



## PLANNING REPORT for the TOWNSHIP OF PUSLINCH

Prepared by the County of Wellington Planning and Development Department

**MEETING DATE:** November 30<sup>th</sup>, 2022  
**TO:** Glenn Schwendinger, CAO  
Township of Puslinch  
**FROM:** Zach Prince, Senior Planner  
County of Wellington  
**SUBJECT:** **PUBLIC MEETING – 2374868 Ont Inc (Badger)**  
**Zoning By-law Amendment Application D14/BAD**  
**Part of Lot 8, Concession 3**  
**6678 Wellington Road 34**  
**ATTACHMENTS:** **1 – Aerial of Subject Lands**  
**2 – Sketch Provided by Applicant**

### SUMMARY

The purpose of this application is to amend the Township of Puslinch Zoning By-Law 23-2018 to permit an existing vacuum truck operation. The operation includes an existing office, parking for trucks and employees and materials handling and sorting facilities. The use operates on a site that is an active gravel pit license (Wellington Pit 5). The pit is licensed to Capital Paving however the use is operated by Badger.

A public meeting is scheduled for November 30<sup>th</sup>, 2022. This report provides a preliminary overview of the proposal, highlights key planning policies to be considered, details comments received to date and explains the next steps in the planning review process.

It is recommended that this Public Meeting Report regarding the proposed Zoning By-law Amendment D14/BAD be received for information.

### INTRODUCTION

The subject property is legally known as Part of Lot 8, Concession 3 and municipally known as 6678 Wellington Road 34 within the Township of Puslinch. The lands are approximately 38.22 ha (94.4 ac) and contains an existing building used for office space, a detached accessory structure (former primary dwelling), agricultural building. The immediate surrounding properties include an existing gravel pit, County of Wellington owned lands (Little Tract and Brad Whitcombe Green Legacy Tree Nursery), agriculture, and rural residential uses. A subject property map is identified in **Attachment 1**.

### PROPOSAL

The purpose of the Zoning By-law amendment is to rezone the subject property, which is currently zoned as EX1(sp63), to add the existing vacuum truck business as a permitted use. The property has two (2) site specific zones. The proposed use operates on the Extractive zoned portion of the site only. The subject lands are accessed via an existing driveway onto Wellington Road 34 which is also used as a haul access for the aggregate operation. The use includes parking for the vacuum trucks, parking for employees, unloading liquid soil that is then screened and stored. The soil that is brought to site via the vacuum trucks is collected from properties throughout Southern Ontario and is a mixture of water and soil. Once brought to the site, the soil is stock piled, dried, tested and eventually used as fill as part of the rehabilitation for

the gravel pit on the subject property. The existing agriculturally zoned portion of the property A(sp13) is proposed to remain.

The subject property is designated as Secondary Agricultural in the County's Official Plan (OP) and the applicant is proposing that the use meets the small scale commercial use permissions within the OP. A sketch prepared by the applicant has also been provided and can be seen in **Attachment 2**.

## **BACKGROUND**

The property is licensed as an aggregate pit - Wellington Pit #5 operated by Capital Paving Inc. (License number 20085). The applicant has indicated that the section of the pit that is subject of this application is in the rehabilitation phase of the pit's lifecycle.

The vacuum truck use and office building do not appear on the existing Aggregate Resources Act (ARA) site plans for this pit. Further, The Township does not have building permit information for the office building; however, the applicant has indicated the size is approximately 650m<sup>2</sup>. Based on aerial photos it appears that a dwelling and other structure may have been removed since the initial aggregate pit site plan in 2003. The applicants have indicated the approximate area of 3 septic systems on site which services the barn, office and dwelling. The applicant has indicated that the use has existed for approximately 9 years on the property; however, there is no municipal record that staff are aware of.

## **SUPPORTING STUDIES AND REPORTS**

- Planning Rationale Report, prepared by GHD, dated December 2021
- Stormwater Management Report, prepared by GHD, dated April 14, 2022; updated August 25<sup>th</sup>, 2022
- Environmental Impact Assessment, prepared by GHD, dated May 10<sup>th</sup>, 2022; updated August 10<sup>th</sup>, 2022
- Design and Operations Report Waste Processing Facility, prepared by GHD, dated February 2, 2021.
- Acoustic Assessment Report, prepared by GHD, dated January 7, 2021.
- Erosion and Sediment Control Plan, Sheet No. C-02, prepared by GHD, dated December 13, 2021.
- Traffic Operations Assessment, prepared by GHD, dated December 13, 2021.
- Environmental Emergency and Contingency Plan 2374868 Ontario Inc.
- Approximate Locations of Septic Systems Figure, prepared by GHD, dated December 2021.
- MNRF Rehabilitation Plan Map by Harrington and Hoyle Ltd., dated March 20, 2003.

