

**THE CORPORATION OF THE TOWN OF GEORGINA**

**REPORT NO. CAO-2015-0001**

**FOR THE CONSIDERATION OF  
COUNCIL**

**APRIL 22, 2015**

**SUBJECT: APPLICATION FOR SITE ALTERATION PERMIT  
BALDWIN 33 INCORPORATED**

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**1. RECOMMENDATION:**

1. That Council receive Report No. CAO-2015-0001 prepared by the Office of the Chief Administrative Officer dated April 22, 2015 respecting an application for a Site Alteration Permit with respect to Baldwin 33 Incorporated.

**2. PURPOSE:**

As per the direction of Council on April 9, 2014, to provide a follow up report on the matter of the Baldwin 33 Inc. application for Site Alteration Permit.

**3. BACKGROUND:**

With the passing of the *Municipal Act, 2001*, section 142. introduced the following language:

“Site alteration

Definition

142. (1) In this section,

“topsoil” means those horizons in a soil profile, commonly known as the “O” and the “A” horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat. 2001, c. 25, s. 142 (1).

Powers of local municipality

(2) Without limiting sections 9, 10 and 11, a local municipality may,

(a) prohibit or regulate the placing or dumping of fill;

(b) prohibit or regulate the removal of topsoil;

(c) prohibit or regulate the alteration of the grade of the land;

(d) require that a permit be obtained for the placing or dumping of fill, the removal of topsoil or the alteration of the grade of the land; and

(e) impose conditions to a permit, including requiring the preparation of plans acceptable to the municipality relating to grading, filling or dumping, the removal of topsoil and the rehabilitation of the site. 2006, c. 32, Sched. A, s. 76 (1).”

On April 26, 2011, in Report No. EPW-2011-0015 staff recommended the adoption of a new Site Alteration By-law under section 142. of the *Municipal Act*, 2001 (Attachment 1).

The resulting by-law, being By-law 2011-0044, was adopted on April 26, 2011 (Attachment 2).

In response to an application for a Site Alteration Permit filed by Baldwin 33 Inc., on October 15, 2013 Council received Report No. OED-2013-0050 (Attachment 3) and held a public meeting as required by the Site Alteration By-law. Minutes of the Public Meeting are attached (Attachment 4).

On April 9, 2014 a subsequent report pertaining to the Baldwin 33 Inc. application was submitted (Attachment 5), and a second public meeting was held. Minutes of the Public Meeting are attached (Attachment 6).

The direction from Council on April 9, 2014 was as follows:

Moved by Councillor Szollosy, Seconded by Councillor Davison

RESOLUTION NO. C-2014-0238

1. That Council receive Report No. OED-2014-0010 prepared by the Operations and Engineering Department dated April 9, 2014 respecting the large scale site alteration permit application made by Baldwin 33 Incorporated, as owner.
2. That the site alteration permit application made by Baldwin 33 Incorporated be referred to the Chief Administrative Officer to prepare a report to coordinate a response to all issues raised at this meeting, to include; (i) necessity for a peer review of the data, (ii) wetland review, (iii) interpretation of written comments from the Lake Simcoe Region Conservation Authority, (iv) any information in relation to fill operations in the Town of Georgina, and (v) potential moratorium on the site alteration by-law pending a review, as well as any corresponding applications, noting that if this report clarifies the issues with this application, a moratorium may not apply to this application, and that said report be made available to the public for a minimum of two weeks prior to its consideration by Council at a Council meeting.

Carried.

On September 9, 2014, Report No. CAO-2014-0011 was submitted and the following recommendation was adopted:

- “1. That Council receive Report No. CAO-2014-0011 prepared by the Office of the Chief Administrative Officer dated September 9, 2014 respecting Notice of Application – Marvin Blanchard, 1124123 Ontario Limited and Baldwin 33 Inc.
2. That further Council consideration of the Baldwin 33 Inc. site alteration application be deferred, subject to further developments in the litigation commenced by Marvin Blanchard, 1124123 Ontario Limited and Baldwin 33 Inc.”

In one of his rulings on the Court Application filed by Marvin Blanchard, 1124123 Ontario Limited and Baldwin 33 Inc., on March 3, 2015, Justice MacDougall of the Ontario Superior Court of Justice issued an Endorsement, paragraph 4 of which reads as follows:

“It is ordered that the Town of Georgina shall consider and make a decision on the Counter Applicant’s Site Alteration Permit Application on or before April 24, 2015.”

The CAO’s follow up report is therefore now before Council.

#### **4. ANALYSIS:**

At the conclusion of the April 9, 2014 Public Meeting the CAO was tasked with the following:

- to prepare a report to coordinate a response to all issues raised at this meeting
- to include;
  - (i) necessity for a peer review of the data,
  - (ii) wetland review,
  - (iii) interpretation of written comments from the Lake Simcoe Region Conservation Authority,
  - (iv) any information in relation to fill operations in the Town of Georgina, and
  - (v) potential moratorium on the site alteration by-law pending a review, as well as any corresponding applications, noting that if this report clarifies the issues with this application, a moratorium may not apply to this application,

- and that said report be made available to the public for a minimum of two weeks prior to its consideration by Council at a Council meeting.

Up to and including the April 9, 2014 report, the consideration of the application, and reporting on same, had been technical in nature. The degree of concern expressed by the public at the Public Meetings however was indicative of the public interest component of the matter, hence the introduction of the CAO into the process and the request from Council for additional reporting.

As per the Council direction, the following analysis is offered:

#### Response to Issues Raised at the Meeting

Section 142. (2)(e) of the *Municipal Act*, 2001 gives Council the authority to “impose conditions to a permit, including requiring the preparation of plans acceptable to the municipality relating to grading, filling or dumping, the removal of topsoil and the rehabilitation of the site. 2006, c. 32, Sched. A, s. 76 (1).” Those conditions can include the requirement that an applicant enter into a Site Alteration Agreement.

By-law 2011-0044 is written to ensure the Town has the authority to establish clear and reasonable terms and conditions in any Site Alteration Agreement.

Attachment 9 is the draft agreement submitted for consideration in the April 9, 2014 report.

At the Public Meetings in October 2013 and April 2014 members of the public registered concerns over various aspects of the application and the terms of any resulting agreement. Those concerns can be reviewed in the minutes of the two Public Meetings (Attachments 4 & 6).

In summary, public concerns that relate to the proposed Site Alteration Agreement included the following:

- Traffic routes
- Traffic volume
- Pedestrian safety
- Hours/Days of Operation
- Duration of project
- Noise
- Road degradation
- Road fouling

Flooding  
Ground and well water monitoring  
Dust control  
Quality of fill  
Slope/finished grade

Review of the October 2013 reports and minutes and the April 2014 report and minutes will provide Council with the staff assessment and public comments relating to these Agreement considerations. As noted above the Town has the ability, via the Agreement, to require terms that reasonably address these matters.

Public concerns also related to quantity of fill and to finished slope/elevations. The application as submitted and presented in October 2013 identified 700,000 cu m of fill. The application was amended in April 2014 to identify a total of 298,000 cu m of fill. The background documents for the application identified the purpose as improving the agricultural quality of the land. Town staff are not in possession of any detailed background justification documents that substantiate the quantity of fill required to achieve this purpose. The quantity of fill to be imported to the site will directly relate to the impact of the site alteration operations on residents in the area.

Members of the public registered concern that the proposed fill operation was in fact a commercial operation versus an agricultural operation. They suggested that the Normal Farm Practice Protection Board should be consulted to determine if the importing of fill is in fact a normal farm practice.

The CAO, in conjunction with the Town Solicitor, has researched this matter, and specifically the 2012 decision of the Superior Court of Justice in Township of Uxbridge v. Corbar Holdings Inc. et al. and the decision of the Ontario Environmental Review Tribunal in Livingston v. Niagara Escarpment Commission. As a result it is staff's opinion that the placement of fill is unlikely to be considered a normal farm practice in itself, so there does not appear to be any compelling reason to apply to the Board for such a determination. It should, however, be understood that the significance of the above referenced decision to the application that is presently before Council is not to establish that the site alteration under consideration cannot be permitted – it remains open to Council to grant the permit for which the owner has applied, if it feels that is the best decision to make.

The “commercial operation” concern also prompted questions from the public with respect to appropriate land use/zoning. Planning Department staff have confirmed that fill operations are under the jurisdiction of the Municipal Act, not the Planning Act, and are not matters governed by zoning. Further, the Town cannot designate a commercial fill operation as such.

The final matter raised at the Public Meetings pertained to Greenbelt Plan policies related to lot creation. Those policies are directed at the creation of new parcels of land, not changes in the uses of existing parcels. Non-compliance with the Greenbelt Plan does not appear to be an issue.

Please see Attachment 10 and Attachment 11 for information provided by the Applicant in response to the questions/comments raised at the public meetings.

#### Necessity for Peer Review of the Data

As stated above, Town staff are not in possession of any detailed background justification documents that substantiate the quantity of fill required to achieve the agricultural purpose or the resulting slopes/elevations. In the absence of this information staff cannot comment on whether inhouse review of the information is possible or whether an external peer review is necessary.

#### Wetland Review/Interpretation of Lake Simcoe Region Conservation Authority Comments

To be completed April 9<sup>th</sup>, 2015.

#### Any Information in Relation to Fill Operations in the Town of Georgina

Section 11. (1) of the Municipal Act states:

“A lower-tier municipality and an upper-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public, subject to the rules set out in subsection (4). 2006, c. 32, Sched. A, s. 8.

Section 11. (2) of the Municipal Act states:

“A lower-tier municipality and an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting the following matters:

6. Health, safety and well-being of persons.”

Section 142. (2)(a) of the Municipal Act, 2001 states that a local municipality has the power to prohibit or regulate the placing or dumping of fill.

Section 142. (2)(c) states that a local municipality has the power to prohibit or regulate the alteration of the grade of the land.

Section 142. (2)(e) states that a local municipality can impose conditions to a permit, including requiring the preparation of plans acceptable to the municipality relating to grading, filling or dumping, the removal of topsoil and the rehabilitation of the site.

In response to the legislative authorities granted above, By-law 2011-0044 was written with the following inclusions:

The Preamble in By-law 2011-0044 states:

“Council deems it in the public interest to regulate the dumping and placing of fill and other site alterations”.

Section 4.2 of By-law 2011-0044 states:

- “4.2 Where greater than 250 cu m of fill is being dumped, the owner shall provide the information set out in Part 4.1 and enter into an agreement with the Town, approved by:
- i) The Director where the quantity of fill being dumped or placed is less than 2000 cu m or;
  - ii) Town Council where the quantity of fill being dumped or placed is greater than 2000 cu m”

When considering a site alteration application Council therefore has the authority to consider public interest. Council also has the legislative authority to prohibit or regulate.

Again, in consultation with the Town Solicitor the CAO has considered Council's role in the processing of a site alteration application. Under Part 4.3 of the Site Alteration By-law, a Site Alteration Permit cannot be issued for a site alteration involving more than 2,000 cubic metres until Council "has considered the application ... at a public meeting, at which the applicant or any interested members of the public will have a fair opportunity to make representation." The submissions that may be made by the applicant and the public are not limited to the purely technical aspects of the application, but may raise other issues as well, which must be considered by Council in making its decision to grant or deny approval of the proposed site alteration.

In the absence of any specific criteria expressly spelled out in the by-law for consideration by Council, Members of Council should begin with the proposition that they must, in good faith, objectively consider all relevant aspects of a proposed site alteration, and balance any competing interests that may be affected as equitably as possible. Of course, the purely technical merit of the application – the absence of contaminants, proper grading and drainage, and so forth – must be taken into consideration, but that is not the only thing that Council may consider relevant. Other relevant considerations may include such matters as the compatibility of the intended resulting use of the subject land with what is permitted under the applicable zoning, and the effects of the site alteration operations themselves on existing infrastructure in the area and on the neighbouring landowners, including whether the magnitude of the site alteration exceeds what would actually be required for the applicant's intended use. Such matters will be relevant to Council's attempt to gauge the impact the proposed site alteration is likely to have on others in the vicinity, and on municipal infrastructure.

Council is also entitled to assess the likelihood that the site alteration will proceed in the manner represented by the applicant, and in accordance with the Site Alteration By-law and the Agreement that the applicant will be required to execute if the site alteration is approved. In order to do that, it would be reasonable to consider the conduct of the applicant and its principals during the processing of the application, and in connection with other site alterations with which such parties have been involved in the past. This does not extend, however, to the applicant's economic motivation for requesting approval; more to the point, it is irrelevant whether the site alteration process itself is likely to be profitable or not.

In sum, Members of Council have the ability to balance the interests of the applicant and the interested members of the community as they see fit, provided that they act in good faith and objectively consider the relevant aspects of the proposed site alteration that is before them.

Potential Moratorium on the Site Alteration By-law

On May 7, 2014 Report No. CAO-2014-0007 was submitted to Council (Attachment 7). As a result By-law 2014-0048 was adopted, but the moratorium implemented by that by-law does not affect the processing of the the Baldwin 33 Inc. application was to be processed under By-law 2011-0044 (Attachment 8).

**5. FINANCIAL AND BUDGETARY IMPACT:**

N/A

**6. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:**

The public were notified via direct mail to properties in the vicinity of the application, and newspaper advertising, of the various Public Meetings associated with this application.

**7. CONCLUSION:**

Paragraph 4.3 of By-law 2011-0044(REG-1) provides as follows:

No permit shall be issued pursuant to Part 4.2 and no amendment shall be made to this by-law until Council, for more than 2000m<sup>3</sup> of fill material, has considered the application or amendment at a public meeting, at which the applicant or any interested members of the public will have a fair opportunity to make representation, notice of which is given to the adjacent property owners and agencies in a similar manner to Regulation 199/96 of the *Planning Act*.

This application has been before Council on two previous occasions, namely October 15, 2013 and April 9, 2014. Council did not make a decision concerning this application on either date. On April 9, 2014, Council directed that a report be provided to it, containing certain requested information. Before that report was finalized, the applicant commenced court proceedings, requesting an order directing that Council approve the application. The Court has not issued that order, but has required Council to make its decision in accordance with Section 4.3 on or before April 24, 2015.

Accordingly, Council, if it wishes to exercise the decision-making right provided for under the by-law, must make a decision on this application after hearing representations from the persons referred to in Section 4.3. The failure of Council to make a decision will likely result in the court making the decision instead.

Submitted by:



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Winanne Grant, B.A., AMCT, CEMC  
Chief Administrative Officer

WG/sl

- Attachment 1 – Report No. EPW-2011-0015
- Attachment 2 – By-Law No. 2011-0044 (REG-1)
- Attachment 3 – Report No. OED-2013-0050
- Attachment 4 – Minutes of October 15, 2013 Council Meeting
- Attachment 5 – Report No. OED-2014-0010
- Attachment 6 – Minutes of April 9, 2015 Council Meeting
- Attachment 7 – Report No. CAO-2014-0007
- Attachment 8 – By-law No. 2014-0048 (REG-1)
- Attachment 9 – Draft Site Alteration Agreement
- Attachment 10 – Applicant’s Response to October 2013 Public Comments
- Attachment 11 – Applicant’s Response to April 2014 Public Comments

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. EPW-2011-0015

FOR THE CONSIDERATION OF  
COUNCIL

APRIL 26, 2011

SUBJECT: SITE ALTERATION BY-LAW

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RECOMMENDATION:

1. THAT REPORT NO. EPW-2011-0015 BE RECEIVED FOR INFORMATION.
2. THAT THE REVISED SITE ALTERATION BY-LAW, ATTACHED, TO REPORT EPW2011-0014 BE PASSED.
3. THAT COUNCIL PASS A BY-LAW TO REPEAL BY-LAW 91-139 AND PASS A BY-LAW TO DELEGATE AUTHORITY TO THE DIRECTOR OF ENGINEERING AND PUBLIC WORKS TO ISSUE SITE ALTERATION PERMITS AND TO ENTER INTO SITE ALTERATION AGREEMENTS FOR FILL OPERATIONS OF GREATER THAN 250 CUBIC METRES AND LESS THAN 2000 CUBIC METRES.
4. THAT COUNCIL CONSIDER REVISING THE ABOVE AMOUNT OF 250 CUBIC METRES TO 500 CUBIC METRES.
5. THAT THE MINISTER OF THE ENVIRONMENT IS REQUESTED TO ISSUE SPECIFIC STANDARDS FOR THE QUALITY OF FILL MATERIAL PERMITTED ON LAND TO BE USED IN PLACE OF THE *SOIL, GROUND WATER AND SEDIMENT STANDARDS UNDER PART XV.1 OF THE ENVIRONMENTAL PROTECTION ACT (RECORD OF SITE CONDITION)*.

**REPORT**

This report is a follow up to Report No. 2011-0014, attached as Appendix 1 regarding the above subject. It should be noted that changes have been made to the by-law since report EPW-2011-0014 was presented to reflect discussions that have taken place since that time.

## **FEES**

At the Committee of the Whole meeting of April 4, 2011, Council approved in principle a proposed site alteration by-law in order to better regulate large scale fill operations within the Town. At that time, staff was directed by Council to establish fees in order to maintain municipal roadways which will be subject to increased wear and tear due to heavy truck traffic associated with large fill operations. A list of fees charged by various municipalities across the region has been attached to this report as Appendix 2. Based on these values, Schedule A of the by-law has been amended to include a Municipal Services Fee of \$0.50/m<sup>3</sup> of fill material placed for large scale operations, i.e. 2000m<sup>3</sup> and greater and based on the total volume of fill material to be confirmed by a topographic survey. This survey will be required to be certified by a Professional Engineer or Ontario Land Surveyor. A landowner engaged in a large scale fill project will be required to provide an initial security deposit in the form of cash, certified cheque or letter of credit at the time of application in order to guarantee payment of the Municipal Services Fee at the completion of the project. It is staff opinion that a fee for operations less than 2000m<sup>3</sup> (200 loads) should not be required as it would be onerous to measure by the applicants. These smaller operations would not normally cause much wear and tear on the road system in any event.

Changes have also been proposed to the security deposit amounts listed in Schedule A of the by-law. Security for fill placement between 250m<sup>3</sup> and 2000m<sup>3</sup> has been increased from \$3,750.00 to \$10,000.00 and for fill placement of 2000m<sup>3</sup> or greater the security has been increased to \$25,000.00. This will ensure that adequate funds are available to repair damage to municipal roadways and infrastructure if required, ensure compliance with the requirements of the permit, or to deal with problems should landowners default on the terms of their agreements. We should also point out that the proposed administration fee for residential site alteration is proposed to be increased from \$200 to \$300 to recover more of the staff cost to inspect properties and issue permits.

## **SOIL STANDARDS**

Questions have also been raised regarding the use of Tables 1 and 2 of the *Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act* in the by-law to assess soil quality. These standards have been established by the Ministry of the Environment to outline acceptable levels of contamination in soils based on a specific land use. Table 1: Full Depth Background Site Condition Standards is a listing of upper level values considered to be representative of soil that has not been contaminated by a point source. The table identifies various land uses and provides a listing of acceptable levels corresponding to each type of use. The intent is that source material be placed on a fill site which has a similar land use as the site from which the material originated. The values listed in Table 2: Full Depth Generic Site Condition Standards in a Potable Ground Water

Condition represent upper limit levels for contaminants in areas where potable ground water exists specific to each land use, and are still considered to provide a level of human and environmental protection. The by-law is clear in that it requires that all fill material conform to Table 1 standards for small operations, i.e. less than 2000m<sup>3</sup> that will likely be placed in areas to be developed for residential, commercial, institutional or industrial purposes. Larger operations however may be suitable for Table 2 soils. We cannot forget that construction projects, i.e. road, water and sewer projects that provide benefit to Georgina residents may result in surplus excavated material that does not meet the background Standards of Table 1. It is recommended that this issue be dealt with in the proposed agreements for large operations where the source of material is to be identified.

The Lakeridge Citizens for Clean Water have recognized and clearly noted that there are currently no regulations or standards which pertain specifically to material being used as fill. Municipalities trying to implement site alteration by-laws to regulate filling activities have little choice but to make use of the existing standards set out in the *Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act* to assist in setting an acceptable baseline for soil quality. However as suggested Carmela Marshall at the Council meeting of April 11, 2001, staff recommend that Council request the Minister of the Environment to establish standards for fill that may be specifically applied for the purpose of filling land as opposed to only having the Tables available that were prepared for purposes of site cleanup.

### FILL QUANTITIES

The proposed by-law sets out four cases based on the amount of fill being received.

1. Less than 20m<sup>3</sup> (2 tandem loads) - no permit required.
2. More than 20m<sup>3</sup> and less than 250m<sup>3</sup> (2 - 25 loads) - permit required, but no agreement.
3. More than 250m<sup>3</sup> and less than 2000m<sup>3</sup> (25 - 200 loads) - permit required, agreement required and signed by Director of Engineering and Public Works, including environmental controls.
4. More than 2000m<sup>3</sup> (200 loads) permit required, public meeting required, agreement required with the approval of Council and environmental controls.

When staff first drafted the bylaw, based on our survey of surrounding municipalities, we included a quantity of 500m<sup>3</sup> as the lower end of where an agreement signed by the Director would be required. We were subsequently advised that the Conversation Authority's environmental consideration would kick in at 250m<sup>3</sup> and therefore, to be

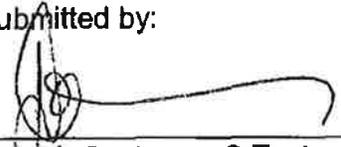
consistent, we changed the draft by-law to require the agreement and environmental controls at 250m<sup>3</sup>. Having considered the matter further, we believe the original volume of 500m<sup>3</sup> was the correct one since 250m<sup>3</sup> (25 loads) is a relatively small amount and easily be put on a property in less than a day and probably does not warrant the effort involved.

We recently questioned the Conservation Authority about their limit and were advised that although they were aware that most municipalities have a cut off at 500m<sup>3</sup> they wanted to be more stringent than the municipalities since sites regulated by the Conservation Authority are more environmentally sensitive, i.e. near watercourses, floodplains, recharge areas, etc. Therefore even though it was staff that included 250m<sup>3</sup> in the draft bylaw, we would ask Council to considering increasing this to 500m<sup>3</sup> as originally contemplated.

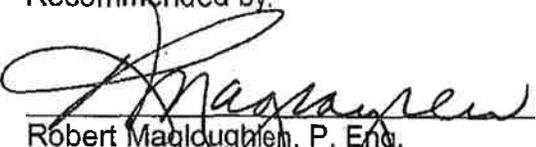
### CONCLUSION

Large scale fill operations and the importing of fill material from outside the region is a relatively new activity in Georgina and in other municipalities across the GTA. Never before has such an abundance of fill material been so readily available for landowners to take advantage of. Regulations and standards specific to this type of activity have not yet been established and municipalities must use the resources currently available in order to maintain control of filling activities and to ensure the protection of the environment. The site alteration by-law presented for Council's consideration draws from site alteration by-laws from various municipalities across southern Ontario and it far exceeds our current lot grading and drainage by-law in terms of control measures and environmental protection. Town staff will continue to work with the Ministry of the Environment, the Lake Simcoe Region Conservation Authority, and with other municipalities in order to refine how large scale fill operations are managed, and to further minimize any negative impact they may have on the natural environment.

Submitted by:

  
\_\_\_\_\_  
Joseph Costanza, C.Tech.  
Civil Technician

Recommended by:

  
\_\_\_\_\_  
Robert Magloughlin, P. Eng.  
Director of Engineering & Public Works

Approved by:

  
\_\_\_\_\_  
Susan Plamondon, B.A. LL.B  
Chief Administrative Officer

JC/hay  
Atts

## **APPENDIX 1 TO REPORT EPW-2011-0015**

**(Report EPW-2011-0014, Revised By-law and Appendix 2 to Report EPW-2011-0014 – Lake Simcoe  
Region Conservation Authority Staff Report and  
Interim Permit Requirement – Fill Quality)**

**THE CORPORATION OF THE TOWN OF GEORGINA**

**REPORT NO. EPW-2011-0014**

**FOR THE CONSIDERATION OF  
COMMITTEE OF THE WHOLE  
APRIL 4, 2011**

**SUBJECT: SITE ALTERATION BY-LAW**

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**RECOMMENDATION:**

- 1. THAT REPORT NO. EPW-2011-0014 BE RECEIVED FOR INFORMATION.**
- 2. THAT COUNCIL APPROVES THE PROPOSED SITE ALTERATION BY-LAW ATTACHED TO THIS REPORT IN PRINCIPLE AND DIRECTS THAT:**
  - (a) PUBLIC NOTICE BE GIVEN WITH RESPECT TO THE PROPOSED FEES.**
  - (b) THE SITE ALTERATION BY-LAW BE CONSIDERED FOR PASSAGE AT THE COUNCIL MEETING OF APRIL 26, 2011.**
  - (c) AT THAT SAME MEETING COUNCIL WILL CONSIDER PASSING A BY-LAW TO REPEAL BY-LAW 91-139 AND PASSING A BY-LAW TO DELEGATE AUTHORITY TO THE DIRECTOR OF ENGINEERING AND PUBLIC WORKS TO ISSUE SITE ALTERATION PERMITS AND TO ENTER INTO SITE ALTERATION AGREEMENTS FOR FILL OPERATIONS OF GREATER THAN 250 CUBIC METRES AND LESS THAN 2000 CUBIC METRES.**

**BACKGROUND**

Over the past few months, there has been a significant increase in the number of trucks hauling fill material from various sites all across the Greater Toronto Area to the Town of Georgina. The Town's current lot grading and drainage by-law is not sufficient to deal with thousands of loads being dumped within our municipality and does not address the quality of the imported materials.

The current lot grading and drainage By-law 91-139 (REG-1) was passed by Council in 1991 to deal with filling and grading issues pertaining mainly to residential properties. This by-law works well at ensuring that site alterations on residential properties does not adversely affect drainage patterns of neighbouring lands, but it does not address the quantity or quality of material being placed, doing little to ensure the protection of the environment and our watersheds.

## REPORT

Section 142 of the *Municipal Act*, authorizes municipalities to pass by-laws for prohibiting or regulating the placing or dumping of fill of any kind and for prohibiting or regulating the alteration of the grade of land in any defined areas within the municipality **other than those areas subject to regulations made under Clause 28(1) of the Conservation Authorities Act**. The proposed site alteration by-law, attached to this report regulates the placement of fill in areas within the Town which do not fall under the jurisdiction of the Lake Simcoe Region Conservation Authority (LSRCA). The intent of the new by-law is to place stricter controls on filling activities, and to introduce environmental protection measures which will assist to protect the surrounding soils and ground waters. The by-law will also provide for financial securities to ensure that landowners and contractors are held to the standards set out by the municipality. The proposed by-law has been reviewed and approved by the Town solicitor.

The new by-law clearly defines a list of regulations and prohibitions which pertain to the placing of fill material and the alteration of the existing grade of land and outlines a list of application requirements which shall be provided for all proposed site alterations. Aside from the submission of site grading plans and supporting documents, source site identification and certification will also be required to ensure that fill material meets the requirements set out in MOE Table 1 and Table 2 of the *Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act*.

In instances where a volume of fill greater than 250m<sup>3</sup> is proposed, the by-law will require that a landowner enter into a signed agreement with the Town whereby further environmental controls are implemented. It is proposed that authority be delegated to the Director of Engineering and Public Works to enter into an agreement on behalf of the Town where 250m<sup>3</sup> to 2000m<sup>3</sup> of fill is proposed (approximately 25-200 loads) and that Council be notified of all such agreements. Where a landowner is proposing a site alteration involving a volume of material greater than 2000m<sup>3</sup> (approximately 200 loads) an agreement reviewed and approved by Council will be necessary. This process will require that no permit be issued or agreement signed until Council has considered the application at a public meeting which allows the applicant or any interested members of the public a fair opportunity to make representation. Notice must be given to the adjacent property owners and agencies in a similar manner to Regulation 199/96 of the *Planning Act*.

Section 4.2 of the new by-law which outlines the Agreement process, provides the Town with further control over large scale fill operations by implementing a detailed Environmental Control Program complete with source and fill site operation protocols. A landowner engaged in a large scale fill operation will be required to enlist the services of a qualified Professional Engineer or Environmental Consultant to provide ongoing monitoring of all materials entering onto a site, and provide Town staff with weekly soil and groundwater reports, load tracking and sample test results in order to ensure compliance with MOE requirements and the terms outlined in the Site Alteration Agreement. This process provides for continuous quality assurance and places accountability on the landowner and his Consultant for all materials imported onto their site.

A fee schedule has been provided as Schedule 'A' of the attached by-law whereby administration fees and security amounts are established based on the volume of fill material associated with a site alteration project. The administration fees have been determined at 20% of the minimum deposit amount for large scale site alteration projects. The impact of the new by-law on the current permit process for small scale residential in-fill projects including the construction of or additions to new principal buildings or the construction of accessory structures, private sewage systems, etc., will be minimal, and staff does not anticipate any major issues. A landowner looking to construct a dwelling on a single in-fill lot will be required to provide a completed application form, a site plan indicating all existing and proposed site conditions and payment of the applicable deposit. The requirements for issuance of a permit are outlined in Section 4.1 of the new by-law and vary only slightly from existing submission requirements. In an attempt to provide a seamless transition into the new site alteration by-law, a separate fee schedule attached to the by-law as Schedule 'B' for smaller residential projects has also been established based on current fees. In accordance with Town policy, the public is to be notified of new or revised fees and therefore it is proposed to give public notice of the proposed fees and bring the by-law back to the Council meeting of April 26, 2011 to hear public comment regarding fees and to pass the by-law.

