Environment and Climate Change (MOECC) noise guidelines. Noise mitigation measures such as: limits on hours of extraction operations and shipping, acoustical berms, equipment quantity and noise emission restrictions have been recommended and incorporated into the proposed Aggregate Licence Site Plan.
- 9.9 The application does not increase the current level of production of the existing licensed pit, so the associated truck traffic volumes will remain the same. The movement of aggregate by trucks will be restricted to existing haul routes and the existing site entrance/exit located to the west on Regional Road 13. Movement of aggregate on site will continue through the tunnel under Regional Road 13. In addition, trucks will not be permitted to use Brock Concession Road 2 or Sideroad 17 except for local deliveries.

### **Air Quality Impact Assessment**

- 9.10 The Region's peer review of the technical studies has confirmed that the expected levels of dust created by the expanded aggregate extraction area would comply with the applicable provincial legislation and regulations.
- 9.11 On-site mitigation measures will include dust suppression through the application of water on internal haul roads and areas of loader activity. Progressive rehabilitation of the site will occur so that the area of extraction that may be exposed to wind erosion is minimized.
- 9.12 The peer reviewer has concluded that with the inclusion of mitigation measures, no exceedances of the Provincial regulatory standards are expected, and no off-site dust is expected. The peer reviewer is satisfied that the applicant's and agencies' proposed recommended conditions of the Aggregate Resources Act Site Plan can adequately mitigate dust from the aggregate operation.

## Commentary

- 9.13 The application is consistent with the policies of the PPS. Policy 2.3.6.1 permits aggregate extraction within prime agricultural areas. Section 2.5.2.1 encourages the establishment of new Aggregate Resource Extraction Areas to be as close to markets as possible. Section 2.5.3 of the PPS outlines the requirements for Progressive and Final rehabilitation of aggregate extraction areas for subsequent land uses. The expansion will provide access to additional aggregate resources within proximity to urban and rural markets. Consideration has been provided for impacts on the natural environment as well as surrounding land uses. Appropriate mitigation measures have been included. Details regarding the progressive and final rehabilitation of the site have been included as part of the Aggregate Resource Act Site Plan submission and conditions.
- 9.14 The proposed expansion conforms with the policies of the Greenbelt Plan. Through the application review process and review of technical documents, the applicant has demonstrated that the proposed buffers / limits of extraction are adequate, and that there will be no adverse impacts to the function of key natural heritage or key hydrological features. Further, the applicant has demonstrated that the connectivity between the features will be maintained.
- 9.15 Through the application and technical review process, a series of recommended mitigation measures and conditions have been included in the Aggregate Site Plan which demonstrate the proposed aggregate pit expansion is consistent with the policies of the LSPP.
- 9.16 The ROP may permit expansions of Aggregate Resource Extraction Areas by way of amendment, subject to a number of criteria. The technical reports, the Region's peer review process, and the inclusion of a specific mitigation measures in the Site Plan conditions, has demonstrated that the impacts from the proposed expansion to Aggregate Resource Extraction Area #2 will have minor impacts that fall within all regulatory limits. The proposed amendment conforms to applicable ROP policies, including regional policies addressing impacts to human health and the natural environment.

## 10. Proposed Amendment

- 10.1 Proposed Amendment #195 revises Schedule 'E' – Table 'E1' by changing the existing area from 203 hectares (502 acres) to 238 hectares (588 acres) for Aggregate Resource Extraction Area #2 (see Attachment #3).

## **11. Notice of Meeting**

- 11.1 Written notification of the meeting time and location of Planning & Economic Development Committee was sent to all who made oral or written submissions or requested notification, in accordance with Regional Council procedure.
- 11.2 The recommendation of the Planning & Economic Development Committee is scheduled to be considered by Council on November 29, 2023. If Council adopts the amendment, Council's decision will be final unless appealed.

## **12. Relationship to Strategic Plan**

- 12.1 In the processing of ROP Amendment applications, the objective is to ensure responsive, effective, and fiscally sustainable service delivery in accordance with Goal 5 of the Durham Region Strategic Plan (DRSP), "Service Excellence".
- 12.2 Goal 3 of the DRSP also promotes Economic Prosperity. The amendment specifically supports the objective to build a strong and resilient economy that maximizes opportunities for business and employment growth.