## **PLANNING POLICY REVIEW**

### **PROVINCIAL POLICY - PROVINCIAL POLICY STATEMENT (PPS 2020)**

The PPS provides a policy framework on matters of provincial interest and guides land use planning and development within the Province of Ontario. As the subject lands are located outside of a settlement area, the Rural Area and Land use policies apply. All land use decisions must be consistent with Provincial policy and included below are several key policies set out within the PPS that Council will need to consider.

#### *Rural Areas*

Section 1.1.4 states that Rural Areas are a system of lands that may include rural settlement areas, rural lands, prime agricultural areas, natural heritage features and areas, and other resource areas. In accordance with Section 1.1.4.1 "a) Building upon rural character, and leveraging rural amenities and assets". Although rural settlement areas shall be the focused of growth and development, Section 1.1.4.4. further states that "Growth and development may be directed to rural lands in accordance with policy 1.1.5...". Section 1.1.5 of the PPS provides direction for Rural Lands in Municipalities.

Section 1.1.5.2, further provides permitted uses including “a) the management or use of resources, c) residential development that is locally appropriate, d) agricultural uses... and g) other rural land uses.” More specifically, Section 1.1.5.7 of the PPS states that the opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and directing non-related development to areas where it will minimize constraints on these uses. With Section 1.1.5.8 requiring new land uses, including the creation of lots, to comply with the minimum distance separation formulae.

#### *Natural Heritage*

Section 2.1 of the PPS provides direction for Natural Heritage. Specifically, Section 2.1.1 states that, “natural features and areas shall be protected for the long term” and Section 2.1.2 states that, “the diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.” Development and site alteration within or adjacent to significant wetlands and woodlands is not permitted unless there are no negative impacts.

#### *Water*

Section 2.2.1 states that planning authorities shall protect, improve or restore the quality and quantity of water by: including “b) minimizing potential negative impacts, including cross-jurisdictional and cross-watershed impacts; i) ensuring stormwater management practices minimize stormwater volumes and contaminant loads, and maintain or increase the extent of vegetative and pervious surfaces. Further 2.2.2 states “Development and site alteration shall be restricted in or near sensitive surface water features and sensitive groundwater features such that these features and their related hydrogeological functions will be protected, improved or restored.”

#### *Mineral Aggregate*

Section 2.5 provides policies regarding Aggregate Resources including Section 2.5.2 which protects the long term supply of Aggregate Resources from development and activities that would preclude or hinder their expansion or continued use. Further, the Section 2.5.3.1 requires progressive and final rehabilitation to take place that promotes land use compatibility and recognizes the interim nature of extraction.

### **PROVINCIAL POLICY – A PLACE TO GROW, PROVINCIAL GROWTH PLAN (2020)**

Similar to the PPS, the Growth Plan directs growth to settlement areas, unless where otherwise permitted. Section 2.2.9 establishes policies for Rural Areas. Within Rural Areas, there are Rural Lands, which are defined as “lands which are located outside of settlement areas and which are outside prime agricultural areas”. Further, Section 2.2.9.3 permits similar uses to the PPS including development outside of settlement for c) other rural land uses that are not appropriate in settlement areas provided they: “i. are compatible with the rural landscape and surrounding land uses, ii. sustained by rural service levels and iii. not adversely affect agricultural uses or resource-based uses.”

### **WELLINGTON COUNTY OFFICIAL PLAN**

The subject property is designated as Secondary Agricultural, Core Greenlands and Greenlands within the County of Wellington Official Plan. Identified features include Environmentally Sensitive Area and Significant Woodlands. The subject lands are located within the Paris Galt Moraine Policy Area. Further, the lands are identified as a sand and gravel resource of Primary and Secondary Significance in Schedule C and Appendix 2 of the Official Plan and within a Licensed Aggregate Operation.

#### *Secondary Agricultural Area*

The Secondary Agricultural area allows for small scale commercial or industrial uses subject to the criteria in Section 6.5.4; "Small scale commercial, industrial and institutional uses may be permitted provided that:

- a) appropriate sewage and water systems can be established;
- b) the proposed use is compatible with surrounding uses;
- c) the use requires a non-urban location due to:
  - market requirements;
  - land requirements;
  - compatibility issues.
- d) the use will not hinder or preclude the potential for agriculture or mineral aggregate operations;"

The applicant is of the opinion this proposal meets these criteria; however, will need to demonstrate to the satisfaction of staff that the above requirements can be met for the use.