Council should also note that a large portion of the lot grading permit applications received annually consist of accessory structures. These can range from simple garden sheds to two and three car garages. Currently there are no securities or administration fees charged for accessory structures and staff are often forced to deal with drainage issues created by increased surface and roof runoff generated by these structures. The new by-law recognizes these structures as an extension of the principal building whether attached or detached, and establishes fees based on the floor area. This will assist in ensuring compliance with the conditions of the grading permit in a manner consistent with current practice for all other structures. Permit requirements and application procedures will remain unchanged.

## **ENFORCEMENT**

It must be stressed that the site alteration by-law can only be enforced by Town staff in areas which are not subject to regulations made under Clause 28(1) of the *Conservation Authorities Act*, as amended. Town staff will continue to work closely with the LSRCA providing notification of all potential illegal activity within regulated areas, and assist in any means possible. Following discussion with Town staff, the LSRCA has indicated that they would be introducing as a condition of their permits, that all fill material be required to meet MOE guidelines as outlined in Table 1 and Table 2 of the *Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act*. Further policies may be created by the LSRCA which will mirror the requirements set out in the Town's new site alteration by-law in an attempt to provide consistent fill quality guidelines in both regulated and non-regulated areas. Attached as Appendix 2 is a copy of the LSRCA staff report entitled Interim Permit Requirement – Fill Quality. Generally, the CA policies will be consistent with the Town's. CA regulations cover approximately 50% of the Town of Georgina and that the Town's proposed by-law will only apply to the remaining 50% of the area for large fill sites.

## **FINANCIAL IMPLICATIONS**

Implementation of the new site alteration by-law will require greater staff involvement in all on-going site alteration projects. Staff will be required to review and provide comment on soils and groundwater monitoring reports, site grading plans and other supporting documents. Staff will also be required to prepare and administer agreements, violation notices and work orders, and circulate information to appropriate agencies when required. Regular site inspections will also be necessary in order to ensure compliance with the terms set out in the by-law and/or the agreement. Meetings with landowners and/or consultants may also be necessary in order to ensure that all provisions set out in the agreement are met, and that the consultant is actively monitoring the sites as required. Town staff must also continue to deal with inquiries and complaints from neighbouring land owners and with issues not specifically related to site alterations.

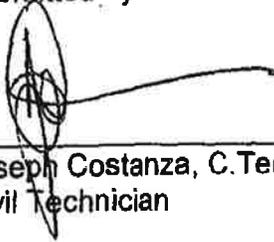
Currently, the Town employs one staff member who is responsible for implementing and enforcing the existing lot grading and drainage by-law for Georgina. The present turnaround time for a lot grading permit is approximately seven (7) days, however changes in submission requirements and the preparation and follow up time required for individual permit applications under the new by-law will undoubtedly cause an increase in the time required to review and issue permits. Consideration may be required for additional staff in order to maintain the current high level of service provided by the Department of Engineering and Public Works and it is our objective that the new and

increased fees would offset this cost. This will be monitored and further reports will be made to Council if necessary.

**SUMMARY**

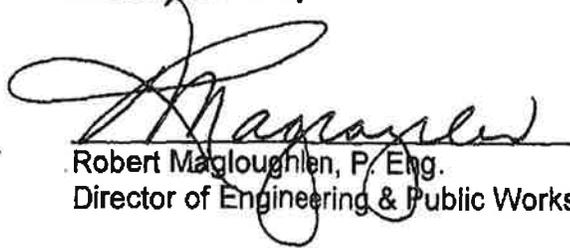
With the amount of construction activities in the GTA, the number of large scale site alteration projects is also likely to increase. Much of the municipality is low lying, and many areas see a substantial amount of accumulated water during times of spring thaw or heavy rainfall. New and existing landowners looking for ways to improve their properties, coupled with a seemingly endless amount of free fill, and even being paid to provide dump sites, may lead to an increase in the number of site alterations taking place each year. The implementation of the new by-law will ensure that the Town is adequately equipped to protect its residents, the landscape and the natural environment.

Submitted by:



Joseph Costanza, C.Tech.  
Civil Technician

Recommended by:



Robert Magloughlin, P. Eng.  
Director of Engineering & Public Works

Approved by:

  
Susan Plamondon, B.A. LL.B  
Chief Administrative Officer

JC/hay  
Atts.

THE CORPORATION OF THE TOWN OF GEORGINA  
OF THE  
REGIONAL MUNICIPALITY OF YORK

**BY-LAW 2011-0044 (REG-1)**

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BEING A BY-LAW TO PROHIBIT OR REGULATE THE  
REMOVAL OF TOPSOIL, THE PLACING OR  
DUMPING OF FILL MATERIAL AND THE  
ALTERATION OF THE GRADE OF LAND  
IN ALL AREAS WITHIN THE TOWN OF GEORGINA

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**WHEREAS** Section 142 of the *Municipal Act, 2001*, as amended authorizes the Council of The Corporation of the Town of Georgina to pass by-laws for prohibiting or regulating the *placing or dumping of fill* of any kind and for prohibiting or regulating the alteration of the *grade* of land in any defined area or areas within the Town of Georgina other than those areas subject to regulations made under Clause 28(1) of the *Conservation Authorities Act*, as amended;

**AND WHEREAS** Council deems it in the public interest to regulate the *dumping and placing of fill* and other *site alterations* in order to ensure that existing *drainage* patterns are maintained and that any changes to existing *drainage* patterns are appropriate to protect environmental features; to prevent the importation of hazardous material; and to keep the disturbance of landform characteristics to a minimum within all areas of the Town of Georgina other than those areas subject to regulations made under Clause 28(1) of the *Conservation Authorities Act*, as amended;

**AND WHEREAS** it is deemed necessary and advisable to repeal said By-law 91-139 (REG-1) together with any other by-laws or parts thereof inconsistent with the provision of this by-law;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GEORGINA ENACTS AS FOLLOWS:**

**PART 1 DEFINITIONS:**

In this by-law:

1. "AGRICULTURAL LANDS" includes all lands that are used by a farming business registered under the *Farm Registration and Farm Organizations Funding Act, 1993, S.O. 1993, c.21*, as amended, for growing of crops, including nursery and horticultural crops; raising livestock; raising of other animals for food, fur, fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production;
2. "BODY of WATER" includes any body of flowing or standing water whether naturally or artificially created;

3. "CLEARING and/or GRUBBING" means the removal of all surface objects, brush, roots and other protruding obstructions, trees and stumps which result in the removal of *topsoil* or the alteration of *grade* of land;
4. "CONSERVATION AUTHORITY" means the Lake Simcoe Region Conservation Authority;
5. "CORPORATION" means The Corporation of the Town of Georgina;
6. "DEVELOPMENT" means the construction of buildings and above or underground services such as roads, parking lots, paved storage areas, watermains, storm and sanitary sewers, general grading works and similar facilities on any lands within the Municipality;
7. "DIRECTOR" means the Director of Engineering and Public Works of the *Corporation* and shall include any person authorized by the *Director* to carry out any of the powers or duties of the *Director* pursuant to this by-law;
8. "DRAINAGE" means the movement of water to a place of disposal or facilitation of movement, whether by way of the natural characteristics of the ground surface, aquifer or by an artificial method;
9. "DUMP, DUMPED OR DUMPING" means the movement and depositing of *fill* in a location other than where the *fill* was obtained and includes the movement and depositing of *fill* from one location on a property to another location on the same property.
10. "FILL" means any type of material deposited or *placed* on lands and, without limiting the generality of the foregoing, includes soil, stone, concrete, construction materials/rubble, asphalt, sod or turf either singly or in combination thereof;
11. "GRADE" shall be defined as follows:
  - a. "EXISTING GRADE" means the elevation of the existing ground surface of the lands upon which *dumping* and/or *placing* of *fill* is proposed and of the abutting ground surface up to 3 metres wide surrounding such lands. Except that where *placing* or *dumping* of *fill* or alteration of the grade has occurred in contravention of this by-law, "existing grade" shall mean the ground surface of the land as it existed prior to the placing or dumping of *fill* or to any site alteration requiring a permit under this by-law;
  - b. "FINISHED GRADE" means the approved elevation of ground surface of land upon which *fill* has been *placed* in accordance with this by-law;
  - c. "PROPOSED GRADE" means the proposed elevation of ground surface of land upon which *fill* is proposed to be *placed*;
12. "INSPECTOR" means any *Town* employee authorized to enforce the by-laws of the *Town*;

13. "MUNICIPAL SERVICES FEE" means a fee charged by the *Town* in order to maintain municipal infrastructure;
14. "NORMAL AGRICULTURAL PRACTICE" includes sod-farming, greenhouse operations and nurseries for horticultural products but does not include the sale, exchange or other disposition of *topsoil* or *peat*;
15. "ONTARIO LAND SURVEYOR (OLS)" means the holder of a license issued by the Association of Ontario Land Surveyors;
16. "OWNER" includes the person registered as the owner on title upon which *fill* is proposed to be *placed* or *dumped* and any person, firm, or corporation managing or controlling such lands;
17. "PEAT" means the non-decayed or partially decayed organic deposits chiefly from sphagnum moss and often accumulated in fens and bogs;
18. "PERMIT" means a permit issued by the Department of Engineering and Public Works, upon review and approval of the *Director* or person authorized to issue said permit, pursuant to the provisions of this by-law;
19. "PLACE, PLACED OR PLACING" means the distribution of *fill* on lands to establish a *finished grade* different than the *existing grade*;
20. "PONDING" means the accumulation of surface water in an area not having drainage there from where the lack of drainage is caused by the *placing* or *dumping* of *fill* or the alteration of the *grade*;
21. "PROFESSIONAL ENGINEER" means a person who holds a license or a temporary license to engage in the practice of professional engineering issued under the *Professional Engineers Act*, R.S.O. 1990, c. P.28;
22. "QUALIFIED TREE CONSULTANT" means an arborist certified by the International Society of Arboriculture who has a diploma (minimum) in arboriculture or urban forestry;
23. "RETAINING WALL" means a wall made of concrete, concrete product or other materials designed to contain and support *fill* which has a *finished grade* higher than that of adjacent lands;
24. "SECURITY OR SECURITY DEPOSIT" means an amount given as collateral paid by cash, certified cheque, or Letter of Credit to ensure the fulfilment of the terms of the permit or to cover the cost of repairing damage to municipal property caused as a result of work undertaken as part of the permit;
25. "SITE ALTERATION" means *dumping of fill*, the removal of *topsoil* from land, or the alteration of the *existing grade* of land by any means including *placing fill*, *clearing* and *grubbing*, the compaction of *soil* or the creation of impervious surfaces, or any combination of these activities;
26. "SOIL" means material commonly known as earth, *topsoil*, loam, compost, organics, *peat*, subsoil, clay, sand or gravel or any combination thereof;

27. "SWALE" means shallow depression in the ground sloping to a place of disposal for the purpose of providing a method of *drainage* of surface water;
28. "TOPSOIL" means those horizons in a soil profile, commonly known as the "O" and "A" horizons, containing organic material and includes deposits of partially decomposed organic matter such as *peat*, *detritus* and *humus*;
29. "TOWN" means the Corporation of the Town of Georgina;
30. "WATERCOURSE" means a natural or man-made channel or *swale* in which water flows, either continuously or intermittently with some degree of regularity;
31. "WETLAND" means land such as swamps, marsh, bog or fen not including land that is being used for agricultural purposes and no longer exhibits wetland characteristics that:
  - a) Is seasonally or permanently covered by shallow water or has the water table close to or at the surface; and
  - b) Has hydro-soils and vegetation dominated by hydrophilic or water-tolerant plants.

## PART 2 GENERAL PROHIBITIONS AND REGULATIONS:

- a) No person shall *place* or *dump* any *fill*, remove any *peat*, *topsoil* or otherwise alter the *grade* of land by causing, permitting or performing any form of *site alteration* on land within the *Town* except in accordance with this by-law and without the *owner* first receiving a *permit* issued by the *Director* under this by-law;
- b) No person shall *place* or *dump* any *fill* or alter any grade that is on any land zoned for environmental protection or open space purposes pursuant to applicable zoning by-laws, or within or adjacent to a watercourse, flood plain or a wetland or other such regulated areas pursuant to *Conservation Authorities Act*, Section 28, Ontario Regulation 182/06, unless approval therefore has been issued by the *Conservation Authority* or a *permit* has been issued pursuant to this by-law;
- c) No person shall *place* or *dump* any *fill* or otherwise alter the *grade* of land by causing, permitting or performing any form of *site alteration* on land within the *Town* except in accordance with applicable zoning by-laws, the *Lake Simcoe Protection Plan*, the *Greenbelt Plan*, and the *Lake Simcoe Source Protection Plan*, when enacted;
- d) No person shall fail to comply with an order issued pursuant to this by-law;
- e) No person shall cause, permit or perform a *site alteration* on lands that are subject to an approved site plan, draft plan of subdivision or a consent under Sections 41, 51 or 53 respectively of the *Planning Act*, as amended, without a site plan agreement, pre-servicing agreement, subdivision agreement or consent agreement entered into under those sections;

- f) No person shall *place or dump any fill*, remove any *peat, topsoil* or otherwise alter the *grade* of land by causing, permitting or performing any form of *site alteration* which would interfere with the existing drainage pattern of adjacent lands, or cause obstruction to existing drainage flows or obstruct or impede the function or flow of existing drainage swales or cause additional surface and ground waters to be discharged onto adjacent lands;
- g) No person shall place or dump any fill, remove any *peat, topsoil* or otherwise alter the grade of land by causing or permitting or performing any form of *site alteration* which would cause surface drainage to flow, discharge or be directed onto adjacent lands other than directly into a natural watercourse, or any approved Municipal, Regional, or Provincial drainage system;
- h) No person, in the performance of a *site alteration*, shall injure or destroy a municipal tree or other tree which is subject to tree protection measures as a condition of a permit issued under this by-law except to the extent that such injury or destruction is specifically authorized in writing in accordance with the provisions of this by-law and any other applicable by-laws of the *Town* or the Regional Municipality of York for the protection of trees;
- i) Notwithstanding anything else contained in this by-law except for Part 3, no person shall cause, permit or perform a *site alteration* on any lands which were previously licensed or permitted and used as a pit or quarry under the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended, (or any predecessor legislation thereof), or otherwise, whether such lands have been rehabilitated or not;
- j) No person shall *place or dump fill* or cause or permit *fill* to be *placed or dumped* unless such *fill* complies with the Ministry of Environment standards for clean *fill*, as described in Part 4.2(f) of this by-law;
- k) No person shall undertake *site alteration* or cause *site alteration* to occur on any land for storage purposes unless the outside storage of such *fill* (where the *site alteration* involves *fill*) on the land is permitted by the municipal Zoning By-law and such storage shall not exceed one thousand (1000) cubic metres;
- l) No person shall perform a *site alteration* or permit the performance of a *site alteration*:
  - (i) Between the hours of 8:00 p.m. and 7:00 a.m., Monday to Saturday;
  - (ii) All day Sunday and Statutory Holidays;
  - (iii) During any period in which a wind warning for the area has been issued by Environment Canada;
  - (iv) During or within twenty-four (24) hours of receiving a rainfall and/or snow melt event.

### PART 3 EXEMPTIONS

3.1 This by-law is not applicable to the following:

- a) The use, operation, establishment, alteration, enlargement or extension of a waste management system or waste disposal site within the meaning of Part V of the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended, or a waste, waste disposal or waste management system that is exempted by regulation from said Part V;
- b) The construction, extension, alteration, maintenance or operation of works under Section 26 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990 c. P.50, as amended;
- c) Emergency measures taken by the *Town* or the Regional Municipality of York or any other Federal, Provincial or Regional agency, to prevent flooding, *erosion*, slipping of *soil* or damage of trees;
- d) The activities of the *Town*, the Regional Municipality of York or the *Conservation Authority* related but not limited to the establishment or maintenance of utilities and services, roads, bridges, flood and *erosion* control facilities, walkways, bicycle paths, fences, *retaining walls*, steps and lighting;
- e) The *placing* or *dumping* of *fill*, removal of *topsoil* or alteration of the *grade* of land as a condition to the approval of a site plan, a plan of subdivision or a consent under Sections 41, 51 or 53, respectively of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- f) The *placing* or *dumping* of *fill*, removal of *topsoil* or alteration of the *grade* of land as a condition to a development permit authorized by regulation made under Section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under that regulation;
- g) Aggregate, as defined in the *Aggregate Resources Act*, brought onto a pit or quarry operating under a license or wayside permit issued under that Act as part of the operations of that pit or quarry;
- h) The *placing* or *dumping* of *fill*, removal of *topsoil* or alteration of the *grade* of land undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
- i) Any rehabilitation or *filling* activity in a pit or quarry licensed under the *Aggregate Resources Act*, and specifically addressed on the approved site plan when there is insufficient overburden retained to rehabilitate such pit or quarry in accordance with that Act;
- j) The removal of *topsoil* from *agricultural lands* incidental to a *normal agricultural practice* including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products. This exception does not include the removal of *topsoil* for sale, exchange or other disposition;

- k) To *fill* being *placed* on lands shown in a grading and *drainage* plan approved by the *Town* in conjunction with subdivision or site plan approvals, provided the provisions of such approvals relating to *fill* are adhered to and all requirements set forth in this by-law concerning said *fill* placement and *grading* are met.

3.2 No *fill* permit is required for:

- a) The *placing* or *dumping* of *soil* on lands for the purpose of lawn dressing, landscaping or adding to flower beds or vegetable gardens, provided that the ground elevation of the lands is not increased by more than fifteen (15) centimetres and there is no significant change in the direction or rate of *drainage* to neighbouring properties. Such alteration shall not take place within sixty (60) centimetres of any property line. Such *placing* of *fill* shall not exceed twenty (20) cubic metres per year;
- b) The resurfacing or paving of existing driveways where there is no alteration to the existing driveway base and no significant change in the direction or rate of *drainage* to neighbouring properties;
- c) The *placing* or *dumping* of *fill* in an excavation to the elevation of *existing grade* following the demolition or removal of a building or structure for which a building permit has been issued;
- d) *Fill* being *placed* or *dumped* on lands for the purpose of flood or *erosion* control to establish *finished grade* shown on a grading and *drainage* plan approved by the *Conservation Authority* or by the *Director* in conjunction with a subdivision approval;
- e) *Site alteration* involving an amount of *soil* of less than twenty (20) cubic metres on a *lot* within any one year period, provided that there is no significant change in the direction or rate of *drainage* to neighbouring properties, and unless the site includes or is adjacent to a *body of water*. Such alteration shall not take place within sixty (60) centimetres of any property line;
- f) Replacement of *topsoil* for restoration of *agricultural lands* used for *normal agricultural practices*, as an incidental part of sod farming, greenhouse operations, and nurseries for horticultural practices which shall not exceed 20 centimeters annually, or at the discretion of the *Director*. Storage of such *topsoil* shall not exceed one thousand (1000) cubic metres.

**PART 4 REQUIREMENTS FOR ISSUANCE OF A PERMIT**

4.1 An *owner* applying for a permit shall provide the following:

- a) The name and address of the *owner* of the land upon which the *fill* is to be *dumped* or *placed*;
- b) The municipal address of the land on which the *fill* is to be *dumped* or *placed*;
- c) The legal description of the land upon which the *fill* is to be *dumped* or *placed*;
- d) Payment of the applicable fees calculated in accordance with rates set out in Schedule 'A' and Schedule 'B' of this by-law;

- e) A scaled drawing of any *retaining wall* that may be required and a description, including dimensions, of any materials to be used in the construction of such *retaining wall*;
- f) Payment of applicable security in the amount as prescribed in the fee schedule attached to this by-law as Schedule 'A' or Schedule 'B'. The owner or owner's consultant shall provide a detailed breakdown of the cost estimate for the proposed work;
- g) A *site alteration/grading* plan satisfactory to the Director, accurately indicating the following:
  - (i) The property lines of the lands for the *site alteration* with dimensions;
  - (ii) For *site alteration* quantity less than two hundred and fifty (250) cubic metres, existing spot elevations on three (3) metre grids across the lands and three (3) metres beyond the property lines to clearly show the existing *drainage* patterns on the lands and on the abutting lands; and for *site alteration* in an amount greater than two hundred and fifty (250) cubic metres, a site plan including a topographic survey at one metre contour intervals certified by a Professional Engineer or Ontario Land Surveyor defining all material and manmade features, including top and bottom of slopes, *drainage* patterns, tree lines, buildings, and stockpiles on the lands and within thirty (30) metres on abutting lands and *water bodies*; and, a description of the type, quantity and location of natural land cover features on the site and within thirty (30) metres on adjacent lands;
  - (iii) All existing storm sewers, ditches, *swales*, creeks, *watercourses* and *wetlands* on the lands and on abutting lands and public highways;
  - (iv) All existing buildings, the species and size in caliper of all trees, the location of all shrubs and driveways on the lands and of all easements and right-of-ways over, under, across or through the lands;
  - (v) *Proposed grades* and *drainage* systems upon completion of the *site alteration* operation;
  - (vi) Detailed hydro-geological analysis and report, including all design calculations, prepared by a qualified Professional Engineer for the design and construction of soak away pits/dry wells;
  - (vii) All proposed ground covering to be used upon completion of the *site alteration* operation;
  - (viii) All *erosion*, sediment and tree protection measures for the *site alteration* operation;
- h) A description of the proposed *site alteration* including a description of the source of the *fill* with a letter from the party from whom the *fill* was acquired attesting that the *fill* meets the requirements for clean *fill* set out in Part 4.2(f) and 5.2(e) of this by-law if applicable, the quantity of the *fill* expressed in cubic metres, and contact information for the party from whom the *fill* was acquired;

- i) Copies of all approvals, including but not limited to, Lake Simcoe Region Conservation Authority, Ministry of Transportation, Ministry of Natural Resources, Regional Municipality of York.

4.2 Where greater than 250m<sup>3</sup> of *fill* is being *dumped*, the *owner* shall provide the information set out in Part 4.1 and enter into an agreement with the *Town*, approved by:

- i) The *Director* where the quantity of fill being *dumped* or *placed* is less than 2000m<sup>3</sup> or;
- ii) Town Council where the quantity of fill being *dumped* or *placed* is greater than 2000m<sup>3</sup>;

whereby the *owner* has agreed to the following:

- a) To retain a qualified engineer or environmental consultant approved by the *Director* who is responsible for ensuring that the *site alteration* is in accordance with reasonable engineering and environmental practices; is in accordance with the protocol attached as Schedule 'C' to this by-law; is in accordance with the plans submitted for the permit; and is in accordance with Part 5.2 of this by-law;
- b) To undertake the *site alteration* in accordance with sub-section (a);
- c) To require the environmental consultant to report in writing on a regular basis that the *placing* and *dumping* of fill is in accordance with sub-section (a) above;
- d) To require the environmental consultant to provide a report upon completion of the project or at the expiration of the permit, which includes a topographic 'as-constructed' survey certified by a Professional Engineer or Ontario Land Surveyor confirming that the volume of fill material placed on the property is in accordance with the requirements of the permit;
- e) To require that the *site alteration* be completed by a specified date;
- f) Not to contaminate the natural environment and to abide by all applicable environmental laws and regulations;
- g) Ensure that all *fill* used is material that does not contain any putrescible material and which meets any of the following criteria:
  - (i) Rock, including demolition debris such as domestic brick and concrete that does not contain cement fines, exposed rebar, paint or coatings, decomposable materials, plastic, asphalt, petroleum products, hydrocarbon materials and any putrescible organic materials;
  - (ii) *Soil* that meets the standards set out in Table 1 of the Soil, Ground Water and Sediment Standards referenced in O. Reg. 153/04, as amended for quantities less than 2000m<sup>3</sup>;
  - (iii) Liquid slurry material, to the extent that the free water is removed and the resulting wet or slurried material meets the standards set out in Table 1 of the Soil, Ground Water and Sediment Standards referenced in O. Reg. 153/04, as

amended, and any free water from the liquid slurry that meets the standards set out in Table 1 of the Soil, Ground Water and Sediment Standards referenced in O. Reg. 153/04, as amended;

- (iv) *Topsoil*, sod and turf materials to be stockpiled for use as final cover only.
- h) To provide a report from the qualified Engineer or Environmental Consultant referred to in sub-section (a) that he/she is satisfied that the *placing* or *dumping* will not result in:
  - (i) Soil *erosion*;
  - (ii) Blockage of a *watercourse*;
  - (iii) Siltation in a *watercourse*;
  - (iv) Pollution of a *watercourse*;
  - (v) Flooding or *ponding* on adjacent lands;
  - (vi) Flooding or *ponding* caused by a *watercourse* overflowing its banks;
  - (vii) A detrimental effect on any trees of a caliper of seventy-five (75) millimetres or more located on the lands;
  - (viii) Detrimental effect on matters of inherent biological sensitivity such as aquifer recharge, water quality, unusual plants or wildlife and overwintering habitats;
  - (ix) Unauthorized injury or destruction of municipal trees or other trees protected under by-laws of the *Town* or the Regional Municipality of York;
  - (x) Injury or destruction of other trees, which in the opinion of the *Director*, could reasonably be avoided;
- i) To provide security to be used to remedy any breach of the by-law or agreement and to indemnify the *Town* for any liability, costs, damages or losses incurred directly or indirectly caused by the issuing of a permit;
- j) Notify an *inspector* in writing within forty-eight (48) hours of commencing any work;
- k) Notify an *inspector* in writing of the completion of any erosion control measures within fourteen (14) days after their installation;
- l) Obtain the permission of the *Director* in writing prior to modifying the site alteration plan;
- m) Inspect the control measures at least once a week and after each rainfall of at least one (1cm) centimeter and make any necessary repairs;
- n) Install all tree protection measures required by the approved *site alteration* plan prior to commencing any work and maintain these tree protection measures throughout the entire duration of the work;
- o) Ensure that all *fill* meets standards prescribed by the Ministry of the Environment for any current land use and any future land use for the land designated under an Official Plan or amendment to an Official Plan approved by Council of the *Town* or Regional Municipality of York;

- p) Install and maintain the *erosion* and sediment control measures as identified in the approved *site alteration* plan and the latest *Conservation Authority* guidelines for erosion measures;
- q) Install temporary signage in accordance with Ministry of Transportation Book 7 regulations on all roadways immediately adjacent to the site where *fill* is being *dumped* or *placed*;
- r) Ensure that no mud is tracked onto municipal roadways and that these roadways are not damaged as a result of the *site alteration*.

4.3 No permit shall be issued pursuant to Part 4.2 and no amendments shall be made to this by-law until Council, for more than 2000m<sup>3</sup> of fill material, has considered the application or amendment at a public meeting, at which the applicant or any interested members of the public will have a fair opportunity to make representation, notice of which is given to the adjacent property owners and agencies in a similar manner to Regulation 199/96 of the *Planning Act*.

4.4 The *Director* shall issue a permit when:

- a) The *Director* is satisfied that the lands which are the subject of the application for a permit are not within an area where *site alteration* is prohibited under Part 2 (b) and (c) if applicable, of this by-law or is an activity regulated under Part 3 of this by-law; and
- b) The applicant has fulfilled all requirements of Part 4.1 of this by-law and if required by Part 4.2 entered into the agreement referred to in Part 4.2.

4.5 Where a permit has been issued under this by-law authorizing the *site alteration* on lands, no person shall *place* or *dump fill* except in accordance with the plans, documents and any other information required for the issuing of the permit and in compliance with the agreement entered into with the *Corporation* and this by-law.

4.6 The *Town* may draw on the security required pursuant to Part 4.1 (f) in order to remedy any breach of the provisions of this by-law, the conditions imposed on the *fill* permit by the *Director*, or any other obligation of the *owner* relating to the *fill* permit and, without limiting the generality of the foregoing, such security may be used to return the land to a condition satisfactory to the *Director* and to pay any outstanding amounts owed by the *owner* that relate to the *fill* permit including those amounts owed pursuant to Part 4.2 of this by-law.

4.7 Where the *Director* deems it necessary to have fill material inspected or analyzed to ensure compliance with MOE standards, Part XV.1 of the Environmental Protection Act, and/or Table 1 of O. Reg. 153, as amended of the *Environmental Protection Act*, a third party geotechnical consultant may be hired by the *Town* at the expense of the owner, to provide all necessary inspections, analysis and reports.

**PART 5 EXPIRY, RENEWAL, REVOCATION AND TRANSFER OF PERMITS**

- 5.1 a) The permit issued pursuant to Part 4.4 shall be valid for a period of one (1) year from the date of issuance but shall expire after six (6) months from the date of issuance if work has not been commenced by that date;
- b) A permit which is no longer valid or which has expired pursuant to Part 5.1(a) may be renewed within a six (6) month period following the date of expiry upon written application to the *Director* accompanied by a payment of one half of the original permit fee, provided that the previously permitted work has not been revised. The written request/application shall include a report prepared by the environmental consultant, including a topographic 'as-built' survey certified by a Professional Engineer or Ontario Land Surveyor, confirming the volume of fill material placed on the site at the time of renewal;
- c) A permit may be cancelled upon written request from the *owner* or person authorized in writing by the owner to the *Director*. A site inspection will be conducted to ensure that no work has commenced and that the site is in an acceptable condition, and at the discretion of the *Director*, a refund of the deposit less the applicable administration fee will be issued;
- d) Where fill quantities have been placed which exceed the amount specified in the permit, the landowner will be considered to be in contravention of the permit and will be required to remove all fill material placed in contravention of the permit unless a revised application is provided pursuant to Part 4 of this by-law and approved by the *Director*, including payment of all applicable fees as outlined in Schedule A and Schedule B;
- e) If title to the land for which a permit has been issued is transferred while the permit remains in effect, the permit shall be cancelled unless the new *owner*, within thirty (30) days of the transfer:
- (i) Provides the *Town* with an undertaking agreeing to comply with all conditions under which the existing permit was issued; or
  - (ii) Applies for and obtains a new permit in accordance with the provisions of this by-law.
- 5.2 Every person who undertakes a *site alteration* or causes a *site alteration* to occur on lands shall:
- a) Ensure that the *finished grade* surface is protected by sod, turf, seeding for grass, greenery, asphalt, concrete or such other provisions as shown on the submitted plans;
- b) Ensure that no trench in which piping is laid forming part of the *drainage* system is covered and backfilled until the work has been inspected and approved by the qualified engineer or environmental consultant referred to in Part 4;

- c) Provide such protection for trees on the *site alteration* plan as may be required by the qualified engineer or environmental consultant referred to in Part 4;
- d) Ensure that all *fill* used is clean and free of rubbish, glass, garbage, termites, organic materials, liquid and toxic chemicals and other contaminants;
- e) Ensure that *fill* is *placed* or *dumped* in such a manner and any *retaining wall* containing such *fill* is erected in such a manner that no *ponding* is caused on abutting lands and that adequate provision is made to properly manage all surface stormwater *drainage*.