## **13. Previous Reports and Decisions**

- 13.1 On September 6, 2022, the Planning and Economic Development Committee received the Public Meeting Report #2022-P-17, which includes details of the proposed application.

## **14. Conclusion**

- 14.1 Through the comprehensive review of the application and its supporting documentation, it has been determined that the proposed amendment to expand Aggregate Resource Extraction Area No. 2 conforms to and is consistent with the applicable Provincial policies and the ROP. The studies submitted in support of the amendment and the peer review process has demonstrated that the proposal meets the criteria outlined in the ROP for the expansion of an Aggregate Resource Extraction Area.
- 14.2 Approval of the proposed ROPA by Regional Council will allow the Township of Brock to adopt Official Plan and Zoning By-law amendments permitting the expansion of the aggregate operation. The approval of the ROPA will also allow the Aggregate Resources Act application to be further considered by the MNR.

14.3 It is recommended that the application for Regional Official Plan amendment to allow the proposed expansion of Aggregate Resource Extraction Area #2 be approved, as set out in Attachment 3 to this report.

**15. Attachments**

Attachment #1: Location Sketch

Attachment #2: Site Plan

Attachment #3: Amendment #195 to the Durham Regional Official Plan

Respectfully submitted,

Original signed by

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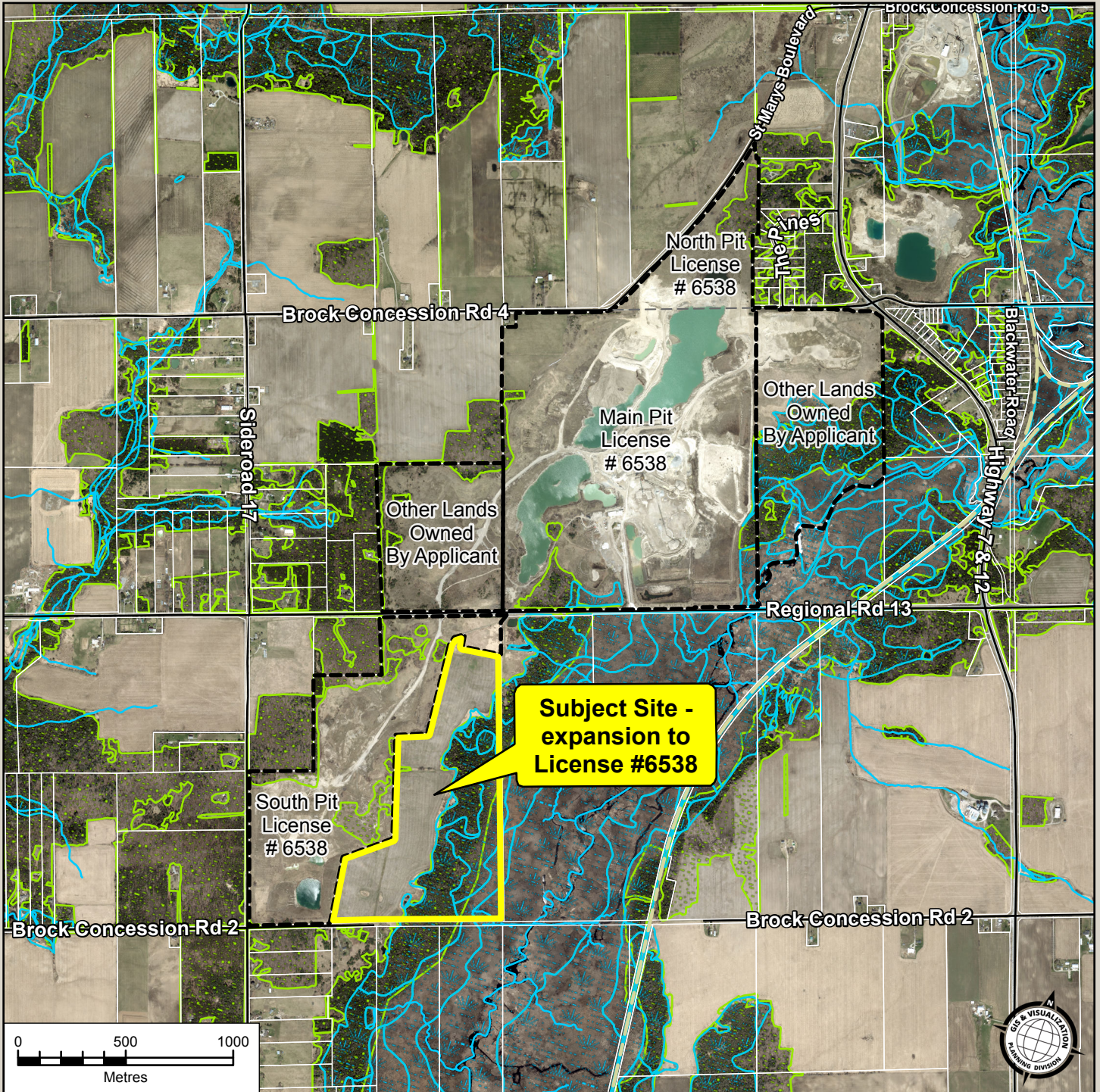
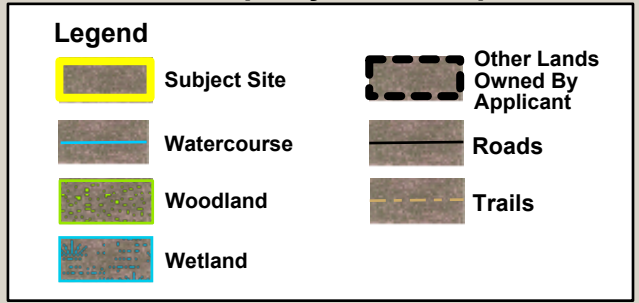
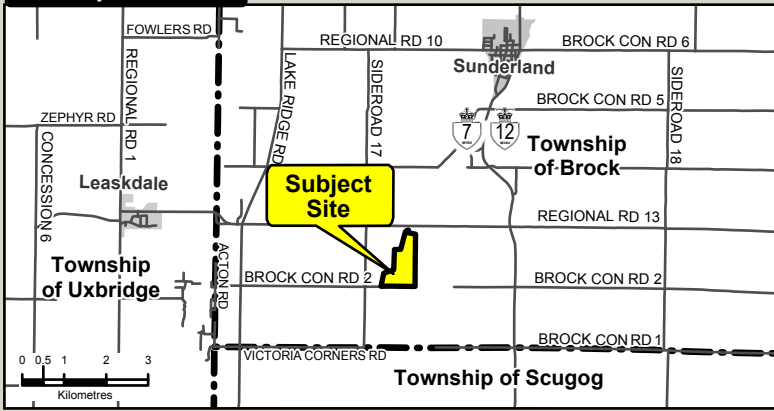
Brian Bridgeman, MCIP, RPP, PLE  
Commissioner of Planning and  
Economic Development