#### *Mineral Aggregate Overlay*

Section 6.6 provides policies regarding the Mineral Aggregate Overlay area including Section 6.6.3 which states that "Existing licensed mineral aggregate operations are permitted and shall be recognized in Municipal zoning by-laws...These operations will be protected from new uses which would preclude or hinder their expansion or continued use, or which would be incompatible due to public health, public safety or environmental concerns."

Section 6.6.4 provides permitted uses in the Mineral Aggregate Overlay and states that "In addition to the uses allowed in the underlying designation, the following uses may be allowed in the Mineral Aggregate Area through rezoning:

- a) aggregate extraction;
- b) associated uses such as stripping, berm construction, screen planting, landscaping, drilling, blasting, haulage, crushing, screening, washing, stockpiling, storage, loading, weighing, equipment parking, repair and maintenance, office facilities, importing and blending materials, environmental and safety control features and rehabilitation uses;
- c) ancillary uses such as asphalt plants, concrete plants, aggregate transfer stations, stockpiling and blending of aggregates with materials such as salt, sand-salt mixture and recycled road material."

Further, the Official Plan provides policies for ancillary uses in Section 6.6.7. Ancillary uses may only be established if the following matters are addressed;

- a) the protection of adjoining lands from the negative effects of a reduced water supply, noise, dust, odour, lighting and unsightly storage;
- b) the protection of the environment from negative effects of dust, chemical spills, run-off, or contaminated surface or ground water; and
- c) ensuring that access can be obtained directly to a road capable of carrying the anticipated truck traffic

Regarding Rehabilitation, the Official Plan provides policies in Section 6.6.8 including, that "all proposals for new aggregate extraction shall include a plan for eventual rehabilitation. The plan shall:

- a) provide for progressive rehabilitation whenever feasible;
- b) be prepared in detail by a recognized expert;
- c) be compatible with the long term uses permitted by the surrounding official plan designations;

e) on lands designated Secondary Agricultural Areas, provide an agricultural rehabilitation plan which, whenever feasible, restores substantially the same areas and average soil quality for agriculture as before extraction occurred.”

#### *Groundwater*

Section 4.9.3 states that it is the County’s intent that the development of public and private uses will not negatively impact groundwater recharge or discharge, impair groundwater or surface water quality, negatively impact municipal groundwater supply. Further, Section 4.9.4 provides policy direction that Wellington County commits to pursuing the following directions relating to water resources:

a) ensure that land use planning contributes to the protection, maintenance and enhancement of water and related resources and aquatic systems on an integrated watershed management basis;

b) protect surface and groundwater quality and quantity through the use of regulatory and voluntary means of prohibiting, restricting or influencing land uses and activities

#### *Source Water Protection*

The subject property is located within a Wellhead Protection Area and the County’s Risk Management Official has provided comments on the initial submission. These comments have been included within the Agency and Public Comments section.

#### *Greenland System*

The Official Plan recognizes that the features and areas identified in the Plan function as a System and that this System will be protected, maintained and enhanced. Section 5.4 provides policies for the Core Greenlands which is specific to all wetlands, habitation of endangered or threatened species or fish habitat and hazardous areas. Section 5.5 provides policies specific to Greenlands, which includes significant woodlands, and a need to demonstrate no negative impacts.

### **ZONING BY-LAW**

According to Schedule ‘A’ of Zoning By-law No. 023-18 the subject property is zoned Agricultural Site Specific [A(sp13)], Extractive Site Specific [EXI(sp63)], and a portion of the lands are subject to the Township’s Environmental Protection Overlay. The zoning limits can be seen in **Attachment 1**.

The existing Agricultural site specific zone is located at the front of the property permits an existing kennel, temporary haul route and landscape berms. Additionally, the provisions clarify that temporary means that “until such time as the extraction use being carried out is completed” when considering the haul route.

The Extractive site specific zone permits all uses within the EXI zone and the following; “The extraction of aggregate resources shall not occur below any point which is 1 m above the high water table with the exception of those areas identified on the approved Site Plans accompanying the Pit License. The total area which may be extracted below the water table shall not exceed 7.5 ha (18.5 acres) of the license area.”