5.3 The *Director* may revoke the permit and require that all work on the site shall cease for the following reasons:

- a) The permit was obtained on mistaken, false or incorrect information;
- b) The permit was issued in error;
- c) The *owner* or Permit holder requests in writing, that it be revoked;
- d) The terms of an agreement under this by-law have not been complied with;
- e) Work authorized under the permit has not been commenced prior to its expiry date;
- f) An *owner* has failed to comply with the provisions of this bylaw.

5.4 The administration and enforcement of this by-law shall be performed by the *Director*, by persons authorized by the *Director* and by such municipal law enforcement officers of the *Corporation* as may be appointed by the Council of the *Corporation*.

## **PART 6 ADMINISTRATION AND ENFORCEMENT**

6.1 Employees of the Department of Engineering and Public Works of the *Town*, or any employees that are otherwise authorized to enforce the by-laws of the *Town* are appointed as *inspectors* for all purposes of this by-law.

6.2 *Inspectors* may, at any reasonable time enter and inspect any land to determine whether the provisions of this by-law, or a condition of a permit issued under this by-law have been complied with. This power of entry does not allow the *inspector* to enter any building.

6.3 Upon completion of the work pursuant to the permit, the *owner* and/or permit holder shall so advise the *Director*.

6.4 No person shall obstruct an inspector who is carrying out an inspection pursuant to this by-law.

6.5 This by-law shall apply to all *site alteration*, including *placing* and *dumping* of *fill*, on all lands within the *Town* whether such activity occurred prior to the date of the passage of this by-law, or subsequent to the passage of this by-law.

## PART 7 ORDERS

- 7.1 If after inspection, an *inspector* is satisfied that a contravention of this by-law has occurred, the *inspector* shall notify the *owner* and the permit holder of the particulars with a "Notice of Contravention" and/or an "Order to Comply" pursuant to Section 444(1) or 445(1) of the *Municipal Act, 2001*, as amended, at the same time and provide all occupants with a copy of the notice and such order shall contain:
- a) The municipal address and the legal description of the land;
  - b) Reasonable particulars of the contravention;
  - c) The period within which there must be compliance.
- 7.2 The *Director* or an *inspector* by a written "Notice of Contravention" and/or an "Order to Comply" pursuant to Section 444(1) or 445(1) of the *Municipal Act, 2001*, as amended, may require any person who has altered the *grade* of land, or who has caused or permitted the *grade* to be altered contrary to the provisions of this by-law, or who has *placed or dumped fill*, or who has caused or permitted *fill* to be *placed or dumped*, or who has caused or permitted any other form of *site alteration* contrary to the provisions of this by-law:
- a) To cease all work in respect of the *site alteration*;
  - c) To remove the *fill*;
  - c) To *fill* in any excavations or ponds; and/or
  - d) To do all work necessary;
    - (i) to eliminate any hazard resulting from the alteration of the *grade* or the *dumping* or *placing* of *fill* and to restore the land to a condition of safety;
    - (ii) to preserve the land pending fulfillment of all requirements outlined in Part 4.1 and 4.2 of this by-law for the issuance of a permit;
    - (iii) to restore the land to its former condition prior to the alteration of the *grade* of the land or to the *placing* or *dumping* of the *fill* on the land or other *site alteration*.
- 7.3 The notice and/or order referred to in Parts 7.1 and 7.2 shall also contain:
- a) The time frame in which the work contained in the order must be carried out;
  - b) A notice stating that if the work is not done in compliance with the order within the period it specifies, the *Corporation* may have the work done at the expense of the *owner*.
- 7.4 An *owner* who has received a "Notice of Contravention" and/or an "Order to Comply" shall comply with the "Notice of Contravention" and/or the "Order to Comply" within the time frame specified in the "Notice of Contravention" or the "Order to Comply", otherwise, the *Director* may draw on the financial securities as required.

- 7.5 A "Notice of Contravention" or an "Order to Comply" shall be served personally or by prepaid registered mail or in accordance with Part 7.7.
- 7.6 A "Notice of Contravention" or an "Order to Comply" pursuant to this by-law sent by prepaid registered mail shall be sent to the last known address to the *owner* of the land and permit holder.
- 7.7 An *inspector* who is unable to effect service pursuant to Part 7.1 of this by-law shall place a placard containing the terms of the "Notice of the Contravention" or an "Order to Comply" in a conspicuous place on the property and the placing of the placard shall be deemed to be sufficient service of the "Notice of Contravention" or an "Order to Comply" on the *owner* and permit holder.
- 7.8 If the *owner* or permit holder fails to do the work required by the "Order to Comply" within the period it specifies, the *Corporation*, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents. The costs incurred by the *Corporation* in so doing shall be paid by the *owner* of the land and may be recovered by the *Corporation* in like manner as taxes or drawing on financial securities provided.

#### **PART 8 WORK UNDERTAKEN BY MUNICIPALITY**

- 8.1 If the work required by an Order under Part 7 of this by-law is not done within the specified time period, the *Town*, in addition to all other remedies it may have, may do the work at the *owner's* expense and may enter upon land, at any reasonable time, for this purpose in accordance with the provisions of the *Municipal Act, 2001*.

#### **PART 9 PENALTY AND OFFENCE**

- 9.1 (a) Any person other than a corporation who contravenes the provisions of this by-law, the terms or conditions of a permit issued pursuant to this by-law, or an order issued pursuant to this by-law and Section 444(1) or 445(1) of the *Municipal Act, 2001* as amended is guilty of an offence and, upon conviction, is liable:
- (i) On a first conviction, to a fine of not more than \$10,000.00 for each day or part of a day on which the offence occurs or continues;
  - (ii) On any subsequent conviction to a fine of not more than \$25,000.00 for each day or part of a day on which the offence occurs or continues;
- (b) For contravention of this by-law or Orders issued under Part 7 to stop the injuring or destruction of trees:
- (i) On a first conviction, to a fine of not more than \$10,000 for each day or part of a day on which the offence occurs or continues;
  - (ii) On any subsequent conviction, to a fine of not more than \$25,000.00 for each day or part of a day on which the offence occurs or continues;

9.2 A corporation that contravenes any provision of this by-law, the terms or conditions of a permit issued pursuant to this by-law, or an order issued pursuant to this by-law and Section 444(1) or 445(1) of the *Municipal Act, 2001*, as amended, is guilty of an offence and on conviction is liable:

- (i) On a first conviction, to a fine of not more than \$50,000.00 for each day or part of a day on which the offence occurs or continues;
- (ii) On any subsequent conviction to a fine of not more than \$100,000.00 for each day or part of a day on which the offence occurs or continues.

9.3 If a person is convicted of an offence for contravening an order to stop the injuring or destruction of trees the court in which the conviction has been entered, or any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or plant or replant trees in such manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to reestablish the trees.

#### **PART 10 SEVERABILITY**

Should a court of competent jurisdiction declare any provision of this by-law to be invalid or of no force and effect, the provision is deemed severable from this by-law and it is the intention of Town Council that the remainder of the by-law shall survive and be applied and enforced in accordance with its terms to the extent possible under the law.

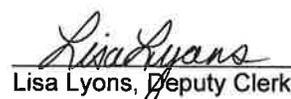
#### **PART 11 ENACTMENT**

This by-law shall come into force and effect on the date of passing.

By-law 91-139 (REG-1) is hereby repealed.

READ a first, second, third time and finally passed this 26<sup>th</sup> day of April, 2011.

  
Robert Grossi, Mayor

  
Lisa Lyons, Deputy Clerk

**SCHEDULE 'A'**

**FEE SCHEDULE – SITE ALTERATION (FILL PLACEMENT)**

| DESCRIPTION   | APPLICATION FEE | SECURITY DEPOSIT                            |
|---|-----------------|---|
| <i>Fill</i> Less than 250 cubic metres  | \$500.00        | \$2,500.00                                  |
| <i>Fill</i> greater than 250 cubic metres but less than 2000 cubic metres                                       | \$750.00        | \$10,000                                    |
| Fill placement 2000 cubic metres or greater   | \$1,000.00      | \$25,000                                    |
| Security for payment of Municipal Services Fee (Fill placement 2000 cubic metres or greater)                    | --              | \$0.50 per cubic metre of fill to be placed |
| Extension of permit for <i>Fill</i> 250 cubic metres or less (sec. 5.1(b))                                      | \$250.00        |   |
| Extension of permit for <i>Fill</i> greater than 250 cubic metres but less than 2000 cubic metres (sec. 5.1(b)) | \$375.00        |   |
| Extension of permit for fill greater than 2000 cubic metres (sec. 5.1(b))                                       | \$500.00        |   |

\*The above application fees are non-refundable.

The owner or owner's consultant shall provide a detailed breakdown of the cost estimate for the proposed work.

\*NOTE: The above fees shall be doubled in the event that the Applicant has performed any *site alteration* in contravention of this by-law.

**OTHER APPLICABLE FEES**

|  |  |
|--|--|
| Municipal Services Fee (where quantities are 2000 cubic metres or greater) | \$0.50 per cubic metre of fill material to be placed<br>To be paid at completion of project upon confirmation of volume totals |
| Preparation of Site Alteration Agreement                                   | \$6,150.00   |
| Amendment to Agreement   | \$2,050.00   |

The *Corporation* may engage legal, engineering, hydrology, environmental, arborists, landscape or any other consultant the *Director* deems necessary in order to evaluate studies and/or agreements in which case the costs incurred for such evaluations shall be charged back to the applicant plus a 5% administration charge; (sec. 4.6, 4.7)

**SCHEDULE 'B'**

**FEE SCHEDULE – LOT GRADING AND DRAINAGE (RESIDENTIAL)**

FEES APPLICABLE TO ALL RESIDENTIAL CONSTRUCTION AS NOTED WHERE **NO MORE THAN 50m<sup>3</sup>** OF FILL IS IMPORTED (INCLUDING GRANULAR MATERIAL FOR DRIVEWAYS AND SEPTIC SYSTEMS)

| DESCRIPTION   | APPLICATION FEE | SECURITY DEPOSIT |
|---|-----------------|------------------|
| Construction of principal buildings, septic systems and accessory structures greater than 20 square metres.<br>Construction of additions to accessory structures greater than 20 square metres.   | \$300.00        | \$2,500.00       |
| Additions to existing principal buildings. Foundation repairs or replacement, house raising and construction of new foundations for same.<br>Construction of in-ground pools.<br>Construction of accessory structures greater than 10 square metres but less than 20 square metres.<br>Additions to existing accessory structures greater than 10 square metres but less than 20 square metres. | \$150.00        | \$1,000.00       |
| Extension of permit for principal buildings, septic systems and accessory structures greater than 20 square metres.   | \$150.00        |                  |
| Extension of permit for Additions to existing principal buildings or accessory structures. Foundation repairs or replacement, house raising.<br>Construction of in-ground pools.<br>Construction of accessory structures less than 20 square metres.  | \$75.00         |                  |

The above application fees are non-refundable.

**\*NOTE:** The above fees shall be doubled in the event that the Applicant has performed any *site alteration* prior to the submission or approval of an application in contravention of this by-law.

## SCHEDULE 'C'

### ENVIRONMENTAL CONTROL PROGRAM

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#### Operational Standards:

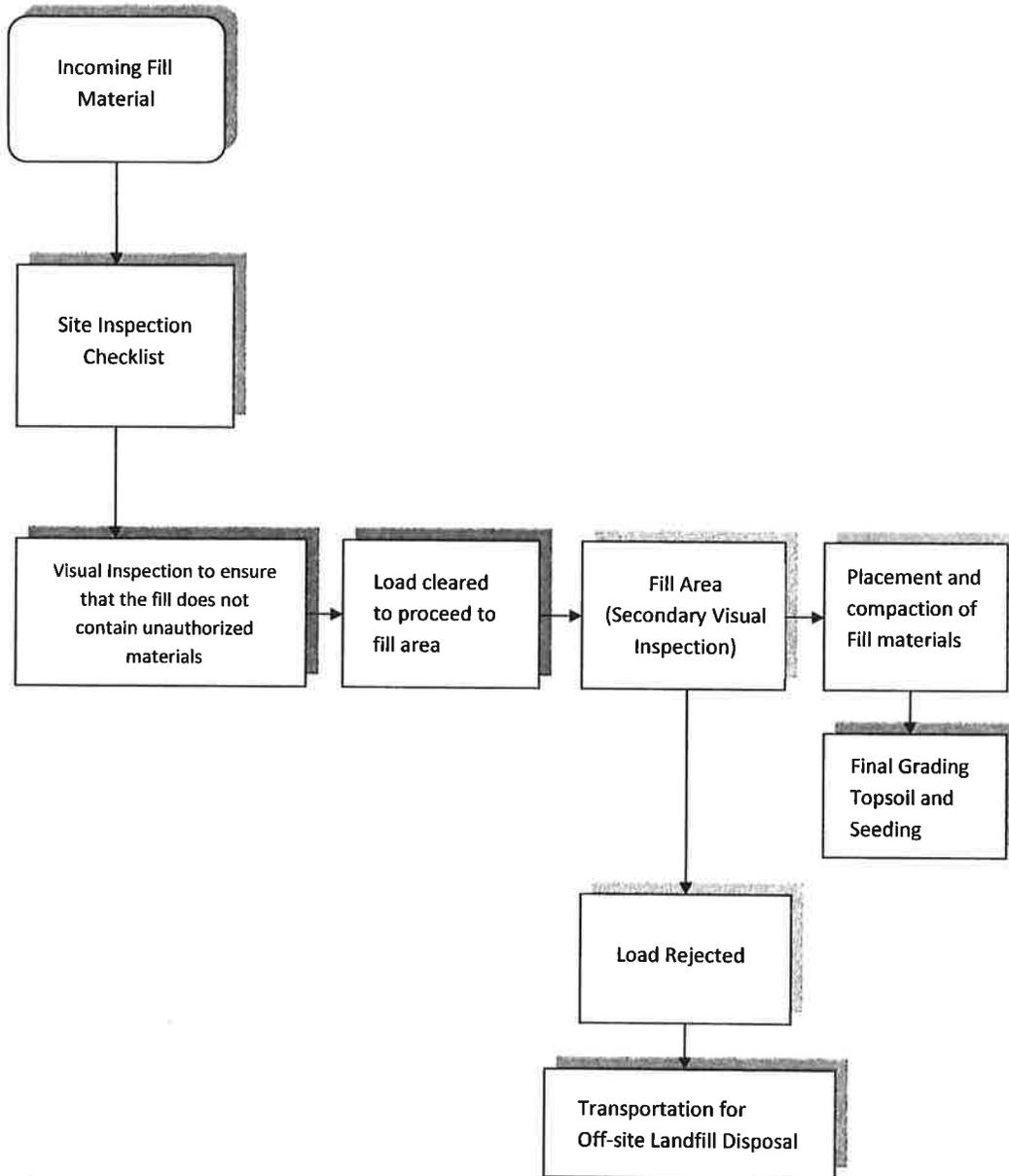
The following are proposed standards for the maintenance and operation of the fill area:

1. Site personnel will receive specialized training for their specific work tasks.
2. The placement of clean fill material at the site will be adequately and continually supervised.
3. Clean material will be placed in an orderly manner at the fill area.
4. Procedures will be established, signs posted, and safeguards maintained for the prevention of on-site accidents.
5. Vehicular access to the property will be by roadway closed by a gate capable of being locked.
6. Access roads and on-site roads will be provided so that vehicles hauling clean material to and on the site may travel readily under all normal weather conditions.
7. Access to the site will be limited to times when an attendant is on duty and accessible only to persons authorized to deposit clean material at the fill area.
8. Drainage passing over or through the site will not adversely affect adjoining properties. Natural drainage will not be obstructed.
9. Clean fill material will be placed in such manner that groundwater aquifers will not be impaired.
10. If groundwater contamination in excess of the Ontario Ministry of the Environment (MOE) Guideline is encountered, action will be taken to isolate the source of contamination and effectively prevent the egress of contaminants from the Site.
11. Where there is a possibility of groundwater pollution resulting from the operation of the fill area, samples will be taken and tests made by the owner of the site to measure the extent of contamination and, if necessary, measures will be taken for the collection and treatment of contaminants and for the prevention of groundwater pollution.
12. When the fill area has reached its limit of fill, a final cover of soil will be designed and constructed to a grade capable of supporting vegetation and that minimizes erosion. All slopes will be designed to drain runoff away from the cover and to prevent water from ponding. No standing water will be allowed anywhere in or on the completed fill area. The fill area will then be seeded with vegetation to minimize wind and water erosion. The vegetation used will be compatible with i.e., grow and survive under the local climatic conditions and will include of a diverse mix of native and introduced species consistent with the post closure land use. Temporary erosion control measures will be undertaken while vegetation is being established.

*Attachment -Operational Flowchart*

SCHEDULE 'C' – CONTINUED

ENVIRONMENTAL CONTROL PROGRAM – OPERATIONAL FLOW CHART



## SCHEDULE 'C' -- Continued

### ENVIRONMENTAL CONTROL PROGRAM

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#### Fill Screening Procedures:

The initial inspection of the truck and its load of inert fill will include a review of the chain of custody provided by the transporter and a visual inspection of the fill for signs of contamination. If at any point during the visual inspection there is evidence that the fill may be contaminated it will be rejected.

The attached Fill Inspection Checklist will be used to record and document the chain of custody and all initial and secondary inspections.

The first procedure for the site inspector will be to record the load number, truck number, the name of the company hauling the fill, the driver's name and ensure that the transporter provides a chain of custody (refer to check list). The chain of custody will include a record for the fill being delivered from its place of origin to the site.

The chain of custody will include information concerning the inert fill, the transport of the inert fill, and the truck itself. Information pertaining to the inert fill should include: place of origin; soil constituents; proof that the fill is clean; and copies of analyses to provide evidence that the soil is not contaminated. Records pertaining to the transport should include: a list of all drivers involved in the haulage of the inert fill from its place of origin to the Site; documentation of all stops made from the place of origin to the Site; documentation that ensures the truck is at the proper location. Records of transport cleaning and sanitation procedures for the truck and loading equipment should also be provided upon request to ensure that the fill has not been contaminated by previously transported materials,

An initial visual inspection of the inert fill will occur while the fill is still in the truck and, if the fill is deemed satisfactory, a secondary visual inspection will be performed when the fill is being dumped in the designated fill area, both initial and secondary inspections will include a firsthand observation of the following:

- Odours
- Unusual clumping
- Hazardous materials (biomedical, flammable, etc.)
- Food, household waste
- Discolouration
- Viscosity (liquid and sludge)
- Putrescible wastes
- Any other unauthorized materials

Initial and secondary inspections will include the raking and probing of the fill in order to agitate the soil and bring underlying soil to the surface so that an accurate representation of the soil may be inspected.

If there is evidence that the soil *may* be contaminated the site inspector will reject the load,

When either the initial or secondary inspections provide evidence that the soil is not clean the truckload will be refused and directed to the appropriate licensed waste disposal facility, the site supervisor will document what was found, why the load was refused and to which facility the load was directed.

*Attachment -Fill Inspection Checklist*

**SCHEDULE 'C' -- Continued**

**ENVIRONMENTAL CONTROL PROGRAM**

**Fill Inspection Checklist**

|  |  |                                    |   |
|--|--|------------------------------------|---|
| <u>Fill Site:</u>  |  | <u>Date:</u>                       | <u>Ticket No.:</u>                              |
|  |  | <u>Time:</u>                       | <u>Inspector:</u>                               |
| <u>Driver Information:</u>                                 |  | <u>No. of Loads:</u>               | <u>Quantity:</u>                                |
| Company: _____   |  |                                    | m <sup>3</sup>                                  |
| Truck No.: _____   |  |                                    |   |
| Driver Name.: _____  |  | ACCEPTED                           | REJECTED  |
| <u>Source Information:</u>                                 |  | <u>Report Provided at Source:</u>  | <u>Type of Fill:</u><br>(Check appropriate box) |
| <u>Address:</u>  |  | YES      NO                        | RESIDENTIAL                                     |
|  |  |                                    | INDUSTRIAL                                      |
|  |  |                                    | AGRICULTURAL                                    |
| <u>Visual Inspection Report</u>                            |  | <u>Load(s) Contains Clean Fill</u> |   |
| Primary Inspection   |  | YES                                | NO  |
| If "NO", complete the following:      Secondary Inspection |  | YES                                | NO  |
| 1  | Odours                                       |                                    |   |
| 2  | Unusual Discolouration                       |                                    |   |
| 3  | Hazardous Materials (Biochemical, Flammable) |                                    |   |
| 4  | Food/ Domestic Waste                         |                                    |   |
| 5  | Liquid or Sludge                             |                                    |   |
| 6  | Construction Materials (Wood, Drywall, etc.) |                                    |   |
| 7  | Scrap Metals                                 |                                    |   |
| 8  | Vegetation (Stumps, Sod)                     |                                    |   |
| 9  | Asphalt                                      |                                    |   |
| 10   | Other (Describe)                             |                                    |   |
| <u>Comments:</u>   |  |                                    |   |
|  |  |                                    |   |

## SCHEDULE 'C' -- Continued

### ENVIRONMENTAL CONTROL PROGRAM

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#### **Groundwater Monitoring:**

##### **Procedures for the Groundwater Monitoring Program**

To monitor the quality of groundwater migrating off-site a minimum of three monitor wells will be installed down gradient from the fill area as shown on the attached Site Grading Plan. Periodic analytical testing of the groundwater will be conducted to ensure that the groundwater values are less than the values contained in Table A of the MOE Guideline.

The following is an outline of the items related to the groundwater monitoring program that are addressed in the Environmental Control Program:

The impacts of the seepage of leachate from the fill area will be assessed in a systematic fashion using the techniques described below.

##### *Procedures for performing the groundwater assessment:*

1. The concentration of constituents in the leachate will be determined from laboratory analyses of groundwater samples collected down gradient from the fill area.
2. Acceptable groundwater assessment. The groundwater will be considered acceptable if the groundwater values are less than the values contained in Table A of the Ontario Ministry of the Environment (MOE) Guideline for Use at Contaminated Sites in Ontario, Revised February 1997 (Guideline). Initial groundwater analyses will include the following parameters:

Ca, Mg, Na, K, Al, Ba, Be, B, Cd, Cr, Co, Cu, Fe, Pb, Mn, Mo, Ni, P, Si, Ag, Sr, S, n, Ti, V, Zn, Sn, Benzene, Toluene, Ethyl Benzene, m/p-Xylene, o-Xylene, gasoline range organics < C10, diesel range organics C10-C24.

*Attachment -Table A Guideline Criteria, Target Parameters*

*Attachment -Site Grading Plan*

##### **Design, Construction and Operation of Groundwater Monitoring Systems**

All fill areas, will be identified and studied through a network of monitoring wells operated during the active life of the fill area and for two years after closure. Monitoring wells designed and constructed as part of the monitoring network will be maintained along with records that include, but are not limited to, well location, well size, type of well, the design and construction practice used in its installation and well and screen depths.

1. Standards for the location of monitoring points:
  - (a) Monitoring points will be established at sufficient locations down gradient with respect to groundwater flow to detect discharge of potential contaminants from within the fill area.
  - (b) Monitoring wells will be located in stratigraphic horizons that could serve as contaminant migration pathways.

## SCHEDULE 'C' -- Continued

### ENVIRONMENTAL CONTROL PROGRAM

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- (c) Monitoring wells will be established as close to the potential source of discharge as possible without interfering with the fill operations, and within half the distance from the edge of the potential source of discharge to property line down gradient with respect to groundwater flow, from the source.
- (d) A minimum of at least one monitoring well will be established at the property line and will be located down gradient from the fill area with respect to groundwater flow. Such well or wells will be used to monitor any statistically significant increase in the concentration of any constituent, in accordance with the Guideline, and will be used for determining compliance with applicable groundwater quality parameters.

2. Standards for monitoring well design and construction:

- (a) All monitoring wells will be cased in a manner that maintains the integrity of the borehole. The casing material will be inert so as not to affect the water sample. Well casings requiring a solvent-cement type coupling will not be used.
- (b) Wells will be screened to allow sampling only at the desired interval. Annular space between the borehole wall and well screen section will be packed with gravel or sand sized to avoid clogging by the material in the zone being monitored. The slot size of the screen will be designed to minimize clogging. Screens will be fabricated from material expected to be inert with respect to the constituents of the groundwater to be sampled.
- (c) Annular space above the well screen section will be sealed with a relatively impermeable, expandable material such as a cement /bentonite grout, which does not react with or in any way affect the sample, in order to prevent contamination of samples and groundwater and avoid interconnections. The seal will extend to the highest known seasonal groundwater level.
- (d) The annular space will be back-filled from an elevation below the frost line and mounded above the surface and sloped away from the casing so as to divert surface water away.
- (e) The annular space between the upper and lower seals and in the unsaturated zone may be backfilled with uncontaminated cuttings.
- (f) All wells will be covered with caps and equipped with devices to protect against tampering and damage.
- (g) All wells will be developed to allow free entry of water to minimize turbidity of the sample and minimize clogging.
- (h) Other sampling methods and well construction techniques may be utilized if they meet Provincial water well construction standards.

## SCHEDULE 'C' -- Continued

### ENVIRONMENTAL CONTROL PROGRAM

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3. Standards for Sample Collection and Analysis:
  - (a) The groundwater monitoring program will include consistent sampling and analysis procedures to assure that monitoring results can be relied upon to provide data representative of groundwater quality in the zone being monitored.
  - (b) The operator will utilize procedures and techniques to ensure that collected samples are representative of the zone being monitored and that prevent cross contamination of samples from other monitoring wells or from other samples.
  - (d) The operator will establish a quality assurance quality control program for groundwater sample collection.
  - (e) The operator will institute a chain of custody procedure to prevent tampering and contamination of the collected samples prior to completion of analysis.

#### Groundwater Monitoring Program:

1. The operator will implement a monitoring program in accordance with the following requirements:
  - (a) Monitoring schedule and frequency:
    - (i) The monitoring period will begin as soon as a fill permit is issued. Monitoring will continue for a minimum period of two years after closure. The operator will sample all monitoring points on a quarterly basis.
    - (ii) The monitoring frequency may change on a well by well basis to an annual schedule if all constituents monitored within the zone of attenuation are less than or equal to Guideline criteria for three consecutive quarters. However, monitoring will return to a quarterly schedule at any well where a statistically significant increase is determined to have occurred in the concentration of any constituent with respect to the previous sample.
    - (iii) Monitoring will be continued for a minimum period of two years after closure. Monitoring beyond the minimum period may be discontinued if no statistically significant increase is detected in the concentration of any constituent above that measured and recorded during the immediately preceding scheduled sampling for three consecutive quarters.
  - (b) Criteria for choosing constituents to be monitored:
    - (i) The operator will monitor each well for constituents that will provide a means for detecting groundwater contamination. Constituents will be chosen for monitoring if the constituent appears in, or is expected to be in, the leachate.

**SCHEDULE 'C' -- Continued**

**ENVIRONMENTAL CONTROL PROGRAM**

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- (ii) One or more indicator constituents, representative of the transport processes of constituents in the leachate, may be chosen for monitoring in place of the constituents it represents.
- 2. If the analysis of the monitoring data shows that the concentration of one or more constituents is attributable to the fill operations and exceeds Guideline criteria, then the operator will conduct a groundwater impact assessment. The assessment monitoring program will be conducted in accordance with the following requirements:
  - (a) The impact assessment will be conducted to collect additional information to assess the nature and extent of groundwater contamination, which will consist of, but not be limited to, the following steps:
    - (i) More frequent sampling of the wells in which the observation occurred;
    - (ii) More frequent sampling of any surrounding wells;
    - (iii) The placement of additional monitoring wells to determine the source and extent of the contamination; and
    - (iv) Monitoring of additional constituents to determine the source and extent of contamination.
  - (b) If the analysis of the assessment monitoring data shows that the concentration of one or more constituents monitored is above the applicable groundwater quality standards and is attributable to the fill operations, the operator will determine the nature and extent of the groundwater contamination, including an assessment of the continued impact on the groundwater should additional fill continue to be accepted at the facility, and will implement remedial action.

**Plugging and Sealing of Drill Holes:**

- 1. All drill holes, including exploration borings that are not converted into monitoring wells, monitoring wells that are no longer necessary to the operation of the site, and other holes that may cause or facilitate contamination of groundwater shall be sealed in accordance Ontario Regulation 903.