Recommended for Presentation to Committee

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Elaine C. Baxter-Trahair  
Chief Administrative Officer

**Municipal Context**



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### Amendment #195 to the Regional Official Plan

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**Purpose and Effect:** The purpose and effect of this Amendment is to the Durham Regional Official Plan is permit an expansion of Aggregate Extraction Area #2 in the Township of Brock.

**Location:** The subject site is located at the southside of Regional Road 13, west of Sideroad 17. The site is municipally addressed as S895 Regional Road 13 and legally described as Part of Lot 7 & 8, Concession 2, Township of Brock

**Basis:** The Durham Regional Official Plan allows for the expansion of Aggregate Resource Extraction Areas subject to a number of criteria. Through the review of technical reports and the peer review process the application was evaluated based on the criteria of the Official Plan. It was determined that the proposed expansion meets all applicable Official Plan policies and Provincial plans and policies.

**Amendment (current Regional Official Plan – 2020 Consolidation):**

The Durham Regional Official Plan is hereby amended by changing the size of Aggregate Resource Extraction Area No. 2 as follows:

*“Schedule E – Table ‘E1’ – Aggregate Resource Extraction Areas*

<i>Area Identified on Schedule ‘A’</i>	<i>Former Municipality</i>	<i>Lot(s)</i>	<i>Concession(s)</i>	<i>Area (ha)</i>
2	<i>Brock Twp.</i>	<i>Parts of 7, 8 &amp; 9 Parts of 9 &amp; 10 Part of 10</i>	<i>2 3 4</i>	238.2

**Implementation:** The provisions set forth in the Durham Regional Official Plan regarding the implementation of the Plan shall apply with regards to the Amendment.

**Interpretation:** The provisions set forth in the Durham Regional Official Plan regarding the interpretation of the Plan shall apply with regards to this Amendment.