The existing zoning reflects the gravel pit operation on the site which the applicant has indicated that the gravel pit portion that is on the subject lands is in the rehabilitation stages. The applicant has indicated that the existing use operates exclusively on the lands that are zoned EXI(sp63).

When drafting an amending Zoning By-law and in considering this application, some key items that will need to be considered include: (i) permissions under the Planning Act vs. the Aggregate Resources Act; (ii) the appropriateness of the use including conformity with Provincial policy and the County of Wellington

Official Plan, the scale and compatibility of the proposal; and (iii) the type of zoning application suited for the use.

## AGENCY AND PUBLIC COMMENTS

This application was circulated to statutory agencies by the Township of Puslinch. The following comments have been provided at the time of preparation of this report are summarized below:

- **Township Engineer (GM Blue Plan):** Concerns raised regarding the stormwater run off, the infiltration of groundwater, and the design of the pond given that there is no outlet structure, lining, or sediment forebay for the pond.
- **Groundwater Comments (Harden Environmental):** There are obvious and significant concerns regarding the disposal of untested soil/water slurries in unlined ponds at the site with the intention of allowing the water to recharge the underlying aquifer. In some hydrogeological settings this activity may be appropriate and the risk manageable with appropriate groundwater monitoring. These conditions are not present at this site. The site-specific activity of disposing soil/water slurries into unlined basins should not be permitted at this site. It is our opinion that groundwater monitoring is a reactive and not proactive solution to addressing the potential contamination of the underlying aquifer.
- **Noise Assessment (Valcoustics):** Comments were provided regarding the methodology of the acoustic assessment.
  - **Planning Comment:** The applicant has submitted a response to the comments but not a revised report. Further comments may be received based on the information to date.
- **Environmental Impact Assessment (Dogan & Associates):** Concerns were raised regarding endangered species monitoring. The current report does not demonstrate the proposed land use is in compliance with Wellington County Official Plan Policy nor does it provide sufficient information on the proposed land uses to demonstrate no negative impacts.
  - **Planning Comment:** The applicant has submitted a revised EIA which more comments may be provided. Generally, the proposed use is located outside of the identified features on the site.
- **Source Water Protection:** Private or domestic drinking water wells are located in close proximity to the site whereas the nearest municipal well is approximately 5 kilometres from the site. Based on the submitted documents, the following potentially significant drinking water threat activities, as outlined in the Clean Water Act and associated regulations, are proposed or more information is required: winter maintenance activities, consumptive water taking and reduction to groundwater recharge. Additional comments will be provided at the site plan stage of the development.
- **Grand River Conservation Authority (GRCA):** Located outside of GRCA jurisdiction.

### Additional Comments:

- **Planning Development and Advisory Committee (PDAC):** The application was discussed at the PDAC meeting held on November 8<sup>th</sup>, 2022. Formal minutes have not been adopted by council at this but comments include; concerns with how soil is processed and potential for contaminants.

Concerns with trucking operations in the rural area and concerns with how groundwater is being tested.

- **Public Comments:** At the time of this report, it is understood that formal written comments have not been provided in response to the notices issued for this application.

Staff and agencies submitted a number of initial comments in June and July 2022 and the applicant has submitted responses to the initial comments, including a resubmission of the stormwater management report and Environmental Impact Assessment. At this time agencies and staff are reviewing the responses to the initial comments and may have more comments.

### **Additional Items for consideration**

With respects to the Aggregate Resources Act and the existing license on site, planning staff are of the opinion that there are limitations on the ability to approve a *Planning Act* application once a license is issued to a property is. As such, the aggregate license may need to be removed from the property to allow the business to be appropriately zoned. Additional discussions regarding this item will be required.

Staff will also need to consider other regulations that may effect the subject lands such as the excess soil requirements to facilitate rehabilitation of pits and quarries. Changes to the excess soil regulations did occur in 2022.

Based on the nature of the business, consideration of a temporary use by-law may be warranted until such time that the pit is rehabilitated at which time the operation would no longer be permitted to operate. The applicant has indicated that there will be approximately 10 more years to rehabilitate the pit.

It is understood that the applicants will also need environmental compliance approvals (ECA) from the Ministry of Environment, Conservation and Parks (MOECP) and that an ECA will be required for air and noise and also industrial sewage works for the use itself. It is further understood that the applicant has withdrawn its ECA applications from the MOECP so that the local approval process can be undertaken first. Planning staff will consider the timing of this approval relative to Ministry approvals and how concerns raised by the Township's consultants can be addressed.