**SCHEDULE 'C' – CONTINUED**

**SOIL, GROUND WATER AND SEDIMENT STANDARDS FOR USE UNDER PART  
XV.1 OF THE ENVIRONMENTAL PROTECTION ACT, JULY 27, 2009  
TABLES 1 AND 2**

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**TABLE 1: Full Depth Background Site Condition Standards**

| Table 1<br><br>Contaminant  | Soil (other than sediment)<br>µg/g    |  | Ground Water<br>(µg/L)        | Sediment<br>(µg/g)            |
|-----------------------------|---------------------------------------|--|-------------------------------|-------------------------------|
|                             | Agricultural or Other<br>Property Use | Residential/<br>Parkland/Institutional/<br>Industrial/Commercial/<br>Community Property<br>Use | All Types of<br>Property Uses | All Types of<br>Property Uses |
| Accnaphthene                | 0.05                                  | 0.072  | 4.1                           | NV                            |
| Accnaphthylene              | 0.093                                 | 0.093  | 1                             | NV                            |
| Acetone                     | 0.5                                   | 0.5  | 2700                          | NV                            |
| Aldrin                      | 0.05                                  | 0.05   | 0.01                          | 0.002                         |
| Anthracene                  | 0.05                                  | 0.16   | 0.1                           | 0.22                          |
| Antimony                    | 1                                     | 1.3  | 1.5                           | NV                            |
| Arsenic                     | 11                                    | 18   | 13                            | 6                             |
| Barium                      | 210                                   | 220  | 610                           | NV                            |
| Benzene                     | 0.02                                  | 0.02   | 0.5                           | NV                            |
| Benz[a]anthracene           | 0.095                                 | 0.36   | 0.2                           | 0.32                          |
| Benzof[a]pyrene             | 0.05                                  | 0.3  | 0.01                          | 0.37                          |
| Benzo[b]fluoranthene        | 0.3                                   | 0.47   | 0.1                           | NV                            |
| Benzo[ghi]perylene          | 0.2                                   | 0.68   | 0.2                           | 0.17                          |
| Benzo[k]fluoranthene        | 0.05                                  | 0.48   | 0.1                           | 0.24                          |
| Beryllium                   | 2.5                                   | 2.5  | 0.5                           | NV                            |
| Biphenyl 1 1'-              | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Bis(2-chloroethyl)ether     | 0.5                                   | 0.5  | 5                             | NV                            |
| Bis(2-chloroisopropyl)ether | 0.5                                   | 0.5  | 120                           | NV                            |
| Bis(2-ethylhexyl)phthalate  | 5                                     | 5  | 10                            | NV                            |
| Boron (Hot Water Soluble)*  | NA                                    | NA   | NA                            | NA                            |
| Boron (total)               | 36                                    | 36   | 1700                          | NV                            |
| Bromodichloromethane        | 0.05                                  | 0.05   | 2                             | NV                            |
| Bromoform                   | 0.05                                  | 0.05   | 5                             | NV                            |
| Bromomethane                | 0.05                                  | 0.05   | 0.89                          | NV                            |
| Cadmium                     | 1                                     | 1.2  | 0.5                           | 0.6                           |
| Carbon Tetrachloride        | 0.05                                  | 0.05   | 0.2                           | NV                            |
| Chlordane                   | 0.05                                  | 0.05   | 0.06                          | 0.007                         |
| Chloroaniline p-            | 0.5                                   | 0.5  | 10                            | NV                            |
| Chlorobenzene               | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Chloroform                  | 0.05                                  | 0.05   | 2                             | NV                            |
| Chlorophenol 2-             | 0.1                                   | 0.1  | 8.9                           | NV                            |
| Chromium Total              | 67                                    | 70   | 11                            | 26                            |
| Chromium VI                 | 0.66                                  | 0.66   | 25                            | NV                            |
| Chrysene                    | 0.18                                  | 2.8  | 0.1                           | 0.34                          |
| Cobalt                      | 19                                    | 21   | 3.8                           | 50                            |
| Copper                      | 62                                    | 92   | 5                             | 16                            |
| Cyanide (CN-)               | 0.051                                 | 0.051  | 5                             | 0.1                           |
| Dibenz[a,h]anthracene       | 0.1                                   | 0.1  | 0.2                           | 0.06                          |
| Dibromochloromethane        | 0.05                                  | 0.05   | 2                             | NV                            |
| Dichlorobenzene 1 2-        | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Dichlorobenzene 1 3-        | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Dichlorobenzene 1 4-        | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Dichlorobenzidine 3 3'-     | 1                                     | 1  | 0.5                           | NV                            |
| Dichlorodifluoromethane     | 0.05                                  | 0.05   | 590                           | NV                            |
| DDD                         | 0.05                                  | 0.05   | 1.8                           | 0.008                         |
| DDE                         | 0.05                                  | 0.05   | 10                            | 0.005                         |
| DDT                         | 0.078                                 | 1.4  | 0.05                          | 0.007                         |
| Dichloroethane 1 1-         | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Dichloroethane 1 2-         | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Dichloroethylene 1 1-       | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Dichloroethylene 1 2-cis-   | 0.05                                  | 0.05   | 1.6                           | NV                            |
| Dichloroethylene 1 2-trans- | 0.05                                  | 0.05   | 1.6                           | NV                            |
| Dichlorophenol 2 4-         | 0.1                                   | 0.1  | 20                            | NV                            |
| Dichloropropane 1 2-        | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Dichloropropene 1 3-        | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Dieldrin                    | 0.05                                  | 0.05   | 0.05                          | 0.002                         |

| Table 1<br>Contaminant         | Soil (other than sediment)<br>(µg/g)  |  | Ground Water<br>(µg/L)        | Sediment<br>(µg/g)            |
|--------------------------------|---------------------------------------|--|-------------------------------|-------------------------------|
|                                | Agricultural or Other<br>Property Use | Residential/<br>Parkland/Institutional/<br>Industrial/Commercial/<br>Community Property<br>Use | All Types of<br>Property Uses | All Types of<br>Property Uses |
| Diethyl Phthalate              | 0.5                                   | 0.5  | 30                            | NV                            |
| Dimethylphthalate              | 0.5                                   | 0.5  | 30                            | NV                            |
| Dimethylphenol 2,4-            | 0.2                                   | 0.2  | 10                            | NV                            |
| Dinitrophenol, 2,4-            | 2                                     | 2  | 10                            | NV                            |
| Dinitrotoluene 2,4 & 2,6-      | 0.5                                   | 0.5  | 5                             | NV                            |
| Dioxane - 1,4                  | 0.2                                   | 0.2  | 50                            | NV                            |
| Dioxin/Furan (TEQ)             | 0.000007                              | 0.000007   | 0.000015                      | NV                            |
| Endosulfan                     | 0.04                                  | 0.04   | 0.05                          | NV                            |
| Endrin                         | 0.04                                  | 0.04   | 0.05                          | 0.003                         |
| Ethylbenzene                   | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Ethylene dibromide             | 0.05                                  | 0.05   | 0.2                           | NV                            |
| Fluoranthene                   | 0.24                                  | 0.56   | 0.4                           | 0.75                          |
| Fluorene                       | 0.05                                  | 0.12   | 120                           | 0.19                          |
| Heptachlor                     | 0.05                                  | 0.05   | 0.01                          | NV                            |
| Heptachlor Epoxide             | 0.05                                  | 0.05   | 0.01                          | 0.005                         |
| Hexachlorobenzene              | 0.01                                  | 0.01   | 0.01                          | 0.02                          |
| Hexachlorobutadiene            | 0.01                                  | 0.01   | 0.01                          | NV                            |
| Hexachlorocyclohexane Gamma-   | 0.01                                  | 0.01   | 0.01                          | NV                            |
| Hexachloroethane               | 0.01                                  | 0.01   | 0.01                          | NV                            |
| Hexane (n)                     | 0.05                                  | 0.05   | 5                             | NV                            |
| Indeno[1,2,3-cd]pyrene         | 0.11                                  | 0.23   | 0.2                           | 0.2                           |
| Lead                           | 45                                    | 120  | 1.9                           | 31                            |
| Mercury                        | 0.16                                  | 0.27   | 0.1                           | 0.2                           |
| Methoxychlor                   | 0.05                                  | 0.05   | 0.05                          | NV                            |
| Methyl Ethyl Ketone            | 0.5                                   | 0.5  | 400                           | NV                            |
| Methyl Isobutyl Ketone         | 0.5                                   | 0.5  | 640                           | NV                            |
| Methyl Mercury **              | NV                                    | NV   | 0.12                          | NV                            |
| Methyl tert-Butyl Ether (MTBE) | 0.05                                  | 0.05   | 15                            | NV                            |
| Methylene Chloride             | 0.05                                  | 0.05   | 5                             | NV                            |
| Methylnaphthalene, 2-(1-) ***  | 0.05                                  | 0.59   | 2                             | NV                            |
| Molybdenum                     | 2                                     | 2  | 23                            | NV                            |
| Naphthalene                    | 0.05                                  | 0.09   | 7                             | NV                            |
| Nickel                         | 37                                    | 82   | 14                            | 16                            |
| Pentachlorophenol              | 0.1                                   | 0.1  | 0.5                           | NV                            |
| Petroleum Hydrocarbons F1****  | 10                                    | 10   | 420                           | NV                            |
| Petroleum Hydrocarbons F2      | 10                                    | 10   | 150                           | NV                            |
| Petroleum Hydrocarbons F3      | 50                                    | 50   | 500                           | NV                            |
| Petroleum Hydrocarbons F4      | 50                                    | 50   | 500                           | NV                            |
| Phenanthrene                   | 0.19                                  | 0.69   | 0.1                           | 0.56                          |
| Phenol                         | 0.5                                   | 0.5  | 5                             | NV                            |
| Polychlorinated Biphenyls      | 0.3                                   | 0.3  | 0.2                           | 0.07                          |
| Pyrene                         | 0.19                                  | 1  | 0.2                           | 0.49                          |
| Selenium                       | 1.2                                   | 1.5  | 5                             | NV                            |
| Silver                         | 0.5                                   | 0.5  | 0.3                           | 0.5                           |
| Styrene                        | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Tetrachloroethane 1,1,1,2-     | 0.05                                  | 0.05   | 1.1                           | NV                            |
| Tetrachloroethane 1,1,2,2-     | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Tetrachloroethylene            | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Thallium                       | 1                                     | 1  | 0.5                           | NV                            |
| Toluene                        | 0.2                                   | 0.2  | 0.8                           | NV                            |
| Trichlorobenzene 1,2,4-        | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Trichloroethane 1,1,1-         | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Trichloroethane 1,1,2-         | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Trichloroethylene              | 0.05                                  | 0.05   | 0.5                           | NV                            |
| Trichlorofluoromethane         | 0.05                                  | 0.25   | 150                           | NV                            |
| Trichlorophenol 2,4,5-         | 0.1                                   | 0.1  | 0.2                           | NV                            |
| Trichlorophenol 2,4,6-         | 0.1                                   | 0.1  | 0.2                           | NV                            |
| Uranium                        | 1.9                                   | 2.5  | 8.9                           | NV                            |
| Vanadium                       | 86                                    | 86   | 3.9                           | NV                            |
| Vinyl Chloride                 | 0.02                                  | 0.02   | 0.5                           | NV                            |

| Table 1<br>Contaminant          | Soil (other than sediment)<br>µg/g    |  | Ground Water<br>(µg/L)        | Sediment<br>(µg/g)            |
|---------------------------------|---------------------------------------|--|-------------------------------|-------------------------------|
|                                 | Agricultural or Other<br>Property Use | Residential/<br>Parkland/Institutional/<br>Industrial/Commercial/<br>Community Property<br>Use | All Types of<br>Property Uses | All Types of<br>Property Uses |
| Xylene Mixture                  | 0.05                                  | 0.05   | 72                            | NV                            |
| Zinc                            | 290                                   | 290  | 160                           | 120                           |
| Electrical Conductivity (mS/cm) | 0.47                                  | 0.57   | NA                            | NA                            |
| Chloride                        | NA                                    | NA   | 790000                        | NV                            |
| Sodium Adsorption Ratio         | 1                                     | 2.4  | NA                            | NA                            |
| Sodium                          | NA                                    | NA   | 490000                        | NV                            |

**Notes**

( ) Standard in bracket applies to medium and fine textured soils

N/V= No value derived. N/A = Not applicable

\* The boron standards are for hot water soluble extract for all surface soils. For subsurface soils the standards are for total boron (mixed strong acid digest), as ecological criteria are not considered.

\*\*Analysis for methyl mercury only applies when mercury (total) standard is exceeded

\*\*\* The methyl naphthalene standards are applicable to both 1-methyl naphthalene and 2- methyl naphthalene , with the provision that if both are detected the sum of the two must not exceed the standard.

\*\*\*\* F1 fraction does not include BTEX; however, the proponent has the choice as to whether or not to subtract BTEX from the analytical result.

**TABLE 2: Full Depth Generic Site Condition Standards in a Potable Ground Water Condition**

| Table 2<br>Contaminant      | Soil Standards (other than sediment)<br>µg/g |  |   | Potable Ground<br>Water<br>µg/L |
|-----------------------------|--|--|---|---------------------------------|
|                             | Agricultural or Other<br>Property Use        | Residential/<br>Parkland/Institutional<br>Property Use | Industrial/<br>Commercial/Community<br>Property Use | All Types of<br>Property<br>Use |
| Acenaphthene                | (29) 7.9                                     | (29) 7.9   | (29) 21   | 4.1                             |
| Acenaphthylene              | (0.17) 0.15                                  | (0.17) 0.15  | (0.17) 0.15   | 1                               |
| Acetone                     | (28) 16                                      | (28) 16  | (28) 16   | 2700                            |
| Aldrin                      | 0.05   | 0.05   | (0.11) 0.088  | 0.35                            |
| Anthracene                  | (0.74) 0.67                                  | (0.74) 0.67  | (0.74) 0.67   | 2.4                             |
| Antimony                    | 7.5  | 7.5  | (50) 40   | 6                               |
| Arsenic                     | 11   | 18   | 18  | 2.5                             |
| Barium                      | 390  | 390  | 670   | 1000                            |
| Benzene                     | (0.17) 0.21                                  | (0.17) 0.21  | (0.4) 0.32  | 5                               |
| Benz[a]anthracene           | (0.63) 0.5                                   | (0.63) 0.5   | 0.96  | 1                               |
| Benz[a]pyrene               | 0.078  | 0.3  | 0.3   | 0.01                            |
| Benzo[b]fluoranthene        | 0.78   | 0.78   | 0.96  | 0.1                             |
| Benzo[ghi]perylene          | (7.8) 6.6                                    | (7.8) 6.6  | 9.6   | 0.2                             |
| Benzo[k]fluoranthene        | 0.78   | 0.78   | 0.96  | 0.1                             |
| Beryllium                   | (5) 4  | (5) 4  | (10) 8  | 4                               |
| Biphenyl 1 1'-              | (1.1) 0.31                                   | (1.1) 0.31   | (210) 52  | 0.5                             |
| Bis(2-chloroethyl)ether     | 0.5  | 0.5  | 0.5   | 5                               |
| Bis(2-chloroisopropyl)ether | (1.8) 0.67                                   | (1.8) 0.67   | (13) 11   | 120                             |
| Bis(2-ethylhexyl)phthalate  | 5  | 5  | (35) 28   | 10                              |
| Boron (Hot Water Soluble)*  | 1.5  | 1.5  | 2   | NA                              |
| Boron (total)               | 120  | 120  | 120   | 5000                            |
| Bromodichloromethane        | (1.9) 1.5                                    | (1.9) 1.5  | (1.9) 1.5   | 16                              |
| Bromoform                   | (0.26) 0.27                                  | (0.26) 0.27  | (1.7) 0.61  | 25                              |
| Bromomethane                | 0.05   | 0.05   | 0.05  | 0.89                            |
| Cadmium                     | 1  | 1.2  | 1.9   | 2.7                             |
| Carbon Tetrachloride        | (0.12) 0.05                                  | (0.12) 0.05  | (0.71) 0.21   | (5) 0.79                        |
| Chlordane                   | 0.05   | 0.05   | 0.05  | 7                               |
| Chloroaniline p-            | (0.53) 0.5                                   | (0.53) 0.5   | (0.53) 0.5  | 10                              |
| Chlorobenzene               | (2.7) 2.4                                    | (2.7) 2.4  | (2.7) 2.4   | 30                              |
| Chloroform                  | (0.17) 0.05                                  | (0.17) 0.05  | (0.18) 0.47   | (22) 2.4                        |
| Chlorophenol 2-             | (2) 1.6                                      | (2) 1.6  | (3.9) 3.1   | 8.9                             |
| Chromium Total              | 160  | 160  | 160   | 50                              |
| Chromium VI                 | (10) 8                                       | (10) 8   | (10) 8  | 25                              |
| Chrysene                    | (7.8) 7                                      | (7.8) 7  | 9.6   | 0.1                             |
| Cobalt                      | 22   | 22   | (100) 80  | 3.8                             |
| Copper                      | (180) 140                                    | (180) 140  | (300) 230   | 87                              |
| Cyanide (CN-)               | 0.051  | 0.051  | 0.051   | 66                              |
| Dibenz[a h]anthracene       | 0.1  | 0.1  | 0.1   | 0.2                             |
| Dibromochloromethane        | (2.9) 2.3                                    | (2.9) 2.3  | (2.9) 2.3   | 25                              |
| Dichlorobenzene 1 2-        | (1.7) 1.2                                    | (1.7) 1.2  | (1.7) 1.2   | 3                               |
| Dichlorobenzene 1 3-        | (6) 4.8                                      | (6) 4.8  | (12) 9.6  | 59                              |
| Dichlorobenzene 1 4-        | (0.097) 0.083                                | (0.097) 0.083  | (0.57) 0.2  | 1                               |
| Dichlorobenzidine 3 3'-     | 1  | 1  | 1   | 0.5                             |
| Dichlorodifluoromethane     | (25) 16                                      | (25) 16  | (25) 16   | 590                             |
| DDD                         | 3.3  | 3.3  | 4.6   | 10                              |
| DDE                         | (0.33) 0.26                                  | (0.33) 0.26  | (0.65) 0.52   | 10                              |
| DDT                         | 0.078  | 1.4  | 1.4   | 2.8                             |
| Dichloroethane 1 1-         | (0.6) 0.47                                   | (0.6) 0.47   | (0.6) 0.47  | 5                               |
| Dichloroethane 1 2-         | 0.05   | 0.05   | 0.05  | (5) 1.6                         |
| Dichloroethylene 1 1-       | 0.05   | 0.05   | (0.48) 0.064  | (14) 1.6                        |
| Dichloroethylene 1 2-cis-   | (2.5) 1.9                                    | (2.5) 1.9  | (2.5) 1.9   | (17) 1.6                        |
| Dichloroethylene 1 2-trans- | (0.75) 0.084                                 | (0.75) 0.084   | (2.5) 1.3   | (17) 1.6                        |
| Dichlorophenol 2 4-         | (0.27) 0.19                                  | (0.27) 0.19  | (0.27) 0.19   | 20                              |
| Dichloropropane 1 2-        | (0.085) 0.05                                 | (0.085) 0.05   | (0.68) 0.16   | 5                               |
| Dichloropropene 1 3-        | (0.081) 0.05                                 | (0.081) 0.05   | (0.081) 0.059                                       | 0.5                             |
| Dieldrin                    | 0.05   | 0.05   | (0.11) 0.088  | 0.35                            |

| Table 2<br>Contaminant         | Soil Standards (other than sediment)<br>µg/g |  |   | Potable Ground<br>Water<br>µg/L |
|--------------------------------|--|--|---|---------------------------------|
|                                | Agricultural or Other<br>Property Use        | Residential/<br>Parkland/Institutional<br>Property Use | Industrial/<br>Commercial/Community<br>Property Use | All Types of<br>Property<br>Use |
| Diethyl Phthalate              | 0.5  | 0.5  | 0.5   | 38                              |
| Dimethylphthalate              | 0.5  | 0.5  | 0.5   | 38                              |
| Dimethylphenol 2,4-            | (53) 38                                      | (53) 38  | (53) 38   | 59                              |
| Dinitrophenol, 2,4-            | (2.9) 2                                      | (2.9) 2  | (2.9) 2   | 10                              |
| Dinitrotoluene 2,4 & 2,6-      | 0.5  | 0.5  | 0.5   | 5                               |
| Dioxane - 1,4                  | 0.2  | 1.8  | 1.8   | 50                              |
| Dioxin/Furan (TEQ)             | 0.00013                                      | 0.00013  | 0.00099   | 0.00015                         |
| Endosulfan                     | 0.04   | 0.04   | (0.38) 0.3  | 1.5                             |
| Endrin                         | 0.04   | 0.04   | 0.04  | 0.48                            |
| Ethylbenzene                   | (1.6) 1.1                                    | (1.6) 1.1  | (1.6) 1.1   | 2.4                             |
| Ethylene dibromide             | 0.05   | 0.05   | 0.05  | 0.2                             |
| Fluoranthene                   | 0.69   | 0.69   | 9.6   | 0.41                            |
| Fluorene                       | (69) 62                                      | (69) 62  | (69) 62   | 120                             |
| Heptachlor                     | 0.15   | 0.15   | 0.19  | 1.5                             |
| Heptachlor Epoxide             | 0.05   | 0.05   | 0.05  | 0.048                           |
| Hexachlorobenzene              | 0.52   | 0.52   | 0.66  | 1                               |
| Hexachlorobutadiene            | (0.014) 0.012                                | (0.014) 0.012  | (0.095) 0.031                                       | (0.6) 0.44                      |
| Hexachlorocyclohexane Gamma-   | (0.063) 0.056                                | (0.063) 0.056  | (0.063) 0.056                                       | 1.2                             |
| Hexachloroethane               | (0.07) 0.089                                 | (0.07) 0.089   | (0.43) 0.21   | 2.1                             |
| Hexane (n)                     | (34) 2.8                                     | (34) 2.8   | (88) 46   | (520) 51                        |
| Indeno[1,2,3-cd]pyrene         | (0.48) 0.38                                  | (0.48) 0.38  | (0.95) 0.76   | 0.2                             |
| Lead                           | 45   | 120  | 120   | 10                              |
| Mercury                        | (1.8) 0.25                                   | (1.8) 0.27   | (20) 3.9  | (1) 0.29                        |
| Methoxychlor                   | 0.13   | 0.13   | 1.6   | 6.5                             |
| Methyl Ethyl Ketone            | (44) 16                                      | (44) 16  | (88) 70   | 1800                            |
| Methyl Isobutyl Ketone         | (4.3) 1.7                                    | (4.3) 1.7  | (210) 31  | 640                             |
| Methyl Mercury **              | (0.0094) 0.0084                              | (0.0094) 0.0084  | (0.0094) 0.0084                                     | 0.15                            |
| Methyl tert-Butyl Ether (MTBE) | (1.4) 0.75                                   | (1.4) 0.75   | (2.3) 1.6   | 15                              |
| Methylene Chloride             | (0.96) 0.1                                   | (0.96) 0.1   | (2) 1.6   | 50                              |
| Methylnaphthalene, 2-(1-) ***  | (3.4) 0.99                                   | (3.4) 0.99   | (42) 30   | 3.2                             |
| Molybdenum                     | 6.9  | 6.9  | 40  | 70                              |
| Naphthalene                    | (0.75) 0.6                                   | (0.75) 0.6   | (28) 9.6  | 11                              |
| Nickel                         | (130) 100                                    | (130) 100  | (340) 270   | 100                             |
| Pentachlorophenol              | 0.1  | 0.1  | (3.3) 2.9   | 30                              |
| Petroleum Hydrocarbons F1****  | (65) 55                                      | (65) 55  | (65) 55   | 750                             |
| Petroleum Hydrocarbons F2      | (150) 98                                     | (150) 98   | (250) 230   | 150                             |
| Petroleum Hydrocarbons F3      | (1300) 300                                   | (1300) 300   | (2500) 1700   | 500                             |
| Petroleum Hydrocarbons F4      | (5600) 2800                                  | (5600) 2800  | (6600) 3300   | 500                             |
| Phenanthrene                   | (7.8) 6.2                                    | (7.8) 6.2  | (16) 12   | 1                               |
| Phenol                         | 9.4  | 9.4  | 9.4   | 890                             |
| Polychlorinated Biphenyls      | 0.35   | 0.35   | 1.1   | 3                               |
| Pyrene                         | 78   | 78   | 96  | 4.1                             |
| Selenium                       | 2.4  | 2.4  | 5.5   | 10                              |
| Silver                         | (25) 20                                      | (25) 20  | (50) 40   | 1.5                             |
| Styrene                        | (2.2) 0.7                                    | (2.2) 0.7  | (43) 34   | 5.4                             |
| Tetrachloroethane 1 1 1 2-     | (0.05) 0.058                                 | (0.05) 0.058   | (0.11) 0.087  | 1.1                             |
| Tetrachloroethane 1 1 2 2-     | 0.05   | 0.05   | (0.094) 0.05  | 1                               |
| Tetrachloroethylene            | (2.3) 0.28                                   | (2.3) 0.28   | (2.5) 1.9   | (17) 1.6                        |
| Thallium                       | 1  | 1  | 3.3   | 2                               |
| Toluene                        | (6) 2.3                                      | (6) 2.3  | (9) 6.4   | 24                              |
| Trichlorobenzene 1 2 4-        | (1.4) 0.36                                   | (1.4) 0.36   | (16) 3.2  | 70                              |
| Trichloroethane 1 1 1-         | (3.4) 0.38                                   | (3.4) 0.38   | (12) 6.1  | 200                             |
| Trichloroethane 1 1 2-         | 0.05   | 0.05   | (0.11) 0.05   | (5) 4.7                         |
| Trichloroethylene              | (0.52) 0.061                                 | (0.52) 0.061   | (0.61) 0.55   | (5) 1.6                         |
| Trichlorofluoromethane         | (5.8) 4                                      | (5.8) 4  | (5.8) 4   | 150                             |
| Trichlorophenol 2 4 5-         | (5.5) 4.4                                    | (5.5) 4.4  | (10) 9.1  | 8.9                             |
| Trichlorophenol 2 4 6-         | (2.9) 2.1                                    | (2.9) 2.1  | (2.9) 2.1   | 2                               |
| Uranium                        | 23   | 23   | 33  | 20                              |
| Vanadium                       | 86   | 86   | 86  | 6.2                             |
| Vinyl Chloride                 | (0.022) 0.02                                 | (0.022) 0.02   | (0.25) 0.032  | (1.7) 0.5                       |

| Table 2                         | Soil Standards (other than sediment) |  |   | Potable Ground Water      |
|---------------------------------|--------------------------------------|--|---|---------------------------|
|                                 | µg/g                                 |  |   | µg/L                      |
| Contaminant                     | Agricultural or Other Property Use   | Residential/ Parkland/Institutional Property Use | Industrial/ Commercial/Community Property Use | All Types of Property Use |
| Xylene Mixture                  | (25) 3.1                             | (25) 3.1   | (30) 26                                       | 300                       |
| Zinc                            | 340                                  | 340  | 340   | 1100                      |
| Electrical Conductivity (mS/cm) | 0.7                                  | 0.7  | 1.4   | NA                        |
| Chloride                        | NA                                   | NA   | NA  | 790000                    |
| Sodium Adsorption Ratio         | 5                                    | 5  | 12  | NA                        |
| Sodium                          | NA                                   | NA   | NA  | 490000                    |

Notes

( ) Standard in bracket applies to medium and fine textured soils

N/V= No value derived. N/A = Not applicable

\* The boron standards are for hot water soluble extract for all surface soils. For subsurface soils the standards are for total boron (mixed strong acid digest), as ecological criteria are not considered.

\*\*Analysis for methyl mercury only applies when mercury (total) standard is exceeded

\*\*\* The methyl naphthalene standards are applicable to both 1-methyl naphthalene and 2- methyl naphthalene , with the provision that if both are detected the sum of the two must not exceed the standard.

\*\*\*\* F1 fraction does not include BTEX; however, the proponent has the choice as to whether or not to subtract BTEX from the analytical result.

**THE CORPORATION OF THE TOWN OF GEORGINA**

**REPORT NO. OED-2013-0050**

**FOR CONSIDERATION OF  
COUNCIL  
OCTOBER 15, 2013**

**SUBJECT: APPLICATION FOR SITE ALTERATION PERMIT  
BALDWIN 33 INCORPORATED (C/O MARVIN BLANCHARD)  
PART LOT 3, CONCESSION 3 (G)  
6003 SMITH BOULEVARD**

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**RECOMMENDATION:**

- 1. THAT REPORT OED-2013-0050 PREPARED BY THE DEPARTMENT OF OPERATIONS AND ENGINEERING DATED OCTOBER 15, 2013 RESPECTING THE APPLICATION FOR SITE ALTERATION PERMIT MADE BY BALDWIN 33 INCORPORATED, AS OWNER, AS IT RELATES TO 6003 SMITH BOULEVARD BE RECEIVED FOR INFORMATION.**
- 2. THAT STAFF REPORT TO COUNCIL FOLLOWING RECEIPT AND ASSESSMENT OF PUBLIC COMMENTS PERTAINING TO THIS APPLICATION.**

**REPORT:**

The Town of Georgina has received an application for a Site Alteration Permit from Baldwin 33 Incorporated (c/o Marvin Blanchard), Owner of Part Lot 3, Concession 3 (G), municipally known as 6003 Smith Boulevard, to permit the import and placement of approximately 700,000 cubic metres of fill in accordance with the engineering and environmental requirements as outlined in By-law No. 2011-0044 (REG-1). If approved, this site would become the Town's second large scale fill site since the implementation of the Site Alteration By-law in 2011, and would be the largest in terms of import volume.

The intent of this proposal is to raise the low lying pasture land and create more useable farmland to be planted with hay or alfalfa. The Owner has indicated an estimated timeframe of four years to complete the project in its entirety. As with previous applications, it is recommended that if approved, a permit be issued for one year with the option for Council to renew the permit for an additional three years following the successful completion of the first year of operation.

The proposed work area is located along the central portion of the property as shown on the location plan attached as Appendix I. The site would be accessed by a new driveway to be constructed from Smith Boulevard at the northeast corner of the property in accordance with the conditions of an Entrance Permit.

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The Owner has retained the services of Schad Engineering to prepare all necessary Engineering drawings and reports, as well as Alpha Environmental to establish and maintain a ground and well water monitoring program. Both firms will be involved throughout the duration of construction overseeing all aspects of the project to ensure compliance with Town standards and requirements.

In accordance with Town requirements, a preliminary Ground and Well Water Monitoring program has been implemented and a baseline summary report provided to staff for review and approval. The program currently consists of the quarterly monitoring of three (3) adjacent residential water wells which will be tested in accordance with the Environmental Control Program described in Schedule 'C' of By-law 2011-0044(REG-1). Although no interruption to the well water supply is anticipated as a result of the proposed works, monitoring will continue for the four year duration of the project and for two (2) years following completion in order to ensure the protection of the local aquifer and surrounding wells. The program identifies measures to be taken by the Owner in the event that groundwater sampling indicates any change to the quality or quantity of the adjacent well water as a result of the fill operation. These measures will include, but not be limited to, the installation of a temporary water supply or new drilled well at the direction of Alpha Environmental and at no cost to the affected property owner(s). The Site Alteration Agreement will require a \$25,000 security deposit and a \$0.50 per cubic metre Municipal Services Fee totaling \$350,000 which may be utilized to cover any costs associated with restoring neighbouring wells.

The minimum standards for site operation and maintenance, including dust, mud and noise control, hours of operation, etc., have been detailed in an 'Operation Protocol' prepared by the Owner's Consulting Engineer. Although the document requires some minor revisions, the proposed measures satisfy Town requirements. The Operating Protocol shall be adhered to throughout the duration of the project in order to minimize any negative impact to the adjacent properties, and the consultant will be responsible for ensuring compliance at all times, and shall initiate all required site inspections, provide direction regarding necessary remedial actions and prepare all necessary reports on a regular basis. Town staff will conduct regular site inspections to ensure that all protocols are being adhered to and work may be ordered to cease at any time should compliance with the Operation Protocol not be maintained.

Staff have not yet been advised of any material source sites or received any source material analysis reports to date. Prior to the Owner importing any fill onto the site, the Consulting Engineer or Geotechnical Consultant will be required to submit Soils Analysis Reports along with written confirmation that the source site material complies with Ministry of the Environment (MOE) Table 2 standards for Agricultural Property Use.

In accordance with the Town's Environmental Protocol, the Owner's Geotechnical Consultant will be responsible to conduct monthly sampling and testing of all materials imported to the site in order to ensure compliance with quality requirements. Once approved for import, material from each individual source site must remain segregated on the fill site until such time as the required number of samples has been taken, the material

.../3

has been tested again and the Geotechnical Consultant has verified that the material on the site complies with the prescribed MOE quality standards. The Site Alteration Agreement will establish a minimum sampling frequency of ten (10) samples per source site per month, with all associated reports and analysis data to be provided for staff review along with load count summaries and volume totals. Any material which does not conform to quality standards will not be permitted to be imported or remain on the site.

The submission requirements for a Site Alteration Permit have been listed in Table 1 below and include a summary of the current status of each item pertaining to this application. All reports and drawings submitted to date have been attached to this report as identified below. As noted, several items remain outstanding or require revision prior to resubmission for staff review.

**Table 1: Submission Requirements and Provided Information**

| APPENDIX No. | REQUIREMENTS PER BY-LAW 2011-0044 (REG-1)                  | PROVIDED DOCUMENTATION  |
|--------------|--|---|
| II           | Entrance Permit  | Town of Georgina Roads Department – Issued June 27, 2013  |
| III          | Lake Simcoe Region Conservation Authority Permit/Clearance | Site Clearance – issued November 20, 2012<br><b>REVOKED – AUGUST 26, 2013</b>   |
|              | Region of York Tree Removal Permit                         | <i>Not required – No trees located within proposed fill site to be removed,</i>   |
| IV           | Erosion/Sediment/Drainage Control Report                   | Operation Protocol Letter – Schad Engineering<br>Dust Control Plan – Schad Engineering<br>Environmental Assessment Report – Schad Engineering – <b>REVISIONS REQUIRED</b> |
| V            | Archaeological Heritage Study                              | Stage 1-2 Archaeological Assessment – Advance Archaeology – June 4, 2012  |
|              | Tree Preservation Study                                    | <i>Not required – no trees located within proposed fill site to be preserved.</i>   |
|              | Fill Soil Analysis Report                                  | <b>REQUIRED</b> – To be provided once fill source sites have been identified and prior to fill placement  |
| VI           | Site Grading and Drainage Plans                            | Site Grading Plan and Detailed Cross Sections – Schad Engineering – <b>REVISIONS REQUIRED</b>   |
| VII          | Ground & Well Water Monitoring                             | Hydrogeological Assessment – Alpha Environmental – September 2012<br>Hydrogeological Monitoring Report – Alpha Environmental – July 2013                                  |
| VIII         | Traffic Control Plan                                       | Schad Engineering – July 12, 2013   |
|              | Other  | Erosion & Sediment Control Plan – Schad Engineering – <b>REVISIONS REQUIRED</b>   |

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Part 2(c) of By-law 2011-0044(REG-1) states that:

*"No person shall place or dump any fill or otherwise alter the grade of land by causing, permitting or performing any form of site alteration on land within the Town except in accordance with applicable zoning by-laws, the Lake Simcoe Protection Plan, the Greenbelt Plan, and the Lake Simcoe Source Protection Plan, when enacted;"*

In order to ensure compliance of this proposal with the requirement noted above, Planning Division staff were requested to review the application and provide comment. Following their review, e-mail correspondence was received from Harold Lenters, Director of Planning and Building, attached as Appendix IX, indicating the need for the Owner to provide an assessment of the project in terms of its compliance with certain policies contained within the Greenbelt Plan. The main concern is the proximity of the proposed works to the abutting Natural Heritage System. Mr. Lenters has advised that the Owner retain the services of an Environmental Consultant to undertake the assessment, however to date no information has been received with regards to this matter.

**NOTICE OF APPLICATION:**

Notice of the above application was circulated to members of Council by Mr. Michael Baskerville, Engineering Manager, via email on September 6th with a formal 'Notice of Application' posted on the Town's website on September 3<sup>rd</sup>, and circulated to the public in the September 12th edition of the Georgina Advocate. Further, as required by Part 4.3 of By-law No. 2011-0044 (REG-1), a notice of public meeting was provided to all property owners and agencies within 120m of the subject land in a similar manner to provisions set out in Regulation 545/06 of the Planning Act. Copies of the aforementioned notices have been attached to this report as Appendix IX.

**PUBLIC COMMENT:**

There has been some concern expressed by area land owners with regard to the increase in truck traffic on Smith Boulevard. In an effort to maintain public safety and minimize disturbance to the adjacent residents, the Owner has proposed to prohibit truck traffic from accessing the site through the hamlet of Baldwin, and in accordance with the Traffic Control Plan prepared by the Owner's Consulting Engineer, truck traffic would be limited to the use of two routes as follows:

- i) North Route – Highway 48, Old Homestead Road, Park Road, Smith Boulevard;
- ii) South Route – Highway 48, Ravenshoe Road, Park Road, Smith Boulevard.

The roadways identified above are Regional roads with the exception of Highway 48 which is the jurisdiction of the Ontario Ministry of Transportation, and Smith Boulevard which is a Town assumed road. All roads identified in the Traffic Control Plan are capable of carrying

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truck traffic. The Site Alteration Agreement will identify the above noted truck routes and will allow the Town the ability to enforce these routes should the need arise in order to ensure that truck traffic does not directly impact the adjacent Hamlet of Baldwin.

It should be noted that the main access to the approved Beaton fill site is also located on Smith Boulevard, 3.7 kilometers east of the Blanchard site, and in accordance with the terms and conditions outlined in their Site Alteration Agreement utilizes Ravenshoe Road (YR#32), Park Road (YR#18) and Old Homestead Road (YR#79) as haul routes.

As with any large scale fill operation taking place in a rural setting, the item of biggest concern to adjacent residents is the potential for negative impact to ground water and well water. Given that there is no excavation proposed on the property and that only approved fill material will be permitted on the site, impact to the ground water and adjacent wells is not anticipated. Source site soil sampling, regular on-site material testing and quarterly ground water monitoring are all measures to be implemented to ensure that the imported material will have no detrimental effect on the local aquifer. In the unlikely event that well monitoring indicates any negative impact resulting from the site alteration, all activity on the site shall cease and immediate action taken to ensure that potable water is restored to all affected properties in accordance with the contingency plan outlined in the Hydrogeological Assessment report.

It is important to understand that staff must rely not only on their own knowledge and experience to undertake the review of a large scale commercial fill proposal, but on information provided by Geotechnical and Civil Engineers. These individuals possess the specialized training and knowledge necessary to assess the condition of the natural environment and determine the potential risks of the proposed works. The Site Alteration By-law requires that these professionals undertake field surveys, archaeological studies, hydrogeological studies as well as conduct sampling and analysis of ground water and fill material, and to provide to the Town information which accurately reflects the results of their analysis. The purpose of compiling this information is so that a proposal can be prepared which will mitigate the potential negative impacts to the surrounding landscape based on the individual site characteristics.

#### **CONCLUSION:**

Staff have reviewed the information provided by the Owner and his Engineers to date for compliance with the provisions of By-law No. 2011-0044(REG-1) and acknowledge that the following submission items remain outstanding:

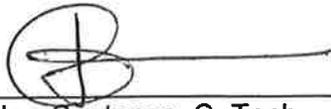
- Lake Simcoe Region Conservation Authority Permit/Site Clearance
- Revised Environmental Assessment Report
- Fill Soils Analysis Report
- Revised Site Grading and Drainage Plan
- Revised Erosion and Sediment Control Plan

.../6

At the time of this report, the Owner had been in contact with Lake Simcoe Region Conservation Authority staff with regards to the site clearance and the compatibility of the proposal with the Greenbelt Plan, however Town staff have not yet received any reports which address the concerns identified by Planning Division staff, nor has a site clearance been confirmed. The Owner is required to provide complete compliance with the provisions of By-law 2011-0044(REG-1) prior to the issuance of a Site Alteration Permit, and shall address any public concerns and/or comments prior to staff returning to Council with a subsequent report pertaining to this application.

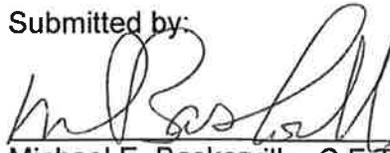
Respectfully submitted,

Prepared by:



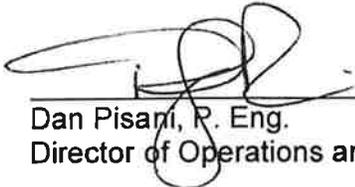
Joe Costanza, C. Tech.  
Civil Technician

Submitted by:



Michael E. Baskerville, C.E.T., CMM  
Engineering Manager

Recommended by:



Dan Pisani, R. Eng.  
Director of Operations and Engineering

Approved by:



Winanne Grant, B.A., AMCT, CEMC  
Chief Administrative Officer

2013 10 01  
119-775 SA2012-04

14. PUBLIC MEETINGS cont'd:14.3 Non-Statutory Public Consultation Meeting:

(8:47 p.m.)

14.3.1 Application for Site Alteration Permit  
Baldwin 33 Incorporated (c/o Marvin Blanchard)  
Part Lot 3, Concession 3 (G)  
6003 Smith Boulevard

Report No. OED-2013-0050

Mayor Grossi explained the procedure for a public meeting.

**Gary Bell, Land Use Planner**, Agent for the applicant, addressed Council as follows:

- no approvals given to this proposed fill permit, extensive background work done in accordance with the Town's by-law
- proposal is for fill site on about 40 acres replacing up to 600,000 or 700,000 cubic metres of clean fill to the agricultural standard, with final grading and topsoil suitable for agricultural crop production use.
- this is a large scale site alteration project.
- by-law contains specific requirements including grading, source of fill, contact information, all agency clearances and fees to be paid. To obtain a permit, the application must provide a description of the source of the fill and detailed references to those sources, certifying that the fill meets Ministry of Environment standard.
- working with the Lake Simcoe Region Conservation Authority to ensure plans conform to the policy requirements including 30 metre setbacks.
- revised plans completed; fill slope pulled in 30 metres from north boundary and 30 metres from west boundary to meet Conservation Authority setbacks.
- property is in the Greenbelt Plan, allows for new agricultural and farm uses.
- objective for purpose is to recognize and protect agriculture, to permit limited non-farm uses for which there is need and demand that does not conflict with agriculture.
- the zoning by-law permits agriculture uses.
- truck haul route goes north on Highway 48 and accesses the site from the east on Smith Blvd., to avoid the Hamlet of Baldwin. All reports have been completed, including dust control, traffic control plan, soil, sediment erosion, hydrogeological report, monitoring report and archeological report.
- proposal has merit, moving forward to comply with the zoning bylaw and Official Plan, represents good planning for this site.

**Joe Costanza, Civil Technician**, addressed Council as follows:

- Council received e-mail notification dated September 3<sup>rd</sup> from staff, with the application attached. The entire report was circulated on Wednesday, October 9<sup>th</sup>.

**14. PUBLIC MEETINGS cont'd:**

- the application was submitted in December of 2012 to place 700,000 cubic metres of fill on the subject site to create more useful farmland for growing hay or alfalfa. All documentation was provided in support of the application. There are outstanding items to be addressed by the owner but the application generally satisfies the requirements of the by-law.

- clearance from the Lake Simcoe Region Conservation Authority has now been issued and Department of Planning and Building concerns have been cleared.

- notice was provided to properties within 120 metres of the subject site on September 10<sup>th</sup>, was posted on the property September 27<sup>th</sup>, was advertised in the local newspaper for two weeks and on the Town website. A total of 25 property owners were notified. 53% of property owners within the Audubon Acres subdivision, or 16 out of 30, were notified, being the owners of the properties that fall within the 120 metre measurement.

**Mr. Shad, Engineer**, addressed Council as follows:

- half metre contours exist currently while 12 metres will be the highest point after the site has been filled, at the south east portion of the property
- truck route was discussed with Engineering staff. Will be revised to eliminate the use of Old Homestead Road and will include Highway 48, to Park Road, to Smith Blvd instead.

**Debbie Molnar, 28 Audubon Way**, addressed Council as follows:

- residents have serious concerns
- other municipalities restrict or prohibit commercial fill operations
- applicant will be operating a commercial fill operation
- rate for dumping clean fill is \$100 per truckload; 915,000 cubic yards of material equates to 70,400 truckloads at \$100 per truckload; this will earn the applicant \$7,040,000 million dollars.
- deliveries over a six-month period would equate to one truck every five minutes from 7:00 a.m. to 7:00 p.m. Roads were not built to sustain this type of use
- long-term view to re-designate this property for non-agricultural uses; lack of foresight allowed one property owner to indulge in flying hobby that turned into an airport in Baldwin
- cross section of finished grade, in context to surrounding woodlot.
- staff should consider application as commercial enterprise and whether zoning permits such use, consider impact to re-designate the land with a non-agricultural use, ensure formal public meetings are held dealing with this matter, consider amendment to Bylaw 2011-0044 to prohibit commercial fill operations in Georgina.

**Jan Oros, 11 Audubon Way**, addressed Council as follows:

- permission in the Official Plan for non-farming use on a temporary basis, but four years of dumping fill on the subject site is not a temporary use
- site fill permit can be granted

14. PUBLIC MEETINGS cont'd:

- can the applicant demonstrate the benefit/yield in farming business or justify why 700,000 cubic metres of fill is required rather than 100,000 cubic metres
- if farming operation will be at a standstill for four years, how relevant is it to the operation?
- why will one foot of topsoil be added to the top of to fill? Why can't the applicant place the topsoil on top of the site as it is now?
- the revenue from the proposed crop would yield \$23,000 annually; recovery would not be seen for over ten years
- the use of land is not agriculture, but commercial
- no deposit made to ensure environmental compliance
- requested Town staff examine and amend the existing by-law with regard to commercial fill operations and require deposits and safeguards

**Ms. Molnar** submitted a petition containing almost 100 signatures objecting to the application.

- the latest map she viewed was from July of 2011 which included the area behind her own property as conservation land and parcels on the subject site. These are not included in this current map.

**Jamie Attridge, 37 Audobon Way**, addressed Council as follows:

- experienced flooding in basement last year and if grade is raised 40 feet, there will be major concern of flooding hazard in the future

**Greg Peck, 5773 Old Homestead Road**, addressed Council as follows:

- where is fill coming from? The Greater Toronto Area is currently trying to get rid of contaminated soil and it should be ensured that that soil will not be entering Georgina

**Harold Lenters, Director of Planning and Building**, addressed Council as follows:

- movement/placement of fill is legislated under The Municipal Act, not the Planning Act. The Municipal Act has provisions that allow Council to pass by-laws to control placement of fill. The activity of moving fill is not a zoning-governed matter. The placing of fill is controlled through a fill bylaw, not the zoning bylaw.
- staff would like to see schematics of proposal to see what it would look like.

**Michael Baskerville, Engineering Manager**, addressed Council as follows:

- the owner is to test soil at the site, it is to be segregated on site, monitored on site with additional samples taken. Consultants perform these tasks on behalf of the owner. The Town is the agency responsible for it on behalf of our bylaw. Ten samples per source site per month are tested on average, but there is no pre-determined number of tests; that is decided with the owner and consultant.
- volumes of fill are based on what sites can allow. Town has comprehensive bylaw.
- Environmental Protection Act is used as the Town's material control standard.

**14. PUBLIC MEETINGS cont'd:**

- is the fill site beside a residential site acceptable? Every subdivision has fill placed on it and some are commercial sites next to residential subdivisions
- fill will start at the low point of the property line and rise at roughly an 8 percent slope eastward, so the height of fill will be at its highest at the farthest point from the subdivision. Town staff reduced the volume of fill substantially as the original plan showed the elevation of fill beside the ditch which was refused. The new plan indicates a reduced volume of fill.
- the Municipal Act states municipalities can prohibit or regulate fill. Georgina passed a new bylaw in 2011 which contains numerous regulations. Fill can be prohibited entirely but tile fields require importation of fill, so all these fill issues must be permitted.

**Mr. Bell** addressed Council as follows:

- swale discussed around the perimeter of the Audubon subdivision is owned and maintained by the applicant; the fill would be set back from that with double fencing.
- a lot of concerns have been expressed and the applicant and his consultants will work with staff to find appropriate resolutions

**Garth Hope, 6440 Smith Blvd**, addressed Council as follows:

- inquired if an application has been made to amend the half load restrictions on Smith Blvd. Has the timeline for ongoing dumping over a four year period taken half load seasons into account?

**Mr. Baskerville;**

- no application has been received to amend the half load restriction. Region of York has a policy for that contingency, but the municipal roads do not. An alternative route would be necessary. If fill cannot be moved across Smith Blvd. during the spring months, the consultant would have taken this restriction into account for the four year timeframe.

**Mable Garcia, 30 Audubon Way**, addressed Council as follows:

- she does not wish to gamble with quality of life or well water.
- noise from trucks would be disruptive to quality of life.
- If her well does get contaminated and a new well needs to be drilled, could that new well be contaminated also?

**Ross Campbell, Hydrogeologist**, addressed Council as follows:

- in his opinion, any clean fill deposited on property would not contaminate the two aquifers under the site. They draw from the bedrock aquifer below a sand/gravel aquifer and 60 feet of clay.

**14. PUBLIC MEETINGS cont'd:****Joe Costanza;**

•bylaw requires 50 cents per cubic metre as security, therefore potentially \$350,000 could be used towards remediation of wells if necessary. A \$25,000 deposit is also required.

**Michael Baskerville;**

•Payment of the \$350,000 is secure. \$25,000 deposit to a guarantee for road fowling, etc. Letter of credit is applied as security against any potential ramifications to the outside wells. Any money used out of the \$350,000 security for purposes other than road infrastructure maintenance has to be replaced.

**Sarah Smith, 6343 Smith Blvd, addressed Council as follows;**

•lives east of the Blanchard farm and has her share of water concerns, in addition to traffic concerns. Consider 70,000 trucks that would pass by her house from every direction. She rides horses down the road which does not have sidewalks, but it is dangerous even now.

**Jan Oros;**

•the owner pays a deposit which is not earned by the Town at that point. As fill is placed on a site, a quarterly report is submitted by an Engineer certifying the amount of fill placed, and at that point the 50 cents/cubic metre is earned by the Town. •a clarification with regard to the Ballymore subdivision on Baseline Road; that subdivision is on municipal water, while the properties surrounding the subject site are on well water.

•If Council restricted the applicant from earning the revenue from the fill being placed on his site, he wonders if the applicant would continue with this endeavour.

•By-law 2011-0044 does not permit site alteration where a gravel pit is in the vicinity and there is a gravel pit in the vicinity in this instance

Moved by Councillor Smockum, Seconded by Councillor Davison

**RESOLUTION NO. C-2013-0390**

1. That Report OED-2013-0050 prepared by the Department of Operations and Engineering dated October 15, 2013 respecting the application for site alteration permit made by Baldwin 33 Incorporated, as owner, as it relates to 6003 Smith Boulevard be received for information.
2. That staff report to Council following receipt and assessment of public and Council comments pertaining to this application.
3. That staff submit a report on the option of a potential moratorium of the Site Alteration By-law for subsequent applications while a review of the by-law is undertaken.

14. PUBLIC MEETINGS cont'd:

A recorded vote was requested on Recommendations 1 and 2; the Town Clerk recorded the votes as follows:

1. That Report OED-2013-0050 prepared by the Department of Operations and Engineering dated October 15, 2013 respecting the application for site alteration permit made by Baldwin 33 Incorporated, as owner, as it relates to 6003 Smith Boulevard be received for information.
2. That staff report to Council following receipt and assessment of public and Council comments pertaining to this application.

|                             | <u>Yea</u> | <u>Nay</u> |
|-----------------------------|------------|------------|
| Mayor Grossi                |            | x          |
| Regional Councillor Wheeler | x          |            |
| Councillor Craig            |            | x          |
| Councillor Davison          | x          |            |
| Councillor Hackenbrook      | x          |            |
| Councillor Smockum          | x          |            |
| Councillor Szollosy         | x          |            |
| Yea                         | -          | 5          |
| Nay                         | -          | 2          |

**Carried.**

A recorded vote was requested on Recommendation 3; the Town Clerk recorded the votes as follows:

3. That staff submit a report on the option of a potential moratorium of the Site Alteration By-law for subsequent applications while a review of the by-law is undertaken

|                             | <u>Yea</u> | <u>Nay</u> |
|-----------------------------|------------|------------|
| Mayor Grossi                | x          |            |
| Regional Councillor Wheeler |            | x          |
| Councillor Craig            | x          |            |
| Councillor Davison          | x          |            |
| Councillor Hackenbrook      |            | x          |
| Councillor Smockum          |            | x          |
| Councillor Szollosy         | x          |            |
| Yea                         | -          | 4          |
| Nay                         | -          | 3          |

**Carried.**

14. PUBLIC MEETINGS cont'd:

Staff were requested to notify all residents of Audubon Acres of the date and time of the next public meeting concerning the Site Alteration permit at 6003 Smith Boulevard., Baldwin.

15. COMMUNICATIONS:

15.2 Matters for Disposition:

- 15.2.1 York Child Development and Family Services Inc. requesting municipalities to display the message 'Happy Child Care Worker & ECE Appreciation Day' on their digital marquees on Wednesday, October 30<sup>th</sup> in recognition of the annual Child Care Worker & ECE Appreciation Day.

Moved by Regional Councillor Wheeler, Seconded by Councillor Szollosy

**RESOLUTION NO. C-2013-0391**

In response to a request from York Child Development and Family Services Inc., that the message 'Happy Child Care Worker & ECE Appreciation Day' be displayed on the Town's digital marquees on Wednesday, October 30<sup>th</sup> in recognition of the annual Child Care Worker & ECE Appreciation Day.

**Carried.**

- 15.2.2 Andrea Brown, Environmental Planner, Lake Simcoe Region Conservation Authority, dated October 8, 2013, commenting on Site Alternation Permit SA2012-04, SA2012-04, Part Lot 3, Conc. 3 (G), 6003 Smith Blvd, Baldwin, Baldwin 33 Incorporated.

Moved by Councillor Szollosy, Seconded by Councillor Davison

**RESOLUTION NO. C-2013-0392**

That correspondence from Andrea Brown, Environmental Planner, Lake Simcoe Region Conservation Authority, dated October 8, 2013, commenting on Site Alternation Permit SA2012-04, SA2012-04, Part Lot 3, Conc. 3 (G), 6003 Smith Blvd, Baldwin, Baldwin 33 Incorporated, be received and included in a future report.

**Carried.**

15. COMMUNICATIONS cont'd:

- 15.2.3 Brian Kemp, General Manager - Conservation Lands, Lake Simcoe Region Conservation Authority, dated October 9, 2013, commenting on Site Alteration Permit SA2012-04, Part Lot 3, Conc. 3 (G), 6003 Smith Blvd, Baldwin, Baldwin 33 Incorporated

Moved by Councillor Szollosy, Seconded by Councillor Craig

**RESOLUTION NO. C-2013-0393**

That correspondence from Brian Kemp, General Manager - Conservation Lands, Lake Simcoe Region Conservation Authority, dated October 9, 2013, commenting on Site Alteration Permit SA2012-04, Part Lot 3, Conc. 3 (G), 6003 Smith Blvd, Baldwin, Baldwin 33 Incorporated, be received and included in a future report

**Carried.**

16. PETITIONS:

Moved by Councillor Craig, Seconded by Councillor Szollosy

**RESOLUTION NO. C-2013-0394**

That the petition submitted by the residents of Audubon Acres and surrounding properties in Baldwin opposing the application for approval of a site alteration permit by Baldwin 33 Incorporated at 6003 Smith Blvd., Baldwin, be received and included in a future report.

**Carried.**

**THE CORPORATION OF THE TOWN OF GEORGINA****REPORT NO. OED-2014-0010****FOR THE CONSIDERATION OF  
COUNCIL  
APRIL 9, 2014****SUBJECT: APPLICATION FOR SITE ALTERATION PERMIT  
BALDWIN 33 INCORPORATED, (C/O MARVIN BLANCHARD)  
PART LOT 3, CONCESSION 3 (G)  
6003 SMITH BOULEVARD**

---

**1. RECOMMENDATION:**

1. That Council receive Report No. OED-2014-0010 prepared by the Operations and Engineering Department dated April 9, 2014 respecting the large scale site alteration permit application made by Baldwin 33 Incorporated, as owner.
2. That Council adopt a by-law authorizing the Mayor and Clerk to enter into a Site Alteration Agreement with Baldwin 33 Incorporated, as owner, and the Corporation of the Town of Georgina, respecting Part Lot 3, Concession 3 (G), designated as 6003 Smith Boulevard.

**2. PURPOSE:**

This report has been prepared in order to provide Council with follow up information to the previous public meeting held on October 15<sup>th</sup>, 2013 regarding the proposed fill project at 6003 Smith Boulevard, and to provide staff comments and recommendations regarding the execution of a Site Alteration Agreement.

**3. BACKGROUND:**

On October 15th, 2013, Engineering staff presented an initial report to Council regarding an application for a Site Alteration Permit submitted by Baldwin 33 Incorporated, (c/o Marvin Blanchard), owner of Part Lot 3, Concession 3 (G), municipally known as 6003 Smith Boulevard, to permit the import and placement of approximately 700,000 cubic metres of fill in accordance with requirements outlined in By-law No. 2011-0044 (REG-1). The report prepared at that time outlined the applicant's proposal, and included a summary of the measures to be implemented for the duration of the project to ensure compliance with the Town's by-law requirements. These measures included soil quality control, ground water monitoring procedures, mud, dust and traffic control measures, and operational protocols. The report prepared at that time was intended for information purposes

only and did not include a recommendation for permit approval. The public meeting was held in accordance with Part 4.3 of the by-law with notice being provided to adjacent property owners in accordance with current Planning Act regulations.

Following Council's consideration of the application in October, resolution C-2013-0390 was passed as follows:

1. That Report OED-2013-0050 prepared by the Department of Operations and Engineering dated October 15, 2013 respecting the application for site alteration permit made by Baldwin 33 Incorporated, as owner, as it relates to 6003 Smith Boulevard be received for information;
2. That staff report to Council following receipt and assessment of public and Council comments pertaining to this application;
3. That staff submit a report on the option of a potential moratorium of the Site Alteration By-law for subsequent applications while a review of the by-law is undertaken.