### **NEXT STEPS**

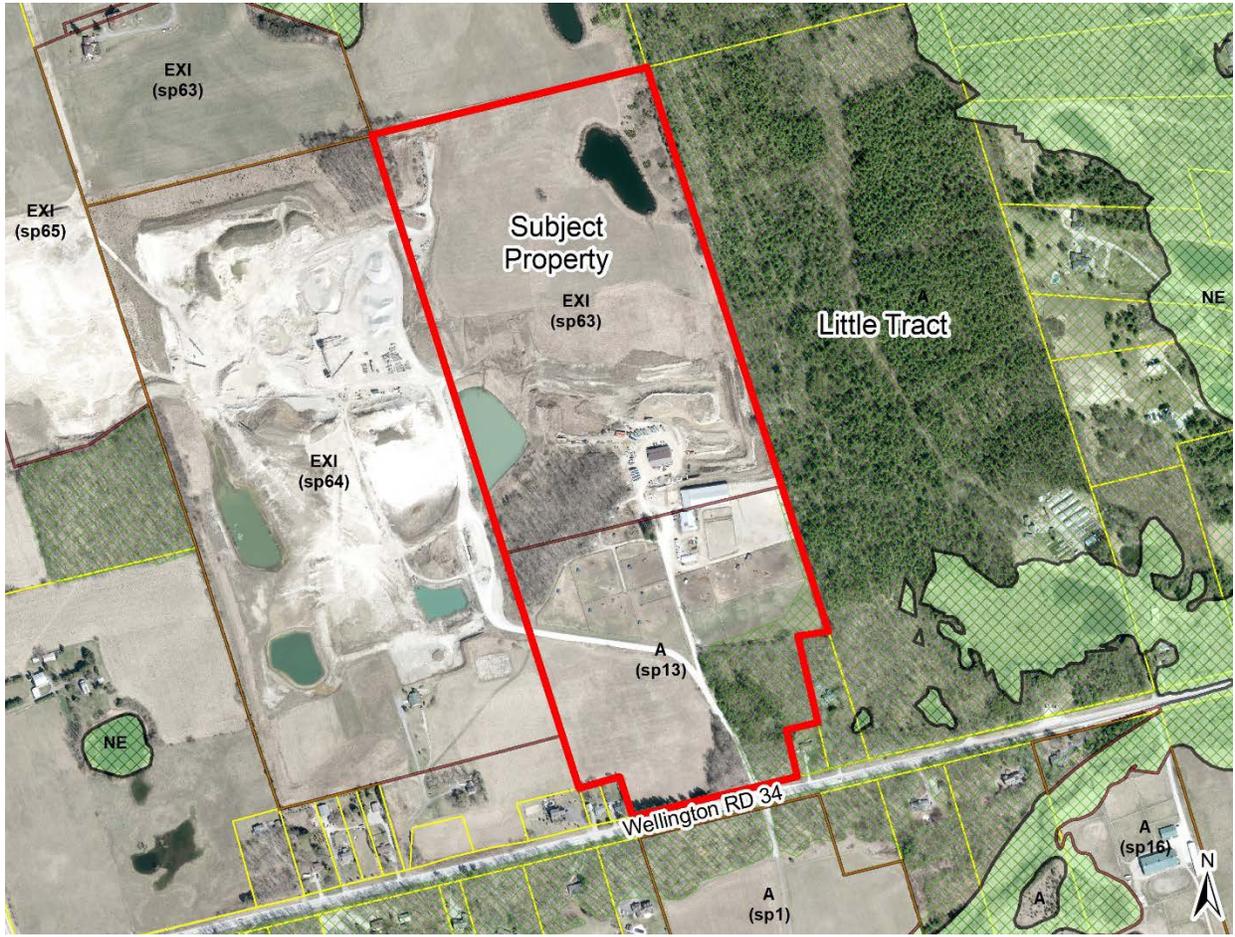
The public meeting for this application is scheduled for November 30<sup>th</sup>, 2022. We will be in attendance at the public meeting to hear the applicant's presentation and any public comments. Our planning recommendations will be provided following the public meeting and resolution of outstanding issues.