In accordance with resolution C-2013-0390, along with the numerous deputations made by neighbouring property owners in opposition to the application, Town staff requested the owner and his Consulting Engineers to identify and implement any measures necessary to address concerns raised. The main items of discussion pertaining specifically to this application are summarized as follows:

- Zoning By-law compliance/Commercial Fill operations
- Lake Simcoe Region Conservation Authority mapping/regulated areas
- Excessive fill volumes
- Negative effect to neighbouring drainage patterns/road ditch drainage
- Fill contamination/soils sampling
- Half load restrictions
- Negative effect to groundwater and neighbouring wells
- Truck/construction vehicle disruption to local traffic
- Effect of noise, dust and mud to adjacent residents
- Motorist/Pedestrian/Equine safety
- Effect on property values

The Town's Site Alteration By-law was passed in April 2011 specifically to prohibit or regulate the removal of topsoil, the placement of fill or the alteration of the grade of land in the Town of Georgina. The by-law, by design, does not define commercial fill operations nor are the requirements within the by-law sensitive to whether or not an operation is a commercial venture. Instead, the by-law prescribes the standards to which all fill operations shall operate in order to ensure the

protection of the natural environment and groundwater and the compatibility of the final product with the surrounding lands. It also defines the path of approval based on fill volumes and not by whether a site will be a commercial fill operation. By outlining the minimum operational protocols, mud, dust and traffic control measures, soil quality standards, and by prescribing financial securities to be provided by the owner to ensure compliance, the by-law gives the Town control over all fill operations regardless of their nature.

The above noted application has been scrutinized and reviewed against the stringent requirements of the by-law to ensure that if approved, the necessary measures are put in place to protect the natural environment and neighbouring properties. A Site Alteration Agreement details the obligations of the owner, his Engineers and the Town to guarantee that the project will be undertaken in a manner which will not negatively impact the environment or the surrounding land owners. It should be noted that Council, in accordance with Part 4.3 of the Site Alteration By-law and following a public meeting, may decide whether or not to enter into a site alteration agreement based on the information provided by the owner, his consulting Engineers and Town staff. Should Council endorse the execution of an agreement, the Director will issue a permit in accordance with Part 4.4 of the by-law.

#### 4. ANALYSIS:

The submission requirements for a Site Alteration Permit have been summarized in Table 1 below and include an update of the information which has been reviewed by Town staff and approved for compliance with the requirements of By-law 2011-0044(REG-1). Approval of the information submitted does not constitute approval of the permit application, which can only be issued by Town Council for a project of this size. All reports and drawings submitted to date have been attached to this report as identified below.

**TABLE 1: SUBMISSION REQUIREMENTS**

| <b>ATTACHMENT No.</b> | <b>AGENCY COMMENTS OR SUBMISSION ITEM</b>               | <b>PROVIDED DOCUMENTATION</b>                                  |
|-----------------------|---|--|
| 1                     | Lake Simcoe Region Conservation Authority               | Permit Not Required – all works outside LSRCA regulated lands. |
| 2                     | Planning Division Clearance                             | Email from Harold Lenters, February 3, 2014.                   |
| 3                     | Ontario Ministry of Agriculture, Food and Rural Affairs | Email from Jim Ritter, January 24, 2014                        |

## Page 4 of Report No. OED-2014-0010

|    |   |  |
|----|---|--|
| 4  | Location Plan                               |  |
| 5  | Entrance Permit                             | Town of Georgina Roads Department<br>Issued June 27, 2013  |
|    | Traffic Control Plan                        | Schad Engineering – July 12, 2013<br>REVIEWED DECEMBER 13, 2013  |
| 6  | Archaeological Heritage Study               | Stage 1-2 Archaeological Assessment – Advance<br>Archaeology – June 4, 2012  |
| 7  | Erosion/Sediment/Drainage Control<br>Report | Operation Protocol Letter – Schad Engineering<br>Dust Control Plan – Schad Engineering<br>Environmental Assessment Report – Schad Engineering<br>Erosion & Sediment Control Plan – Schad Engineering<br>REVIEWED DECEMBER 13, 2013 |
| 8  | Site Grading and Drainage Plans             | Site Grading Plan and Detailed Cross Sections – Schad<br>Engineering<br>REVIEWED MARCH 14, 2014  |
| 9  | Ground & Well Water Monitoring              | Hydrogeological Assessment – Alpha Environmental –<br>September 2012<br>Hydrogeological Monitoring Report – Alpha Environmental<br>– July 2013<br>REVIEWED DECEMBER 13, 2013   |
| 10 | Public Notices                              | Town Website – March 6, 2014<br>Georgina Advocate – March 13 & March 27, 2014<br>Mail-out – March 6, 2014  |
| 11 | Public Comment/Correspondence               |  |
| 12 | Site Alteration Agreement                   |  |

Following preliminary review by Engineering Division staff, the application was reviewed by the Planning Division in August 2013 to ensure compliance of the proposed works with Zoning By-law 500, the Greenbelt Plan 2005 and the Lake Simcoe Protection Plan 2009 (LSPP). Based on the review of the information provided at that time, Planning staff concluded that the proposed fill placement would not violate the Town's Zoning By-law since the final land use would remain agricultural and that no new land use would be created by the site alteration. Agriculture is a permitted non-residential use on this property under By-law 500 and the issuance of a site alteration permit would not constitute a change in land use.

Planning staff had also concluded through their review of the plans and reports that policies contained within the LSPP would not be applicable to the proposed works given that many of the policies within the LSPP do not apply to lands covered by the Greenbelt Plan. The owner was requested however to provide additional analysis in order to demonstrate compliance of the site alteration with the policies contained

within the Greenbelt Plan, and more specifically as it pertains to the Natural Heritage System abutting the proposed fill area. In order to satisfy this requirement, and through consultation with the Lake Simcoe Region Conservation Authority (LSRCA), the owner has proposed several revisions to the original plan which includes the following:

1. A 57% reduction in the total proposed volume of imported fill material from 700,000 cubic metres to 298,000 cubic metres;
2. A 30 metre undisturbed buffer area to be maintained along the north, west and south property lines ensuring no effect on the adjacent wetlands and/or Natural Heritage Areas;
3. Removal of the proposed south west drainage swale in order to maintain sheet flow surface drainage to the wetlands per LSRCA recommendations;
4. A reduction of the height of finished grade and a change of the proposed overall land slope from 8% to 3%, creating flatter table lands and increasing infiltration potential.

Based on a review of Mr. Blanchard's application including the above revisions, the LSRCA has confirmed that the application does in fact comply with policies contained within the Greenbelt Plan, and that the proposed works will not have any negative impact on key hydrologic or natural heritage features. Received via email from Ashlea Brown, LSRCA Environmental Planner, on January 31, 2014, enclosed as Attachment 1, this confirmation of compliance addresses previous concerns identified by Harold Lenters, Director of Planning and Building with regard to compliance with relevant policies. As such, the Planning Division has identified no further issues with regards to this application, as confirmed by email enclosed as Attachment 2. Given that the proposed site alteration falls outside any regulated areas based on current regulation limits mapping, the issuance of a permit by the Conservation Authority is not required. Updated regulation area mapping is included in the Environmental Assessment report prepared by Schad Engineering, enclosed with this report as Attachment 7.

As noted, the owner is now proposing to import a total volume of 298,000 cubic metres of fill instead of the 700,000 cubic metres originally proposed. Fill placement is expected to take place over a three (3) year period, phased as follows:

| YEAR | IMPORT VOLUME<br>(cu. m) |
|------|--------------------------|
| 2014 | 100,000                  |
| 2015 | 100,000                  |
| 2016 | 98,000                   |

The reduction in the overall volume of fill material required on the site will decrease the total number of trucks required to import material to the site. A total of 29,800 trucks loads of fill would be required over a three year period to achieve the newly proposed fill volumes.

The proposed reduction in the total amount of fill material to be imported to the site will be most noticeable in the overall height of finished grade. The change in elevation along the interior (east) limit of the site will be approximately 4 metres above existing elevation at its highest point, sloping gradually at a 3% gradient towards the west. The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) consider fields in the 2% to 6% slope range to be gently sloping fields. The original proposal provided a 14m fill height at its highest point from existing grade with an 8% slope towards the west. The reduction in overall slope will work to slow surface runoff and provide an opportunity for increased infiltration, minimizing the amount of water being directed towards the adjacent drainage swale. Given that the existing topography has an average slope of 2% and that the overall change in slope is negligible, pre-development flows are expected to remain unchanged. Road ditch drainage will not be impacted by this development and the existing drainage swale to the west, which is wholly contained on the subject property, will continue to convey surface runoff towards the Black River.

In conversations with Engineering staff regarding the above application, OMAFRA has confirmed that grade alterations on agricultural lands are routinely undertaken to address soil erosion problems, to improve safe and efficient operation of farm equipment and/or to improve productivity and crop yield. Due to a wide variety of crop and equipment types, farming practices and topography, it is difficult for the Ministry to prescribe standard land improvement criteria that can be applied to agricultural properties universally. As such, there are no set standards in place for this type of proposal. Instead, the Ministry relies on Municipal By-laws to regulate site alterations and fill placement which may not be granted an exemption under normal agricultural practices related to sod-farming, greenhouse operations and nurseries or for the replacement of topsoil for restoration purposes. It should be noted that in an email to Town staff, enclosed as Attachment 3, OMAFRA has referred to the Town's Site Alteration By-law as "a very comprehensive and detailed document designed to ensure that existing drainage patterns are maintained, that any changes to existing drainage patterns are appropriate to protect environmental features, that the importation of hazardous material is prevented and that the disturbance of landform characteristics is minimized".

Concerns regarding contaminated materials and negative impacts to groundwater are directly addressed by the by-law and site alteration agreement. Prior to import to the site, all material must be inspected at the source by the owner's Geotechnical Consultant and tested to confirm compliance with Ministry of the Environment (MOE) standards. Once the consultant has approved the material, written

confirmation of approval, along with laboratory analysis results must be provided to the Town for review prior to the material being brought to the site. Once on site, individual source site material must be kept separate so that the material can again be tested to ensure compliance with quality standards before final placement. On site sampling frequency is based on ten (10) samples to be taken per 5000 cubic metres of material per source site or one sample per 50 truckloads per source site. All sampling must be undertaken by a qualified Geotechnical Consultant and analysis is required to be conducted by a laboratory certified by the Standards Council of Canada (SCC) and the Canadian Association for Laboratory accreditation Inc. (CALA), following MOE Quality Assurance and Quality Control (CA/CQ) procedures. It should be noted that site alteration agreements for projects currently being undertaken in the Town of Whitchurch-Stouffville require that three (3) soils samples of imported material be taken per source site per month. Mr. Mike Molinari, Director of Engineering and Capital Project for the Town of Whitchurch-Stouffville has indicated that this requirement will likely be revised to require one (1) sample to be taken daily per 500 truckloads of fill. The sampling frequency being proposed for the Blanchard site would allow the Town to have a much broader representation of the material being sampled while still being feasible for the owner to undertake.

Groundwater monitoring is also required to be maintained for the duration of the project and for two years following completion, all in accordance with the terms of the site alteration agreement and the requirements of the by-law. In order to establish a baseline, the owner has implemented a monitoring program utilizing three (3) adjacent residential wells with all existing data being presented in the Hydrogeological Monitoring Report prepared by Alpha Environmental. In accordance with the requirements of the by-law, the owner will be required to install a minimum of three monitoring wells on the subject property prior to the commencement of filling activities. Once installed, all monitoring will occur at these wells and shall be conducted by a qualified Hydrogeological Consultant in accordance with the terms of the by-law and site alteration agreement. Once installed, the adjacent residential wells may no longer be directly monitored.

Based on the initial data collected by Alpha Environmental which details the depth and direction of flow of the existing groundwater beneath the fill site, there are no anticipated impacts to the existing groundwater table or to the neighbouring residential wells resulting from the proposed site alteration. It should be noted that leaching and migration of contaminants through the soil to the groundwater can only occur if the soil being placed actually contains contaminants. Given the strict testing and approval process, it is unlikely that contaminated material can or will be imported to the site and as such, it is equally unlikely that groundwater will become contaminated as a result of the fill placement.

Concerns regarding illegal dumping have also been addressed by the by-law and site alteration agreement which limits operating hours and requires that the site be locked when not in operation. Further, given the proximity of the fill site to the neighbouring residential properties, it is unlikely that any unauthorized works would go unnoticed. Failure by the owner to abide by the terms and conditions of the by-law and agreement may result in the termination of the agreement and revocation of the permit. Given the financial investment required to obtain a permit, it would not be in the owner's best interest to undertake activities contrary to the terms of the agreement.

The issue of potential negative impact on the value of the properties surrounding the proposed fill site was also raised at the October 2013 public meeting. Town staff undertook discussions with numerous local real estate professionals, many of whom were aware of the proposal, in order to obtain relevant input on the matter. Given that the project is temporary in nature, that all imported fill material will be certified clean fill in accordance with MOE standards and that the end use of the subject property will remain agricultural, there was little concern expressed that the adjacent property values would be negatively impacted. It was noted that if the site alteration improves the site by eliminating ponding water and enhancing existing drainage patterns, it may actually be a benefit to the surrounding land values rather than a detriment.

Much concern has been expressed with regards to the increased use of Smith Boulevard by truck traffic accessing the fill site and the negative impact this will have to the surrounding land owners and road users. Smith Boulevard is a rural collector road with a posted speed limit of 50km/h through the hamlet of Baldwin and 70km/h across the remainder of its length. Between Highway 48 and Park Road (Y.R. 18), the paved driving surface is 6.30m in width and is comprised of 40mm HL-3 top coarse and 50mm HL-8 base coarse asphalt. It should be noted that there are two existing licensed gravel pits located adjacent to the subject site.

Annual load restrictions are imposed on Smith Boulevard from March 1<sup>st</sup> to May 15<sup>th</sup> in accordance with By-law 2000-028 (PWO-2) and Section 122 of the Highway Traffic Act. The owner will be required to ensure that any vehicles travelling to the site during that time are in compliance with the imposed limits. Formal comments from the Town's Operations Department – Roads Division regarding this application and the use of Smith Boulevard have not been provided.

In order to eliminate potential issues with the residential subdivision to the west of the subject site, the owner has proposed to limit truck access from the east only. There are nineteen (19) homes along this two kilometre (2 km) stretch of Smith Boulevard between Park Road (Y.R. 18) and the proposed fill site. Utilizing this route will also increase truck traffic on Ravenshoe Road (Y.R. 32) and Park Road (Y.R. 18) which are currently being used by trucks accessing the Beaton fill site on

Smith Boulevard east of Park Road (Y.R. 18). These roads however are under Regional jurisdiction and do not have any restrictions regarding their use by heavy truck traffic.

Signage shall be installed along the haul route in accordance with Ministry of Transportation Book 6 requirements in order to provide sufficient notice to all vehicular traffic of potentially slow moving trucks entering and exiting the site. A '**No Use of Engine Brake**' sign will also be required to be installed along Smith Boulevard to help minimize noise impacts to the adjacent residents resulting from the increased truck traffic. A street sweeping and flushing program shall be implemented in accordance with the agreement to ensure that roadways are kept free of mud and debris at all times, and routine inspections will be conducted by Town staff to ensure compliance.

As with any vehicles travelling on a public highway, the drivers hauling fill material are responsible for the care and control of their vehicle to ensure the safety of both pedestrians and other motorists. This includes abiding by the posted speed limits. Other road users, such as pedestrians and equestrians are equally responsible for understanding their responsibilities outlined in the Ontario Highway Traffic Act and for using the road in a manner which does not endanger their safety or the safety of other motorists. Speed limits, load restrictions and other regulations outlined in the Highway Traffic Act are enforced by the York Regional Police and/or the Ministry of Transportation.

At this time, a temporary reduction in the speed limit has not been proposed, however it should be noted that a reduced speed limit would apply to all vehicular traffic using Smith Boulevard, not just to trucks or construction vehicles.

##### **5. FINANCIAL AND BUDGETARY IMPACT:**

An application fee of \$1,000 as well as an Agreement Preparation Fee of \$6,150 has been collected in accordance with By-law 2011-0044(REG-1), along with securities in the amount of \$25,000 to cover road fouling. A \$0.50 per cubic metre Municipal Services Fee will be charged in accordance with the by-law should Council choose to endorse a Site Alteration Agreement with Baldwin 33 Incorporated. This fee would be based on the proposed 298,000 cubic metre import volume, generating a fee of \$149,000 which is secured by letter of credit. Payment of the Municipal Services Fee will be made quarterly based on the total amount of fill placed on the site in that quarter as confirmed by the Consulting Engineer. The letter of credit is not reduced at any time regardless of the amount paid, and is held in full for the duration of the project.

Periodic maintenance of Smith Boulevard may be required in order to repair any damage caused to the road by truck traffic accessing the site. The intent of securing the Municipal Services Fee is to ensure that funds are available for these repairs so that maintenance of the roadway is undertaken at the owner's expense rather than at the expense of the taxpayer. The owner is responsible for replacing any security deposits used by the Town to maintain the letter of credit amount at \$149,000 for the duration of the project. Failure by the owner to replace these funds will result in a default of the agreement and termination of the permit.

Municipal Services Fees collected from all large scale fill projects are intended for the maintenance of Town roads and infrastructure regardless of whether or not the repairs are directly related to the project from which the fee was collected. Provisions have been included in the site alteration agreement which outline the owner's financial responsibilities regarding the maintenance and repair of Town roadways and drainage ditches.

#### **6. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:**

By-law 2011-0044(REG-1) requires that a notice of public meeting be provided to all property owners within 120 metres of the subject property in accordance with current Planning Act regulations. As directed by Council on October 15, 2013, and in an effort to ensure that all interested parties would be provided ample notice, Engineering staff mailed 'Notice of Public Meeting' on March 6<sup>th</sup> to 124 residents in the surrounding area. Notices were also posted on the Town website on March 10<sup>th</sup> and in the Georgina Advocate on March 13<sup>th</sup> and 27<sup>th</sup>, copies are attached as Attachment 10.

Public comments have been received and compiled by Engineering staff, and are enclosed with this report as Attachment 11. The correspondence includes several emails as well as a letter delivered to Town staff on March 19<sup>th</sup>. Responses to the specific questions and concerns identified in the attached letter have been solicited from the appropriate agencies and departments and will be provided for the April 9<sup>th</sup> Public Meeting.

#### **7. CONCLUSION:**

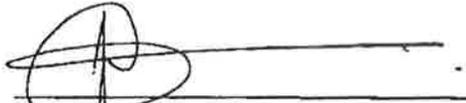
In 2011, Town Council approved a by-law which would allow the Town to have control over the alteration of grade and the placement of fill material within its limits. The by-law does not prohibit large scale, or "commercial fill" operations but rather ensures that the necessary measures are in place to protect the environment and the surrounding lands. Based on the intent of the by-law, permit issuance is

## Page 11 of Report No. OED-2014-0010

dependent on the owner satisfying the submission requirements and agreeing to the terms and conditions outlined in the Site Alteration Agreement and Council's execution of same.

Given that the necessary reports and drawings submitted in support of this application have been reviewed, and that the concerns identified at the October 15, 2013 public meeting have been addressed to the satisfaction of the Department of Operations and Engineering, it is respectfully recommended that the owner enter into a Site Alteration Agreement with the Town, enclosed as Attachment 12, in accordance with Part 4.2 of By-law 2011-0044 (REG-1), satisfying all terms and conditions, financial and otherwise. The required Site Alteration Agreement must be executed by the owner and ultimately registered on title, all at no cost to the Town prior to the commencement of any site alteration on the subject lands.

Prepared by:



Joe Costanza, C.Tech  
Civil Technician

Reviewed by:



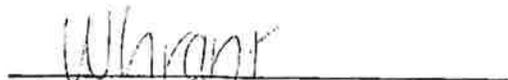
Michael E. Baskerville, C.E.T., CMM  
Engineering Manager

Recommended by:



Dan Pisani, P. Eng.  
Director of Operations and Engineering

Approved by:



Winanne Grant, B.A., AMCT, CEMC  
Chief Administrative Officer

*Attachment 1 – Correspondence from Lake Simcoe Region Conservation Authority (5 pages)*

*Attachment 2 – Correspondence from Town's Planning Division (4 pages)*

*Attachment 3 – Correspondence from Ontario Ministry of Agriculture, Food and Rural Affairs (1 page)*

*Attachment 4 – Location Plan (1 page)*

*Attachment 5 – Entrance Approval from Town's Roads Division and Region of York / Traffic Control Plan from Schad Engineering (8 pages)*

*Attachment 6 – Archaeological Heritage Study (23 pages)*

*Attachment 7 – Erosion /Sediment/Drainage Control Report (14 pages)*

*Attachment 8 – Site Grading and Drainage Plans (3 pages)*

*Attachment 9 – Ground & Well Water Monitoring (Assessment (114 pages) and Report (34 pages)*

*Attachment 10 – Public Notices(1 page)*

*Attachment 11 – Public Comment/Correspondence (9 pages)*

*Attachment 12 – Site Alteration Agreement (25 pages)*

~~15.2 Disposition/Proclamations cont'd~~

- ~~15.2.3 Frank Sebo, Chair, Sutton BIA, requesting the closure of Market Square from 9am to 6pm on May 17<sup>th</sup> (Spring Fling), July 26<sup>th</sup> (Festival On High), October 31<sup>st</sup> (Hallowe'en Festival/Ghost Walk) and December 6<sup>th</sup> (Tree Lighting Ceremony).~~

~~Moved by Councillor Hackenbrook, Seconded by Councillor Smockum~~~~**RESOLUTION NO. C-2014-0237**~~~~That Council approve the requested closure of Market Square in Sutton from 9am to 6pm during the following events; the Spring Fling on May 17<sup>th</sup>, the Festival On High on July 26<sup>th</sup>, the Hallowe'en Festival/Ghost Walk on October 31<sup>st</sup> and the Tree Lighting Ceremony on December 6<sup>th</sup>, and that the local fire department, police department and EMS services be so advised.~~~~**Carried.**~~

## 9. PUBLIC MEETING(S) UNDER THE PLANNING ACT OR OTHER LEGISLATION

a. STATUTORY MEETING(S) UNDER THE PLANNING ACT OR MEETINGS PERTAINING TO THE CONTINUATION OF PLANNING MATTERS *None.*b. NON-STATUTORY MEETING(S) UNDER OTHER LEGISLATION *None.*

c. OTHER PUBLIC MEETINGS

(7:30 p.m.)

- (i) Application for Site Alteration Permit  
 Baldwin 33 Incorporated, (c/o Marvin Blanchard)  
 Part Lot 3, Concession 3 (G)  
 6003 Smith Boulevard

Report No. OED-2014-0010

Mayor Grossi explained the procedure for a public meeting.

**Gary Bell, Land Use Planner, addressed Council as follows;**

- first public meeting was held in October 2013.
- fill operation to be conducted over a phased three year period.
- Graded at a 3% slope rather than at an 8% slope, to be covered with 200-300 mm of organic topsoil, then hay/grass cover. After filling, site will continue in its agricultural use.
- a 30 metre undisturbed buffer area to be maintained along the north, west and south property lines ensuring no effect on the adjacent wetlands.

## c. OTHER PUBLIC MEETINGS cont'd

- The province has recognized excess soil must be managed in a sustainable manner.
- compared to other municipal by-laws, The Town of Georgina's 2011 by-law regulating the dumping and placing of fill is a comprehensive by-law and best manages excess soil placement in this part of the Province.
- large scale site alteration projects of more than 250 cubic metres require an agreement and a public meeting of Council, noting that this is the second public meeting for this project.
- the Lake Simcoe Region Conservation Authority sets limits, in addition to regulations prescribed by the Province and the Town
- dust Control Plan is required to mitigate negative effects
- archeological investigation was conducted and cleared by the Ministry of Culture
- hydrogeological monitoring report identifies tests and investigations conducted that established no expected adverse effect to groundwater and wells on adjacent sites, and a monitoring program will continue to ensure this remains true
- agricultural use will continue, complying with the zoning by-law
- reduction in the total proposed volume of imported fill material from 700,000 cubic metres to 298,000 cubic metres and as a result, reduced truck traffic volumes and a revised truck route
- environmental report has been conducted and accepted
- proposed setback for trucks dumping fill shall be a minimum of 90 metres from the adjacent residential lots
- no operations on Saturdays unless government jobs with notice to neighbours
- slamming of tailgates is to be avoided
- this application has met all requirements of the 2011 by-law, permit for proposed fill is appropriate
- this project will accommodate the public need for depositing clean fill, it conforms to the planning documents, complies with zoning by-law regulations and complies with regulation details of the fill by-law
- the project has been reduced in volume and height to respond to concerns and will result in an improved site for agricultural use. The Staff report recommends proceeding with it as it is now and he feels it is appropriate to do so

**Mike Baskerville, Engineering Manager, addressed Council as follows:**

- application originally deferred to allow staff to provide further comments in response to concerns and comments made at the first public meeting
- zoning compliance confirmed
- removal of excessive volume of fill was reasonable
- truck traffic through the Village of Baldwin was addressed by rerouting
- issues with potential groundwater and soil contamination were addressed
- analysis of report covers requirements of By-law 2011-0044
- Ministry of Agriculture, Food and Rural Affairs was contacted
- Archeological Heritage Study was completed
- site grading and drainage plans have been revised and are satisfactory

c. OTHER PUBLIC MEETINGS cont'd

- Audobon Acres is protected from runoff that may exit the subject site and the slope would not be changing dramatically
- detailed process undertaken with regard to groundwater and well monitoring; wells are to be monitored throughout and after the process to ensure no contamination occurs
- advertising of the proposal was expanded beyond the normal limits of the property boundary
- agreement has been attached to the staff report, setting out all regulations and requirements
- Lake Simcoe Protection Act was addressed
- 57% reduction in proposed volume of fill, from 700,000 to 298,000 cubic metres
- 30 metre undisturbed buffer to be maintained around the property lines
- one drainage swale removed to ensure runoff will go to wetlands
- 8% slope reduced to 3% slope
- 298,000 cubic metres of fill material is proposed to be placed over a three-year period, this equates to an average of 100,000 cubic metres of fill in the first year, 100,000 cubic metres of fill in the second year and 98,000 cubic metres of fill in the third year; 10,000 truckloads per year, 50 trucks per day, 5 trucks per hour, Monday to Friday.
- the two gravel pits located on Smith Blvd have the ability to generate greater traffic
- all material coming to the site must be approved and meet all standards. On-site testing would be increased; 10 samples per 5,000 cubic metres of material, 1 sample per every 50 trucks which is higher than what any other municipality has imposed. If a contaminant is found, it will be known where it came from and where it was dumped on the site.
- illegal dumping concerns have been addressed in the by-law and agreement; the property will be controlled by fencing and an access gate which will remain closed until an operator is on site to accept truckloads.
- Town staff spoke with real estate professionals to obtain input on potential negative impact on the value of land surrounding the site and were advised that given that the project is temporary in nature and that the end use will be agricultural, there is little concern that adjacent property values will be impacted
- Smith Blvd is built to withstand the increased truck traffic
- half-load season on Smith Blvd is from March 1<sup>st</sup> to May 15<sup>th</sup> because the road would be most likely to fail during this time period
- signage is to be erected and maintained by the proponent and 'no use of engine brake' signs are to be added
- speed limits are enforced by the police department who do respond to complaints
- proponent to pay a \$25,000 road fouling deposit
- periodic maintenance of Smith Blvd may be necessary to repair damage caused to by the truck traffic; municipal service fees ensure funds are there to do so
- public consultation included letters, newspapers and website

## c. OTHER PUBLIC MEETINGS cont'd

**Paul Nicholls**, 6 Audobon Way, Audobon Acres, addressed Council as follows:

- represents the residents of Audobon Acres and Smith Blvd
- received the 266 page staff report with unreadable attachments Thursday night of last week
- opposed to application
- no purpose for the dumping of this amount of imported soil other than a commercial fill operation
- requested Council to give the real estate opinions no weight given there are no written statements from accredited professionals
- Ministry of Agriculture, Food and Rural Affairs made no mention of the minimal parcel size for farming; according to Provincial requirements, the proposed parcel size is insufficient to be used for any purpose other than its current use as pasture for farm animals
- municipality must ensure that this large filling operation is in compliance with normal farm practices
- opposed to new wells being drilled on the proposed fill site and for testing to take place only at those wells, as these wells may not access the same water table as the residential wells
- requested that residential wells continue to be tested by the Town or by the proponent and the results made available to the residents. Proper well water samples were not taken as benchmark samples, only surface samples were taken, therefore, appropriate testing may not occur or continue.
- not advised where the fill is coming from. If testing one of every 50 loads to ensure the fill is clean, that equates to 596 out of 29,800 truckloads, leaving 29,204 untested loads, which does not ensure all of the loads are contaminant-free.
- if inappropriate activity was to occur on the site, it would surely not be during the Town's operating hours
- if something should go wrong with the operation, the applicant/company is bankrupted and closed and the liability and its consequences falls to the Town or the residents
- municipality does not seem to rely on its own assessment of the roads; staff states the roads are capable of handling the proposed truck traffic, but at the same time recommends levying a fee of 50 cents per load to cover the costs of potential damage to the roads
- requesting a revised cross section of the finished project for Council and the residents to properly assess it, to determine the potential for the project to become an eyesore and affect taxpayer's property values
- from his calculations, the distance from the existing grade to the top of the initial berm will be approximately 5.4 metres or 18 feet, which is not acceptable
- classic case of an incompatible use of land

c. OTHER PUBLIC MEETINGS cont'd

•requested Council to deny the application or at minimum, defer until the municipality has conducted a full and public evaluation of the Site Alteration By-law including the recent Provincial Best Practices on soil management, or wait until the Province has issued a policy statement on commercial fill operations with the attendant regulatory framework

**Katharine Parsons** of 26635 Catering Road, Queensville, addressed Council as follows:

- in the fall of 2013, an employee of the Conservation Authority visited the site and excluded an area of wetland from the subject property
- maps were circulated to Council at this time
- in March of 2006, a division of the Ministry of Natural Resources evaluated the site with a perimeter of 362 metres and an area of 0.5 hectares. At that time, the wetland area had a woodland on it that was attached to a 'significant woodland' but at some point in the last two years, the woodlot was removed, without Regional tree cutting approval. No regulated area remains because the trees were removed.
- a Conservation Authority Planner sliced this wetland down the property line and severed it from the wetland area in the conservation lands. The regulated area is now gone; this Planner also reported to the Town that the property was in a significant recharged area and adjacent to a significant woodland.
- believes data was falsified by the Conservation Authority staff, ignoring 50 years of flood control and wetland conservation by deleting a regulated area and ignoring a Ministry of Natural Resources wetland

**Dave Cannaby**, R.R. 3, Creemore, addressed Council as follows:

- involved in construction aspects of the growth of Ontario
- difficult to find an available site to deposit soil
- population is expected to increase but population increase will create more roads and infrastructure and fill will continue to be a challenge to offload.
- meeting was held to find solutions to the soil dumping issue and one example brought up was Georgina's new site alteration by-law that seems to work
- this type of by-law required the Town to contract numerous professionals to conduct studies, costing thousands of dollars
- no provision in the by-law for an appeal process if an application is refused and inquired if there is an appeal process and if not, what is the applicant's avenue?