Respectfully submitted,  
County of Wellington Planning and Development Department

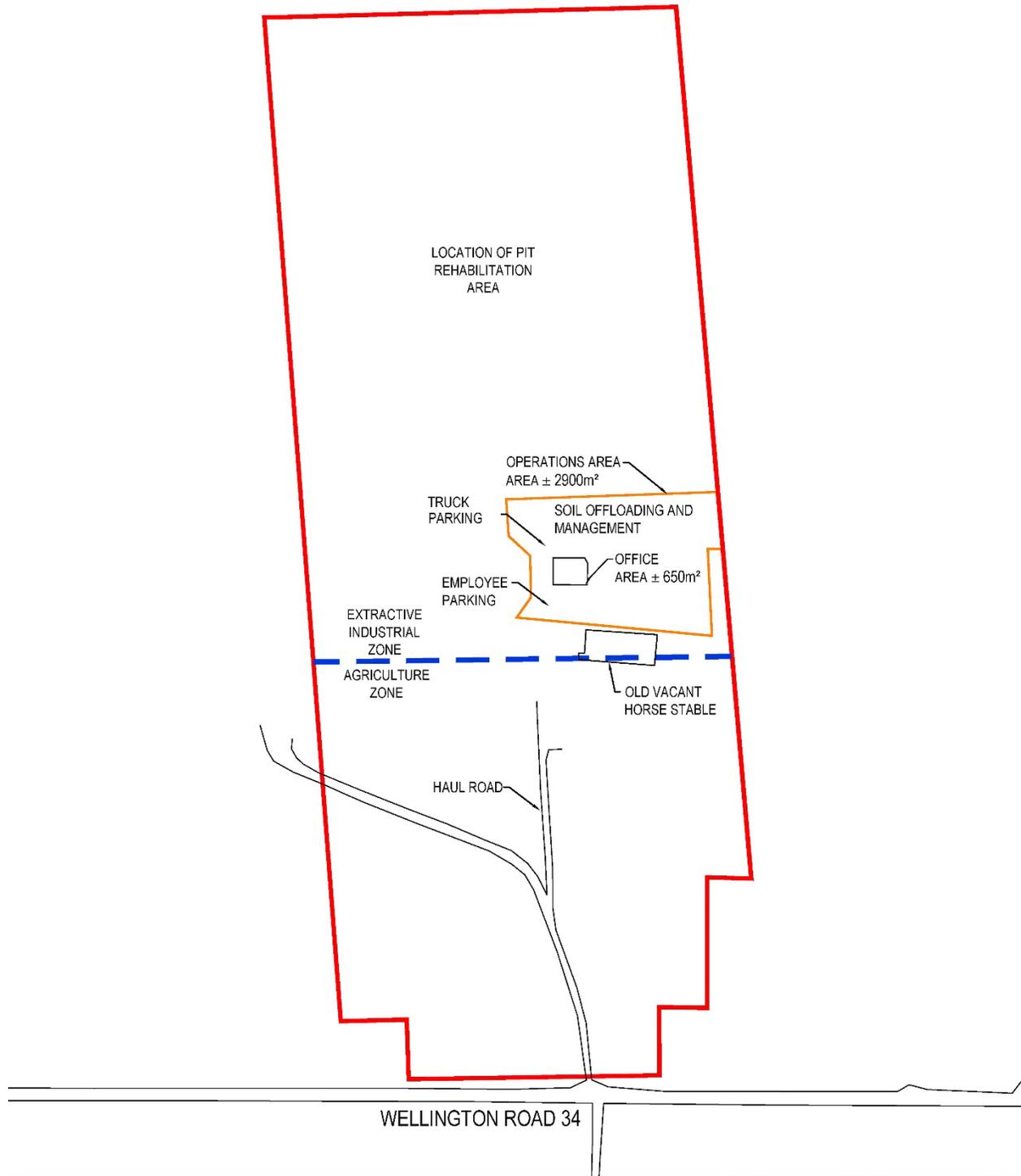


Zach Prince MCIP RPP  
Senior Planner

**ATTACHMENT 1 – Aerial of Subject Lands**



**ATTACHMENT 2 - Sketch provided by Applicant**



**LEGEND**

- SITE OPERATION BOUNDARY
- SITE



BADGER CONESTOGA INC.  
 6678 WELLINGTON ROAD 35  
 CAMBRIDGE ONTARIO  
**CONCEPTUAL PLAN OF  
 EXISTING SOILS OPERATION**

Job Number | 11210005  
 Revision | A  
 Date | DEC 2021  
**Figure 02**

Plot Date: 20 December 2021 - 12:13 PM

Plotted by: Jo-Anne Theurer

11 Allstate Parkway, Suite 310, Markham Ontario L3R 9T8 T 1 905 752 4300 F 1 905 752 4301 E ytomail@ghd.com W www.ghd.com  
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