**Mike Baskerville** advised that the site alteration by-law passed pursuant to Section 142 of the Municipal Act; the Municipal Act, unlike the Planning Act, does not provide an appeal process to the by-laws under it. The process of an applicant to challenge a municipal position is through the civil court of law.

## c. OTHER PUBLIC MEETINGS cont'd

**Dr. Peter Strawbridge**, 26635 Catering Road, East Gwillimbury, addressed Council as follows;

- was involved in the Thane Smelter issue and therefore has knowledge of the contamination issue.
- the deposit of clean fill pays from \$35 to \$80, whereas this application is for taking in Table 2 soil which pays from \$400-\$500 per tri-axle truck load. This is an enormous opportunity for the property owner to make money.
- If the applicant uses the subject property for agricultural use as stated, he would make approximately \$20,000 before expenses, but he has already spent approximately \$200,000 on various studies so far. It does not make sense to go through this whole process to simply continue to use the property for agricultural purposes.

**Henry Koehler**, 6503 Smith Blvd, addressed Council as follows;

- lives over the hill from the subject site and is concerned with the proposed number of trucks on the roads. If there will be 30,000 trucks travelling towards the site, that same number of trucks will be making a return trip, doubling the number of trucks and making it dangerous for the local children to be on the road with their bicycles.
- the lot is wet and has poor drainage
- if the road is damaged by the truck traffic, the residents would need to endure the damage until repairs were carried out by the Town
- residents would need to endure three years of filthy vehicles

**Cindy Smith** of Park Road near Ravenshoe Road close to the railway tracks, addressed Council as follows;

- there is currently a large amount of traffic from the fill site on the opposite side of Smith Blvd, with trucks driving by all day long. It is not safe to walk on the road now, and it would be impossible if the truck traffic was to double

**James Gamble**, Frog Street, addressed Council as follows;

- owns land beside the applicant and his only concern is potential runoff from the applicant's property onto his own property
- He has lived at his property for 25 years when it was covered with bushes. He cleared the bush and now grows hay; the applicant could do the same with no trucks being required.

**Mr. Bell** advised that all runoff will drain into the drainage ditch, which was installed around the subdivision at the time the subdivision was constructed, with an easement to ensure the ditch maintains the flow. The water is intercepted from the existing slope and the drainage ditch will carry the water to conservation lands. The flow was altered as insisted upon by the Conservation Authority so that the surface water recharge was maintained. The Conservation Authority had concerns with interrupting the watercourse to the wetland, while the town wanted the water to go to the swale. No water is being diverted away from the wetland complex.

## c. OTHER PUBLIC MEETINGS cont'd

**Mike Baskerville** advised that there has not been, and will not be, any change in the drainage pattern from the farm as a result of this application. The Conservation Authority made a statement that it wanted water to go into the wetlands and that is what happened. The Conservation Authority asked for the existing swale, which protected the treed area, to be removed. The existing drainage pattern of the farm will be maintained. There will be no increase or decrease in runoff, just a slightly increased slope from 2% to 3%.

**Harold Lenters** advised as follows;

- whether or not the property was treed would need to be addressed through either an environmental consultant or the Lake Simcoe Region Conservation Authority. Based on information he was provided, the subject land was neither a wetland nor contained a forest feature.

**Mr. Bell** advised that the applicant has another operation in East Gwillimbury with permits. He also advised that bulldozers will be used to move and grade the fill. All dumping of fill will be done at the 90 metre setback from the abutting residential properties.

**Mike Baskerville** advised as follows;

- the Town references Table 2 soils under the Ministry of the Environment Act. A definition of 'clean fill' is not provided and it is not used as a term.
- truck traffic will be required to travel the route of Highway 48 to Ravenshoe Road, to Park Road, to Smith Blvd and to the farm
- if contaminated soil was found, it would need to be removed. Any fine would be dictated by the Provincial Offences Act. Any subsequent conviction can be subject to a fine of up to \$25,000 per day.

**Harold Lenters** advised as follows;

- in his opinion, the town cannot designate a commercial fill operation as a land use. Section 142 of the Municipal Act authorizes Council to pass bylaws with regard to dumping fill. In the Planning Act, no section gives similar authority with respect to dealing with fill and replacing fill.
- both the Official Plan and Zoning By-law are appealable.
- the by-law does not prohibit the volume of fill dealt with in this application with regard to compatibility with a residential area.

**Mike Baskerville** advised the following;

- the intent of the application is to place fill. The use of the land is agricultural, before and after the application.
- there would be no control over the number of trucks on the roads per day. If enough loads were lost due to bad weather, the three year term could be increased to compensate, or the applicant would take the loss of the truckloads.

c. OTHER PUBLIC MEETINGS cont'd

- the Town's noise bylaw stipulates a 10-hour working day
- the 50 cent charge per truck load was not meant to entirely reconstruct Smith Blvd.

**Mr. Bell** reiterated that the applicant proposed to impose on truck drivers a regulation that they are not to repeatedly slam the tailgates in order to dump the material. The trucks can face uphill in an effort to reduce the slamming of tailgates repeatedly.

- the 200-300mm of organic topsoil equates to approximately one foot and is included in the total volume of fill.
- dumping of fill would not occur within 90 metres of the residential properties.
- drainage ditch provides a 25 metre area of land that is not touched by the application with the addition of a setback requested by the Conservation Authority
- municipality holds an easement to ensure the applicant maintains the drainage ditch

**Mike Baskerville** advised that the Beaton site alteration permit is for 700,000 cubic metres, while the subject application is half that size.

**Ted Leggitt** addressed Council as follows;

- does not believe the road can withstand the increased truck traffic and the taxpayers will end up paying for road repairs
- tile drainage would solve the problems; fill would not be needed
- invited Council members to visit his property on Smith Blvd after half-load season to experience the truck traffic travelling by his farm every five minutes

**George Peacock**, 155 Cedar Street, addressed Council as follows;

- believes the proposed location for trucks to turn should not be close to the newly rebuilt Egypt Hall; the children's playground at the hall is used at all hours and accessed by pedestrians
- there should be an assessment conducted of potential species at risk in the wetlands

**Gary Bell** advised that the agricultural questions were well addressed on the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) correspondence.

- the application was for a fill permit, no mention of agriculture, just an end result
- Lake Simcoe Region Conservation Authority has provided evidence to the Town with regard to buffers and species at risk

c. OTHER PUBLIC MEETINGS cont'd

Moved by Councillor Szollosy, Seconded by Councillor Davison

**RESOLUTION NO. C-2014-0238**

1. That Council receive Report No. OED-2014-0010 prepared by the Operations and Engineering Department dated April 9, 2014 respecting the large scale site alteration permit application made by Baldwin 33 Incorporated, as owner.
2. That the site alteration permit application made by Baldwin 33 Incorporated be referred to the Chief Administrative Officer to prepare a report to coordinate a response to all issues raised at this meeting, to include; (i) necessity for a peer review of the data, (ii) wetland review, (iii) interpretation of written comments from the Lake Simcoe Region Conservation Authority, (iv) any information in relation to fill operations in the Town of Georgina, and (v) potential moratorium on the site alteration by-law pending a review, as well as any corresponding applications, noting that if this report clarifies the issues with this application, a moratorium may not apply to this application, and that said report be made available to the public for a minimum of two weeks prior to its consideration by Council at a Council meeting.

**Carried.**

*Staff was directed that this subsequent report not be listed as a public meeting on an agenda, but that any members of the public will be permitted to speak to the report at that meeting. All interested parties are to be circulated the new report.*

*It was suggested that a Solicitor's opinion may be needed to determine if a current application vs a future application can be included in a potential moratorium.*

*Further to Council's suggestion, the Chief Administrative Officer stated that she will submit the original report requested in October of 2013 regarding the option of a potential moratorium of the site alteration by-law while a review of the by-law is undertaken, followed by the submission of the report requested at tonight's meeting.*

The meeting recessed and Mayor Grossi left the meeting at 10:13 p.m. Deputy Mayor Wheeler assumed the Chair in Mayor Grossi's absence.

The meeting resumed at 10:24 p.m.

**THE CORPORATION OF THE TOWN OF GEORGINA**

**REPORT NO. CAO-2014-0007**

**FOR THE CONSIDERATION OF  
COUNCIL  
MAY 7, 2014**

**SUBJECT: SITE ALTERATION BY-LAW MORATORIUM**

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**1. RECOMMENDATION:**

- 1. That Council receive Report No. CAO-2014-0007 prepared by the Office of the Chief Administrative Officer dated May 7, 2014 respecting Site Alteration By-law Moratorium.**
- 2. That By-law No. 2011-0044 be amended as recommended.**
- 3. That staff report back with proposed Terms of Reference for an Ad Hoc Committee to be appointed for the purpose of reviewing the Town's Site Alteration By-law and program.**

**2. PURPOSE:**

To recommend amendment to By-Law No. 2011-0044, being a by-law to prohibit or regulate the removal of topsoil, the placing or dumping of fill material and the alteration of the grade of land in all areas within the Town of Georgina and to recommend the creation of an Ad Hoc Committee to review the Town's Site Alteration By-law.

**3. BACKGROUND:**

After extensive review of its existing By-law No. 91-139, on April 26, 2011 Council adopted By-law No. 2011-0044 (See Attachment 1), being a by-law to prohibit or regulate the removal of topsoil, the placing or dumping of fill material and the alteration of the grade of land in all areas within the Town of Georgina.

On October 15, 2013 Council passed resolution C-2013-0390 which included:

"3. That staff submit a report on the option of a potential moratorium of the Site Alteration By-law for subsequent applications while a review of the by-law is undertaken."

Council felt that the degree of control over fill operations that was desired had not been achieved.

On April 9, 2014 Council reiterated their desire for a moratorium of the by-law while a review of the by-law is undertaken. The review is to include assessing the controls and mechanisms included in by-laws of other municipalities especially as they pertain to large scale fill operations, commercial fill operations and Council's ability to support/not support applications.

**4. ANALYSIS:**

By-law 2011-0044, being a by-law to prohibit or regulate the removal of topsoil, the placing or dumping of fill material and the alteration of the grade of land in all areas within the Town of Georgina, is an important tool for the regulation of fill activity in the Town. For applications where less than 2000 cubic metres will be dumped or placed, approval is granted by the Director of Operations and Engineering. Council approves applications involving applications where the quantity of fill being dumped or placed is greater than 2000 cubic metres.

In order to preserve the business continuity needs of the Town, while supporting the political desire for additional contemplation of the by-law, staff are recommending that the moratorium apply only to applications where the quantity of fill being dumped or placed is greater than 2000 cubic metres. During the review period staff need to maintain the ability to process and grant approvals for applications of 2000 cubic metres or less. The proposed amendment to By-law No. 2011-0044 (Attachment 2) is drafted to support this approach.

Large scale and commercial fill operations are the subject of much debate in the province lately. In order to ensure that the review process results in the Town having full and unchallenged authority over fill operations the review process will need to be very comprehensive with inputs from a variety of stakeholders. Staff are proposing to establish an Ad Hoc Committee to be tasked with the review process. If Council are supportive of this approach staff will report back with proposed terms of reference for the committee.

**5. FINANCIAL AND BUDGETARY IMPACT:**

Not Applicable

**6. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:**

Staff will ensure that the review initiative is effectively communicated to the public.

**7. CONCLUSION:**

Staff recommend that By-law No. 2011-0044 be amended as presented and that terms of reference be established to move forward with the creation of an Ad Hoc Committee tasked with the review of the Town's Site Alteration By-law.

Approved by:



Winanne Grant, B.A., AMCT, CEMC  
Chief Administrative Officer

*Attachment 1 – By-law No. 2011-0044 (REG-1)*

*Attachment 2 – Proposed Amendment to By-law No. 2011-0044 (REG-1)*

THE CORPORATION OF THE TOWN OF GEORGINA  
OF THE  
REGIONAL MUNICIPALITY OF YORK

BY-LAW NO. 2014-0048 (REG-1)

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BEING A BY-LAW TO AMEND BY-LAW NO.  
2011-0044 (REG-1)  
(BEING A BY-LAW TO PROHIBIT OR  
REGULATE THE REMOVAL OF  
TOPSOIL, THE PLACING OR DUMPING OF  
FILL MATERIAL AND THE ALTERATION OF  
THE GRADE OF LAND IN ALL AREAS WITHIN  
THE TOWN OF GEORGINA)

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**WHEREAS** Council deems it to be in the public interest to review its policies relating to site alterations in the Town of Georgina, and therefore wishes to prevent major site alterations from taking place until a new site alteration by-law is passed pursuant to Section 142 of the *Municipal Act, 2001*;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GEORGINA ENACTS AS FOLLOWS:**

1. By-law No. 2011-0044 (REG-1) of The Corporation of the Town of Georgina is hereby amended as follows:
  - (a) By revising Subsection 2(a) to read as follows:
    - a) No person shall *place* or *dump* any *fill*, remove any *peat* or *topsoil*, or otherwise alter the *grade* of land by causing, permitting or performing any form of *site alteration* involving the *placing* or *dumping* of more than 2,000 m<sup>3</sup> of *fill* on land within the *Town*. *Site alterations* involving the *placing* or *dumping* of 2,000 m<sup>3</sup> of *fill* or less shall be carried out in accordance with this by-law, and shall not be commenced until the *owner* has received a *permit* issued by the *Director* under this by-law;
  - (b) By revising Subsection 2(j) to read as follows:
    - j) No person shall *place* or *dump fill* or cause or permit *fill* to be *placed* or *dumped* unless such *fill* complies with Ministry of the Environment standards for clean *fill*, as described in Part 4.2(g) of this by-law;
  - (c) By revising Subsection 4.1(h) to read as follows:
    - h) A description of the proposed *site alteration*, including a description of the source of the *fill* with a letter from the party from whom the *fill* was acquired attesting that the *fill* meets the requirements for clean *fill* set out in Parts 4.2(g) and 5.2 of this by-law (if applicable), the quantity of the *fill* expressed in cubic metres, and contact information for the party from whom the *fill* was acquired;

(d) By revising the first paragraph in Section 4.2 to read as follows:

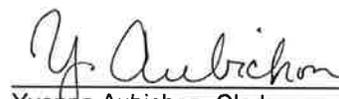
Where greater than 250 m<sup>3</sup> of *fill* is being *placed* or *dumped*, the *owner* shall provide the information set out in Part 4.1 and enter into an agreement with the *Town*, approved by the *Director*, whereby the *owner* agrees to the following:

(e) By deleting therefrom Section 4.3.

2. Despite Section 1, any application for a *permit* under By-law No. 2011-0044 (REG-1) submitted before the passage of this by-law, and any *site alteration* authorized by a *permit* issued and/or a *site alteration* agreement executed before the passage of this by-law, shall continue to be governed by By-law No. 2011-0044 (REG-1) as it existed immediately before the passage of this by-law.
3. This By-law shall come into force and effect on the date of its passing.

READ a first, second, third time and finally passed this 7<sup>th</sup> day of May, 2014.

  
Robert Grossi, Mayor

  
Yvonne Aubichon, Clerk

THIS AGREEMENT made in duplicate, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

B E T W E E N:

**BALDWIN 33 INCORPORATED**, a company duly incorporated under the laws of the Province of Ontario,

hereinafter called the "OWNER"

OF THE FIRST PART:

AND –

**THE CORPORATION OF THE TOWN OF GEORGINA**

hereinafter called the "TOWN"

OF THE SECOND PART:

WHEREAS the Owner has represented to the Town it is the Owner of the lands described in Schedule 'A' hereto (the "Lands");

AND WHEREAS the Owner will be responsible to co-ordinate and oversee the excavation, removal and placement of fill materials on their property;

AND WHEREAS the Town has enacted By-law No. 2011-0044 (REG-1) to prohibit or regulate the removal of topsoil, the placing or dumping of fill material and the alteration of the grade of land in all areas within the Town of Georgina;

AND WHEREAS Site Alteration By-law No. 2011-0044 (REG-1), s. 4.2 requires the Owner of Land to enter into an Agreement with the Town prior to the movement or depositing of fill on Lands subject to the by-law;

AND WHEREAS the Owner has requested the Town to issue a site alteration and fill permit to allow them to alter/fill their Lands in accordance with a site plan prepared by Schad Engineering, dated February 2014 and as may be further revised to the satisfaction of the Owner, and the Town as mutually agreed upon in writing;

AND WHEREAS the Owner has agreed not to contaminate the natural environment or adjacent properties and agrees to abide by all applicable environmental laws and regulations;

NOW THEREFORE this agreement witnesseth that in consideration of the mutual covenants hereinafter contained, the parties hereto agree, each with the other, as follows:

**PART I DEFINITIONS:**

1.1 Definitions

In this agreement:

- a) "Consultant" means a Professional Engineer, Geotechnical or Environmental Consultant retained by the Owner;

- b) "Director" means the Town's Director of Operations and Engineering or his designate;
- c) "Engineer" means a Professional Civil, Geotechnical or Environmental Engineer, retained by the Owner ;
- d) "Lands" means those lands subject to this agreement;
- e) "Owner" means the registered Owner of the Lands;
- f) "Security" means the security and deposit referred to in Schedule 'C'

#### 1.2 Lands Affected

This Agreement applies to the Lands, which lands are described in Schedule 'A'.

#### **PART II SCOPE OF AGREEMENT:**

This Agreement shall define the obligations and duties of the Owner with respect to the alteration of grade on the subject lands and without limiting the generality of the foregoing, shall include the installation and maintenance of erosion and sediment control measures, importation, placement or relocation of fill material, implementation of mud and dust control measures, continued ground and/or well water monitoring and payments required to be made to the Town and such other matters as more specifically set out herein and shall define the responsibilities of the Town related to the site alteration as set out herein and as shown on the approved plans. These requirements shall be completed within the time limits specified by the Agreement and all works shall be undertaken in a good and workmanlike manner.

The Owner covenants and agrees that it cannot excavate or place or dump fill on the Lands prior to the issuance of a site alteration and fill permit as provided for in By-law 2011-0044 (REG-1) and execution of this Agreement.

#### **PART III FINANCIAL PROVISIONS**

The Owner agrees to pay the Town all fees and costs as set out in Schedule 'C' to By-law 2011-0044 (REG-1) as may be amended or replaced at any time. Payment shall be received prior to any site inspection, plans review or permit issuance.

#### 3.1 Securities

Prior to the execution of this agreement by the Town, the Owner agrees to make a cash deposit or provide a Letter of Credit in the amount of \$25,000.00 to the Town:

- (i) To guarantee that all work will be carried out in accordance with By-law 2011-0044 (REG-1), the approved site grading plan and the provisions of this agreement.

(ii) To guarantee implementation and continuation of the Well Monitoring program including the provision of temporary and/or permanent water solutions to a property specifically affected by this fill operation.

The Owner agrees to immediately replace any amount used by the Town forthwith upon notification in writing by the Town or the Owner shall be considered to be in default of the terms and conditions hereunder. Owner(s) who elect to submit a Letter of Credit as their guarantee, shall advise their lending institution that THE TOWN OF GEORGINA'S STANDARD DOCUMENTATION FOR LETTERS OF CREDIT shall be used.

### 3.2 Municipal Services Fee

The Owner agrees to provide to the Town securities to guarantee payment of the Municipal Services Fee in the amount of \$149,000.00 in the form of cash, certified cheque, or Letter of Credit all to the satisfaction of the Director. This security may not be reduced and the Owner agrees to immediately replace any amount of the Letter of Credit used by the Town forthwith upon notification in writing by the Town or the Owner shall be considered to be in default of the terms and conditions hereunder.

The Owner also agrees to provide payment of the \$0.50 per cubic metre Municipal Services Fee on a quarterly basis, the amount to be determined based on the total volume of material placed, dumped or relocated on the site each quarter as confirmed by the Owner's Consulting Engineer.

The Owner agrees to pay to the Town at the completion of the project any remaining balance of the Municipal Services Fee of \$0.50 per cubic meter of fill material placed, dumped or relocated on the property as confirmed by a topographical survey, prepared at the Owner's expense and certified by a Professional Engineer or Ontario Land Surveyor.

### 3.3 Release of Securities

Security taken pursuant to 3.1 and 3.2 hereto shall be released to the Owner upon completion of all work in accordance with this agreement including but not limited to the well monitoring program subject to any amounts to be paid out or drawn by the Town and final payment of the Municipal Services Fee.

### 3.4 Cost Recovery

The Owner agrees to pay all reasonable legal fees of the Town to prepare and administer this Agreement, and to pay all reasonable fees for the review of technical reports and drawings submitted in support of the site alteration and fill permit application and any peer review or consultant costs of the Town in accordance with the Agreement. The Owner also agrees to pay any and all reasonable costs which the Town may incur relating to any inspection of the site alteration and the Town's administration costs. The Town will invoice the Owner on a monthly basis for such inspection and review cost including a 15 percent (15%) administration fee and, if payment is not received within thirty (30) days of the invoice date, the Town may draw on securities provided in Part 3.1.

### 3.5 Tax Arrears

The Owner covenants and agrees to pay all arrears of taxes outstanding against the property herein described, prior to the execution of this Agreement by the Town.

## **PART IV LIABILITY INSURANCE AND INDEMNIFICATION**

### 4.1 Liability Insurance

The Owner shall take out and keep in force throughout the term of this Agreement comprehensive liability insurance in an amount not less than \$5,000,000 per occurrence against all claims including personal injury, death, property damage and environmental damage resulting directly or indirectly from placing or dumping fill on the Lands, which policy shall include the Town as a named additional insured. The Owner shall provide the Town a certificate evidencing such insurance coverage prior to the Town issuing a site alteration and fill permit.

### 4.2 Indemnification

The Owner covenants and agrees to indemnify and save harmless the Town and each of its officers, employees, agents and elected and appointed officials from and against all claims, demands, losses, damages, costs (including reasonable legal costs), actions and other proceedings made, sustained, brought, prosecuted, threatened to be brought or prosecuted in any manner based upon, occasioned by or attributable to an injury to or death of a person or damage to or loss of property, infringement of rights or any other loss or damages whatsoever, arising in relation to the import of fill, alteration, removal, placing, dumping or relocation of fill on the Lands or as a result of the quality of the material being placed, dumped or relocated or by reason of the maintenance or lack of maintenance of such works by the Owner pursuant to the terms of this Agreement.

## **PART V SITE ALTERATION - GENERAL**

### 5.1 Consulting Engineer

The Owner agrees to retain as its consultant, a competent Professional Engineer skilled and experienced in the field of Civil Engineering. Said Consulting Engineer shall carry out all the necessary engineering requirements for the site alteration in accordance with By-law 2011-0044(REG-1), the approved plans and this Agreement as well as design, supervise, layout, inspect, and maintain the works herein referred to, and to remedy any defects as required. Such Consulting Engineer or a successor thereto, shall continue to be retained until the work provided for in this Agreement is completed and formally approved by the Town.

### 5.2 Inspections by the Director

The Owner covenants and agrees that the Director, or his designate, may enter the Lands at any time to inspect the work being undertaken. Such inspection shall in no way relieve the Owner from his responsibility to inspect said work himself. If, at any time, in the opinion of the Director, the site alteration is not being carried out in accordance with good

engineering practice or in accordance with the terms of this Agreement, the Director may issue instructions to the Owner and/or to the Engineer to take such steps as the Director deems necessary to procure compliance with the provisions of this Agreement. Such instructions may be written, or may be verbal. Verbal instructions will be confirmed in writing within forty-eight (48) hours. In the event that neither the Owner nor the Engineer is present at the site of the works to receive such verbal instruction, the Director may require the contractor or contractors or workmen to cease work immediately and is hereby authorized to order such work to cease.

### 5.3 Design and Specifications

The Owner covenants and agrees to undertake the site alteration in accordance with the requirements outlined in By-law 2011-0044(REG-1) and with the plans and specifications as prepared by the Consulting Engineer and reviewed and approved by the Director.

The Owner covenants and agrees to follow all recommendations and design specifications as noted in the supporting documents required for the placing, dumping or relocation of fill and the alteration of the grade of land and will ensure its operations do not contaminate the natural environment or contaminate or otherwise adversely impact any surrounding wells and will comply with all applicable environmental laws and regulations.

### 5.4 Soil Quality

The Owner covenants and agrees that any fill material imported, placed, dumped or relocated on the Lands for the purposes of altering the grade of land pursuant to the approved plans and the terms of this Agreement shall meet Table 2 Standards for Agricultural or Other Property Use outlined in the Ministry of the Environment (MOE) Soil, Ground Water and Sediment Standards For Use Under Part XV.1 of the Environmental Protection Act, April 15, 2011, as amended restated or superseded.

The Owner covenants and agrees that material which does not meet the Table 2 Standards for any parameter analyzed in accordance with the Agreement shall not be placed, deposited or otherwise used at the Lands;

The Owner further covenants and agrees to obtain the services of a consultant or Geotechnical Engineer approved by the Director who will be responsible to:

- (i) Ensure the source material used is clean and free of rubbish, glass, garbage, termites, organic materials, asphalt, liquid and toxic chemicals and other contaminants as defined in the Environmental Protection Act;
- (ii) Ensure all soil samples collected are analysed according to the standardized list and accept only those that conform to the MOE Table 2 Full Depth Generic Site Condition Standards in a Potable Ground Water Condition – Agricultural or Other Property Use, dated April 15, 2011.
- (iii) Ensure the dumping of fill is in accordance with the approved engineering plans;
- (iv) Review and approve the plans prepared by the Owner indicating the locations of fill dumped on site from the approved sources;

(v) Collect the plans and records of the fill dumped on site and verify the location of the samples taken for the fill dumped on the Property.

#### 5.5 Source Site Approval

The Owner covenants and agrees that prior to the import of fill material from any source site, that the Consulting Engineer or Geotechnical Consultant shall review the soils reports and chemical analysis for each source location and provide written confirmation to the Town of the suitability of the material to be used on the Lands in accordance with the provisions set forth in Part 5.4 of this agreement.

The Owner further covenants and agrees that no fill will be imported to the Lands prior to the Town receiving confirmation from the Consulting Engineer that the material is suitable for use on the Lands. Project source sites provided by the Owner must be approved by both the Consulting Engineer and the Town prior to excavation and placement on the Lands. Such approval shall not be unreasonably withheld.

#### 5.6 Soils Sampling, Testing and Analysis

The Owner covenants and agrees that material imported to the site from individual source sites shall be kept separate on the Lands until such time as the material has been sampled, tested and confirmed to be in compliance with the quality requirements outlined in Part 5.4 of this Agreement. The Owner further covenants and agrees to undertake sampling of all material imported to the site at a frequency of ten (10) samples per 5000 cubic metres of material per source site. All sampling shall be conducted by a qualified Geotechnical Consultant and analysis completed by a laboratory certified by the Standards Council of Canada (SCC) and the Canadian Association for Laboratory Accreditation Inc. (CALA), following MOE QA/QC procedures. All results shall be provided to the Town on a monthly basis accompanied by a cover letter prepared by the Geotechnical Consultant confirming compliance with soil quality standard requirements.

Sampling locations from each source location must be chosen so as to ensure uniform and representative sample collection so as to represent the entire source area and must not be surficial soil samples as per O.Reg. 153/04;

Records of incoming source material, in accordance with By-law 2011-0044 (REG-1) shall provide sufficient documentation to locate the final placement of a load should a future contamination issue arise.

The Owner further Covenants and agrees that if it is discovered that fill material has been deposited on the Lands which does not meet the Table 2 Standards outlined in Part 5.4, all fill import and placement on the Lands shall cease until the quantity of unsuitable fill material can be determined and the material removed from the site, all to the satisfaction of the Director.

#### 5.7 Site Access

Prior to the issuance of a Site Alteration Permit, the Owner agrees to obtain all necessary road entrance/occupancy permit(s), including but not limited to those required by the Town of Georgina, the Region and the Ministry of Transportation.

The Owner covenants and agrees to restrict construction access to the use of the designated driveway to be constructed at 6003 Smith Boulevard. Use of the existing entrances at 6017 Smith Boulevard by any vehicle importing or exporting material to or from the fill site is strictly prohibited.

The Owner further covenants and agrees to restrict the use of Regional and Town roads within the Town of Georgina used to access the site to the following routes:

- North Route – Highway 48, Park Road, Smith Boulevard
- South Route – Highway 48, Ravenshoe Road, Park Road, Smith Boulevard

The Owner covenants and agrees to ensure compliance with all load restriction requirements on any road where load restrictions apply.

The Owner covenants and agrees to prohibit access to the site during times of inactivity by installing gates to the entrance of the Lands and to keep the gates closed and locked except during the approved hours of operation pursuant to Part 7.1 of this Agreement.

## **PART VI EROSION, SEDIMENT, MUD AND DUST CONTROL**

### **6.1 Erosion and Sediment Control Measures**

The Owner covenants and agrees to install and maintain all sediment and erosion control measures in accordance with the approved Erosion and Sediment Control Plan, Drawing ES1, which includes but shall not be limited to the installation of sediment control fencing, rock and/or straw bale check dams, construction of drainage swales complete with erosion control at outlet, stabilization of disturbed areas with seed, sod, or approved substitute, all to the satisfaction of the Director.

The Owner further covenants and agrees to inspect all erosion and sediment control measures on a weekly basis and following significant rainfall or snow melt events and undertake any necessary repairs to ensure the integrity of the control measures and to undertake any additional erosion and sediment control measures that may be deemed necessary by the Director at any time to ensure adequate erosion and sediment control on the Lands.

### **6.2 Mud and Dust Control**

The Owner covenants and agrees to provide continuous control of mud tracking onto adjacent streets and to clean the roads and ditches impacted by the operation and to control dust on access roads and the work area all to the satisfaction of the Director and all in accordance with the Dust Control Plan and Operation Protocol prepared by the Owner's Consulting Engineer and attached to this Agreement as Schedule 'E'.

The Owner covenants and agrees to implement street sweeping and/or flushing operations on a daily basis and as necessary to ensure adequate mud and dust control. A flusher truck may also be utilized to spray the access road(s) and work area as necessary to minimize dust. During winter months, roadways shall be maintained free of mud and debris and shall be swept as necessary to ensure the safety of all motorists utilizing the roadways.

Should mud and dust control measures not be implemented or maintained, or should road conditions be deemed by the Director to be unsafe as a result of mud tracking or dust, the Owner covenants and agrees to cease all site alterations including the import, dumping, placing or relocating of fill if so ordered by the Director until mud tracking and dust concerns have been rectified to the satisfaction of the Director. If, in the opinion of the Director, the Owner has not undertaken the necessary action to restore the condition of the roads to an acceptable standard, then the work shall be done by the Town at the Owner's expense.

### 6.3 Mud Mats

The Owner covenants and agrees to install and maintain mud mats at all exits from the site onto adjacent roadways. Mud mats shall be constructed in accordance with the approved plans and the Town's Development Design Criteria, as amended. In the event that the Director deems it necessary, the length of the mud mats shall be extended to ensure adequate mud control. Mud mats shall be swept and/or flushed as necessary to remove accumulated mud, and stone shall be replaced as necessary to ensure adequate function of the mud mat at all times during construction.

### 6.4 Maintenance of Town Roads

The Owner covenants and agrees to pay all reasonable fees incurred by the Town for any maintenance and repair of Smith Boulevard deemed necessary by the Director as a direct result of its use relating to the site alteration. The Town will invoice the Owner on a monthly basis for such maintenance and repair, including a 15 percent (15%) administration fee and, if payment is not received within thirty (30) days of the invoice date, the Town may draw on securities provided in Part 3.1.

## PART VII OPERATIONAL PROTOCOL

### 7.1 Hours of Work

The Owner covenants and agrees that access to the site will be restricted, and no work will occur on the Lands:

- i) between the hours of 8:00 p.m. to 7:00 a.m., Monday to Saturday;
- ii) all day Sunday or on Statutory holidays
- iii) during any period in which a wind warning has been issued by Environment Canada for the area;
- iv) within twenty-four (24) hours of receiving a significant rainfall or snow melt event.

### 7.2 Site Works

The Owner covenants and agrees to undertake the site alteration in accordance with the Operational Protocol Letter in Schedule 'E', prepared by the Consulting Engineer and in accordance with the terms of this agreement and the requirements outlined in By-law 2011-0044(REG-1).

### 7.3 Ground and Well Water Monitoring Program

The Owner covenants and agrees to implement a Ground and Well

Water Monitoring Program as prepared by Alpha Environmental Services Inc., to ensure that the proposed works will not adversely affect any surrounding wells. The Ground and Well Water Monitoring Program shall be completed at the expense of the Owner in accordance with Schedule 'D'. The Owner will submit to the Town the Ground and Well Water Monitoring Program prior to its implementation for review and approval by the Director. The Ground and Well Water Monitoring Program shall be subject to the Town's approval in terms of design, construction and operation. The approved Ground and Well Water Monitoring Program shall be implemented by the Owner and shall include, but not necessarily be limited to:

(i) A monitoring well network of a minimum of three (3) on-site monitoring wells permanently installed on the subject property in locations determined by the Hydrogeological Engineer in accordance with requirements outlined in Schedule 'C' of By-law 2011-0044(REG-1). Monitoring of existing off-site residential wells as highlighted in the Hydrogeological Assessment and Hydrogeological Monitoring report prepared by Alpha Environmental Services Inc. shall continue until permanent wells have been installed at which time monitoring of the off-site wells may be abandoned;

(ii) An initial scan of groundwater parameters listed in Table 2 in Schedule 'D' will be conducted for samples from the monitoring wells and results shall be submitted to the Town upon completion;

(iii) All subsequent sampling events at all approved monitoring wells will include those parameters listed in Table 2, Schedule 'D' in addition to any parameters identified or outlined in the Phase 1 Environmental Site Assessment (ESA) which are not already outlined in Schedule 'D' and all results are to be submitted to the Town upon completion.

As may be determined necessary and before commencement of the work, the Owner shall post signs in conspicuous areas of the Lands which indicate that the Lands is within a sensitive wellhead protection area and that illegal dumping is prohibited.

#### 7.4 Grading, Drainage and Stabilization of Disturbed Areas

The Owner covenants and agrees to grade the site and provide drainage measures in accordance with the approved grading and drainage plan, Drawing SG1, prepared by the Engineer ensuring that the work will not interfere with or obstruct the existing drainage pattern of adjacent lands or cause any additional surface and ground water to be discharged onto adjacent lands.

The Owner covenants and agrees to stabilize any disturbed areas with seed, sod or approved substitute immediately upon completion of the work. The Owner further covenants and agrees to stabilize any area left inactive, or intended to be left inactive for more than 30 days.

The Owner covenants and agrees that any topsoil stockpiles shall be stabilized by vegetating with seed or an approved substitute to minimize sediment and dust migration.

The Owner further covenants and agrees to undertake any work necessary to ensure adequate storm water management and flood control, including but not limited to the construction of storm water management ponds, sediment ponds, and swales as may be deemed necessary by the Director;

## 7.5 Traffic Control

The Owner covenants and agrees to install permanent construction signage in accordance with the Traffic Control Plan prepared by the Consulting Engineer and in compliance with Ministry of Transportation regulations (Book 6) on all roadways adjacent to the fill operation. The Owner shall maintain signage in accordance with Ministry of Transportation guidelines as may be amended.

The Owner further covenants and agrees to obtain all necessary approvals and clearances prior to installing any signage or undertaking any work within a Municipal, Regional or Provincial road allowance.

The Owner covenants and agrees to install "No Engine Brake Use" signs in areas where the use of engine brakes by heavy trucks may negatively impact adjacent residential property owners.

The Owner covenants and agrees to provide traffic control persons who meet the legal requirements for training to control the flow of truck traffic to and from the site in order to ensure public safety, all in accordance with applicable construction and industrial regulations and the Ontario Traffic Control Manual, Book 7.

The Owner covenants and agrees to provide a truck stacking area on site to ensure that truck traffic does not impede or restrict the flow of vehicular traffic on adjacent roadways. Access to the fill site shall be restricted in accordance with Part 7.1 of this agreement. Trucks will not be permitted to stop or park on Smith Boulevard.

## **PART VIII GENERAL PROVISIONS**

### 8.1 Permit Expiry

The Owner shall place fill for a period of one (1) year following the date of issuance of the permit at which time this Agreement and the permit are terminated. However, the Agreement and site alteration and fill permit may be extended by Council/Director for a further one year period annually in accordance with the requirements of By-law 2011-0044 (REG-1) as may be amended, all at Council's/Director's sole discretion.

On expiry of the permit, the Owner covenants and agrees to grade and stabilize any area that has not been completed in conformity with the approved site plan all to the satisfaction of the Director.

### 8.2 Termination of Agreement

Council/Director may terminate this Agreement and revoke the site alteration and fill permit upon failure by the Owner to comply with any of its provisions provided that Council/Director shall first give notice in writing to the Owner of any failure to comply, provide at least thirty (30) days thereafter to enable the Owner to remedy such failure, and an opportunity for the Owner to make representation before Council/Director prior to Council/Director terminating this Agreement and further provided that any remedy of a breach by the Owner pursuant to this section or otherwise shall not inhibit or limit Council's/Director's authority to terminate this Agreement pursuant to this section.

On termination of the agreement, the Owner covenants and agrees to grade and stabilize any area that has not been completed in conformity with the approved site plan all to the satisfaction of the Director.

### 8.3 Jurisdiction to Enter into Agreement

The Owner covenants and agrees that the Town has jurisdiction to enter into this Agreement and that it will not challenge the validity of any of the terms of this Agreement or attempt to seek recovery of any of the payments made pursuant to this Agreement in any court or tribunal. The Owner further covenants and agrees that it entered into this agreement voluntarily and on the advice of legal counsel.

### 8.4 Relocation of Fish

The Owner covenants and agrees that all fish located in any existing pond(s) on-site affected by the site alteration shall be removed and relocated off-site, and all approvals and permits required for the relocation shall be obtained as necessary. All relocation activities shall be conducted in accordance with terms and conditions of such approvals and any appropriate regulations and by-laws, all in accordance with appropriate regulations and by-laws.

### 8.5 Notices and Demands

All notices, demands or requests shall be deemed to have been properly given if delivered personally or sent by prepaid registered mail or facsimile transmission to the addresses set out in Part VIII of this Agreement. If notice is given by prepaid registered mail, the same shall be effective five (5) business days upon being deposited with the post office, or upon proof of delivery by return receipt. However, in the event of the interruption of postal services, the notice shall not be deemed to have been given during such period of interruption, unless a notice has been actually delivered personally.

## **PART IX ADDRESS OF OWNER, AGENT, ENGINEER AND TOWN**

All notices, demands or requests provided for or permitted to be given pursuant to this Agreement shall be made in writing as follows:

|                      |   |
|----------------------|---|
| Owner:               | Baldwin 33 Incorporated<br>c/o Mr. Marvin Blanchard<br>6017 Smith Boulevard<br>Baldwin, Ontario L0E 1A0<br>Phone: (905) 960-7373 / Fax: (905) 722-9298<br>Email: <a href="mailto:bcec@live.ca">bcec@live.ca</a> |
| Consultant/Engineer: | Schad Engineering<br>248093 5 <sup>th</sup> Sideroad<br>Orangeville, Ontario L9W 2Z2<br>Attention: Mr. Bill Schad, P. Eng<br>Phone: (519) 942-3032 / Fax: (519) 942-3062  |
| Town:                | The Corporation of the Town of Georgina<br>26557 Civic Centre Road<br>Keswick, Ontario L4P 3G1<br>Attention: Yvonne Aubichon, Town Clerk<br>Phone: (905) 476-4301 / Fax: (905) 476-1475                         |

**PART X ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement of the parties hereto with respect to the development of the project, and supercedes all prior negotiations and agreements between the said parties with respect thereto.

**PART XI SCHEDULES**

The aforementioned schedules shall form part of this Agreement.

- 10.1 Schedule 'A',  
being description of the Lands subject of this Agreement
- 10.2 Schedule 'B',  
being a summary of the approved plans and reports
- 10.3 Schedule 'C',  
being a summary of Payments and Security to be provided by the Owner
- 10.4 Schedule 'D',  
being the Groundwater Monitoring Program
- 10.5 Schedule 'E'  
being the Operation Protocol

This Agreement shall be binding upon the parties hereto and their successors and assigns.

WITNESS the corporate seals of each of the parties hereto, attested to by the hands of their proper signing officers duly authorized in that behalf, the day first above written.

) **BALDWIN 33 INCORPORATED**  
 )  
 )  
 )  
 ) \_\_\_\_\_  
 ) Leonard Rosenberg, President  
 ) A.S.O.  
 )  
 )  
 ) **THE CORPORATION OF THE**  
 ) **TOWN OF GEORGINA**  
 )  
 )  
 ) \_\_\_\_\_  
 ) Robert A. Grossi, Mayor  
 )  
 )  
 ) \_\_\_\_\_  
 ) Yvonne Aubichon, Town Clerk  
 ) We have authority to bind the Corporation

SCHEDULE 'A'

**BEING THE LEGAL DESCRIPTION OF THE LANDS  
SUBJECT OF THIS AGREEMENT**

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THOSE CERTAIN LANDS situate in the Town of Georgina (formerly the geographic Township of Georgina), in the Regional Municipality of York and being composed of the following:

Property Description: Part Lot 13, Concession 3 (NG), as in 65R6321; Parts 3, 5 and 6 as in 65R-13353, and Parts 1 and 2 as in 65R13505

Municipal Address: 6003 Smith Boulevard

Assessment Roll No.: 1970 0000 014 35000 0000

PIN: 03552-0072 (LT)

## SCHEDULE 'B'

## APPROVED PLANS AND REPORTS

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The Owner covenants and agrees to construct all works required under this Agreement in accordance with the following plans, reports and drawings and as prepared by:

1. **Schad Engineering:**
  - Operational Protocol Letter
  - Dust Control Plan
  - Site Grading Plans – Drawings ES1, SG1, D1 incl.
2. **Advance Archaeology:**
  - Stage 1 and 2 Archaeological Assessment Report
3. **Alpha Environmental Services.:**
  - Environmental Assessment Report
  - Hydrogeological Assessment Report
  - Hydrogeological Monitoring Report

## SCHEDULE 'C'

**SUMMARY OF PAYMENTS AND SECURITY TO BE PROVIDED  
BY THE OWNER**

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Prior to the execution of this Agreement, the Owner agrees to pay to the Town:

**PAYMENTS:**

1. An amount of \$6,150.00 as a contribution towards the agreement preparation.
2. An amount of \$1,000.00; being the application fee thereof in accordance with By-law No. 2011-0044 (REG-1). **Payment received on June 10, 2013.**
3. Payment of \$0.50 per cubic metre of fill material imported in accordance with Part 3.2 of the agreement upon completion of all work and certification of the final quantity by the Owner's consultant.

**SECURITY:**

1. Prior to the execution of this Agreement by the Town, the Owner shall provide to the Town, in form and content satisfactory to the Town, an irrevocable Letter of Credit from a Canadian Chartered Bank in form and content satisfactory to the Town solicitor, or at the Owner's option, a cash deposit in the amount of **\$25,000.00** to:
  - (i) To guarantee that all work will be carried out in accordance with By-law 2011-0044 (REG-1), the approved site grading plan and the provisions of this agreement.
  - (ii) To guarantee implementation and continuation of the Well Monitoring program including the provision of temporary and/or permanent water solutions to a property specifically affected by this fill operation.

**Payment received December 11, 2012.**

2. Prior to the execution of this Agreement by the Town, the Owner shall provide to the Town, in form and content satisfactory to the Town solicitor, an irrevocable Letter of Credit from a Canadian Chartered Bank in form and content satisfactory to the Town solicitor, or at the Owner's option, a cash deposit in the amount of **\$149,000.00**; being \$0.50 per cubic metre of fill material imported in accordance Part 3.2 of the agreement.

## SCHEDULE 'D'

**GROUNDWATER MONITORING PROGRAM**

Groundwater monitoring program shall be completed by a qualified professional who is able to provide geoscience services under the Geoscientist Act, 2000.

All subsequent sampling events for the newly constructed on-site monitoring wells and possible existing on-site monitoring well shall include the parameters listed in Table 2, subject to revision by the Town:

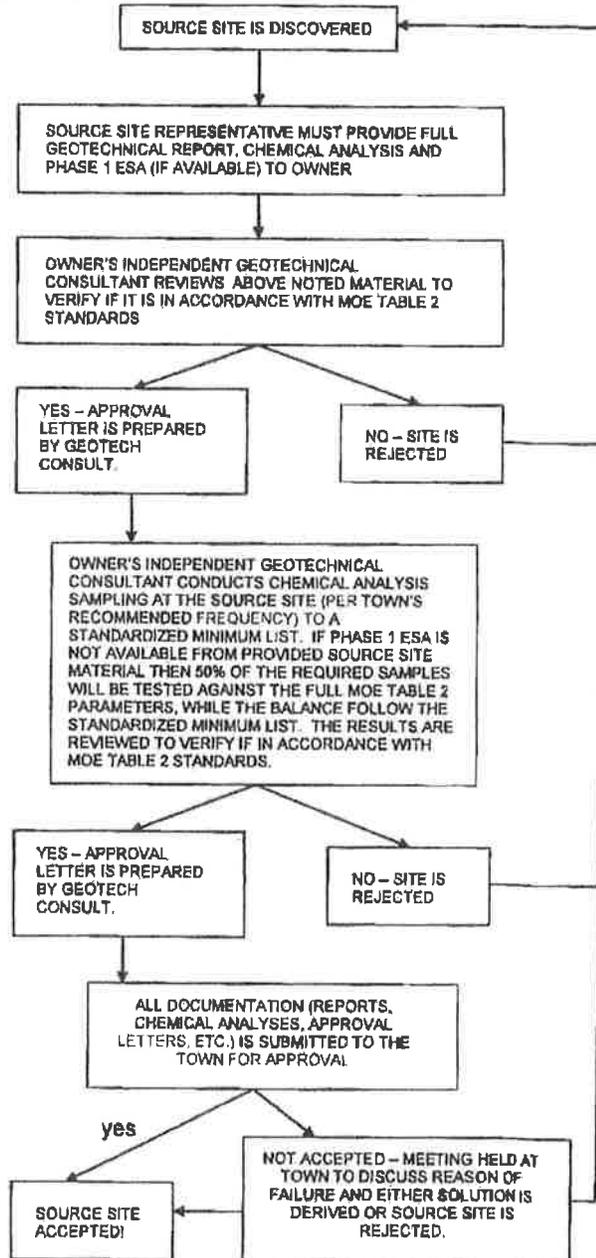
| TABLE 2: Groundwater Sampling Parameters |                 |
|--|-----------------|
| Parameter                                | Standard (ug/L) |
| pH (field parameter)                     | Field monitor   |
| Conductivity (field parameter)           | Field monitor   |
| E. Coli                                  | ND              |
| Total Coliforms                          | ND              |
| Alkalinity                               | 30000-500000    |
| Ammonia                                  | Monitor         |
| Arsenic                                  | 25              |
| Barium                                   | 1000            |
| Benzene                                  | 5               |
| Boron                                    | 5000            |
| Cadmium                                  | 5               |
| Calcium                                  | Monitor         |
| Chemical Oxygen Demand                   | Monitor         |
| Chloride                                 | 250000          |
| Chromium (Total)                         | 50              |
| Conductivity                             | Monitor         |
| Copper                                   | 23              |
| 1,4 Dichlorobenzene                      | 1               |
| Dichloromethane                          | 50              |
| Dissolved Organic Carbon                 | 5000            |
| Hardness as CaCO <sub>3</sub>            | 300000          |
| Iron                                     | 0.3             |
| Lead                                     | 10              |
| Magnesium                                | Monitor         |
| Manganese                                | 0.05            |
| Mercury                                  | 0.12            |
| Nitrate                                  | 10000           |
| Nitrite                                  | 1000            |
| pH                                       | 6.5-8.5         |
| Phenol                                   | 4200            |
| Sodium                                   | 200000          |
| Sulphate                                 | 500000          |
| Toluene                                  | 24              |
| Total Dissolved Solids                   | 500000          |
| Total Kjeldahl Nitrogen                  | Monitor         |
| Total Phosphorus                         | Monitor         |
| Vinyl Chloride                           | 1.3             |
| Zinc                                     | 1100            |

"ND" – means not detectable

"Monitor" – indicates that this parameter should be monitored so that the Region can compare with ambient conditions

SCHEDULE 'E'  
OPERATION PROTOCOL

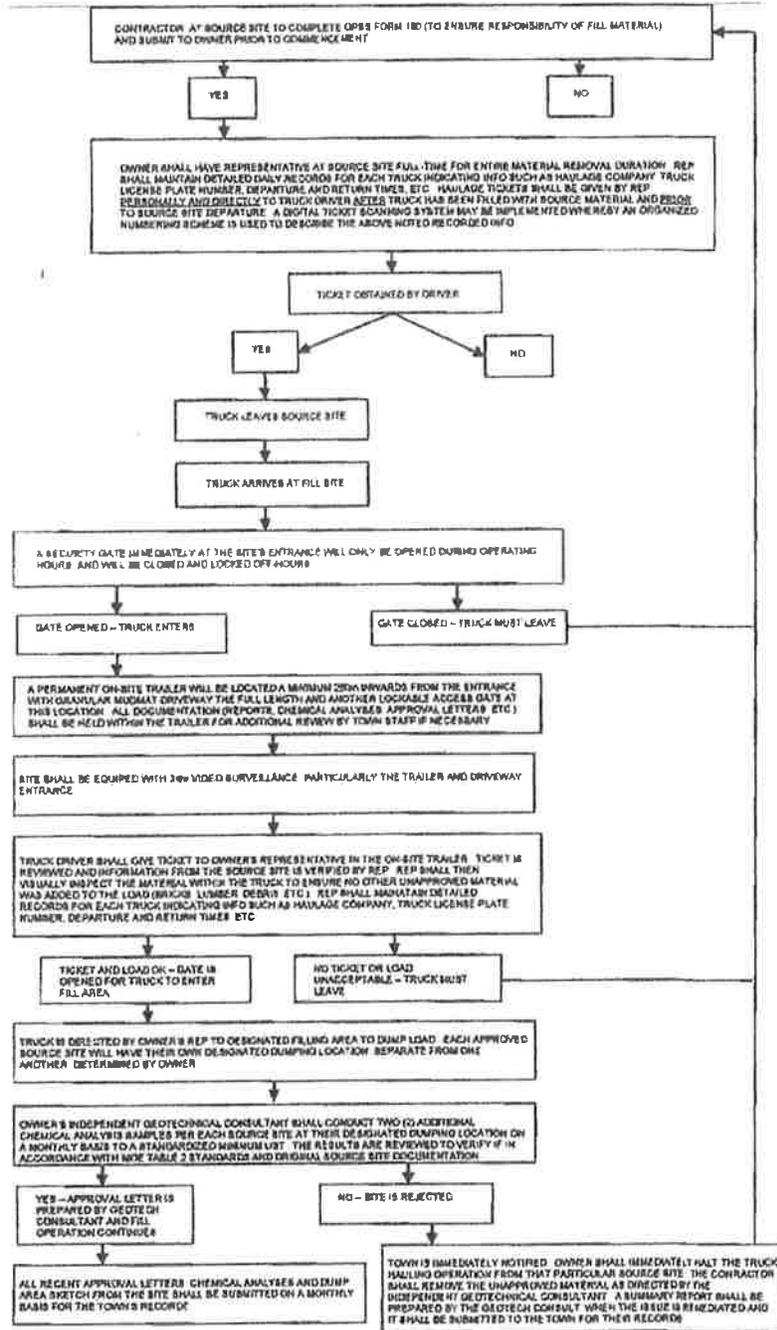
Source Selection Flow Chart



Page 2 of SCHEDULE 'E'

OPERATION PROTOCOL

Construction Operation Flow Chart



Site Alteration Agreement  
 Baldern 33 Incorporated (Blanchard)  
 6003 Smeeth Boulevard  
 OED SA2012-04

**OPERATION PROTOCOL**

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Operational Protocol Letter

**SCHAD ENGINEERING**

248093 5 SIDEROAD, MONO, ONT. L9W 6K9 TEL. 519-942-3032 FAX. 519-942-3062

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March 11, 2014

Project # 2013-08

Town of Georgina  
Engineering Services Dept.  
26557 Civic Centre Road  
Keswick, ON  
L4P 3G1

Attention: Mr. Mike Baskerville, C.E.T.  
Manager of Engineering Services

Dear Mr. Baskerville:

**RE: Proposed Operation Protocol Letter  
6003 Smith Boulevard – Part of Lot 3, Concession 3  
Site Alteration By-Law # 2011-0044 (REG 1)  
Town of Georgina**

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We are pleased to submit this revised Proposed Operation Protocol letter in support of the above captioned site alteration permit application. The purpose of this letter is to give the Town a general understanding of the owner's operational intent through these permits and to outline how their required responsibilities and permit conditions will be fulfilled for compliance with the Site Alteration By-Law # 2011-0044 (REG-1). This report outlines the owner's suggested operation protocol and obligations.

**BACKGROUND**

The subject lands are situated on the property of the municipal address of 6003 Smith Boulevard, Lot 3, Con. 3, in the Town of Georgina, in the Regional Municipality of York. It is proposed by the owner of the property, Baldwin 33 Inc., through the site alteration permit application, to place clean fill on the subject property to raise the surface grades, topped with approximately 0.3 m (1') deep layer of topsoil, in order to improve the agricultural quality of the land. The land is currently agricultural/pasture land and is zoned accordingly.

**PROPOSED OPERATION PROTOCOL**

It is proposed that the owner conduct the site alteration/fill operation on the subject site per the permit conditions and agreement requirements as follows:

**OPERATION PROTOCOL**

Operational Protocol Letter

**1. GENERAL INFORMATION**

- a) It is estimated that a large sum of clean earth fill is required to achieve the Proposed surface grades, in the order of approximately 298,000 cubic meters, based on a detailed analysis of the topographical survey in comparison to the proposed design grades.
- b) It is estimated that the earthworks filling operation will last for a duration of approximately 3 years. The permit, once issued, will be valid for a one (1) year period. A request to renew the permit for an additional two (2) years can be made at the time of permit renewal. The initial permit shall not exceed a period of one (1) year.
- c) All construction traffic shall utilize the new entrance to be constructed wholly within the subject property. Vehicular traffic is not permitted to utilize the existing driveway at 6017 Smith Blvd. to enter or exit the site. Haul routes shall be limited to the routes identified on the Traffic Control Plan and have been confirmed by Town staff to be a "half-load" road, which restricts the vehicle weight to 5 tonnes per axle from March 1<sup>st</sup> to May 15<sup>th</sup> each year.
- d) All vehicles with clean fill for the subject site filling operation are strictly prohibited from entering any adjacent neighbouring properties.
- e) No work will be performed.
  - 1) Between the hours of 8:00 p.m. and 7:00 a.m. Monday to Saturday
  - 2) All day Sunday and Statutory holidays
  - 3) During any period in which a wind warning for the area has been issued by Environment Canada
  - 4) During or within twenty-four (24) hour receiving a rainfall and/or snow melt event
- f) The owner shall ensure that site personnel are on site at all times during operation Hours to inspect and record each load entering the site prior to dumping and to direct truck traffic to the appropriate dump location. Individual source sites are to be kept separate until such time as sampling and analysis has been conducted and confirmation has been received by the Town that the material meets the required MOE standards. On-site sampling shall be conducted at a frequency of the (10) samples per source site per month

**2. OPERATING MEASURES**

- a) The on-site siltation and erosion control measures shall be inspected on a weekly basis, and following rainfall events, by the owner to ensure that it's functionality is maintained and not damaged. Any necessary repairs to the sediment and erosion control measures shall be completed within 24 hours of inspection
- b) The owner shall ensure that the earth fill placement provides adequate surface drainage in the interim as to not negatively impact the neighbouring lands, until final surface grades can be achieved
- c) The following records shall be maintained and kept within the on-site trailer office for each project source location, per the by-law's Environmental Control Program:
  - i) Complete legal name of the contractor and hauler

**OPERATION PROTOCOL**

Operational Protocol Letter

- i) All "Clean Material Authorization Tickets" purchased from the owner at the on-site trailer office, indicating date and time of delivery. (Note: purchased tickets can only be utilized for the intended project source location and not transferred to another project)
  - ii) The approximate quantity of material (in cubic meters)
  - iv) The place of origin of the clean fill (i.e. municipal address)
  - v) The reason for the excavation
  - vi) A visual inspection of the imported material in accordance with the enclosed Fill Inspection Checklist.
  - vii) Copies of soil report(s), prepared by a qualified geotechnical consultant from the source site, as well as chemical analysis conforming to the "Ministry of the Environment (MOE) Table 2: Soil and Groundwater Criteria for Agricultural Land Use in a Potable Groundwater Situation." (Chemical analysis results must be from an Accredited Laboratory).
- d) A qualified environmental/geotechnical consultant ("QP") will review the soil Reports and chemical analysis for each project source location and provide a single written letter indicating the acceptability or inadequacies for clean fill designation. These review letters shall be kept within the on-site trailer office and made available to the Town upon request. No fill may be imported to the site until such time as the geotechnical consultant has provided the aforementioned written confirmation of approval to the Town for review. Once Town staff is satisfied that the material is suitable for import, clearance will be issued for the source location. No fill may be imported until approval from the Town has been granted.
- e) The QP will conduct a potable water well monitoring program to ensure that the earth filling operation will not adversely affect any of the surrounding drinking water wells as follows:
- An initial ground water monitoring program be implemented and a baseline report prepared utilizing three (3) adjacent residential wells as monitoring points. Following the issuance of a Site Alteration Permit, monitoring wells will be installed on the subject property in accordance with the by-law requirements. It should be noted that regular monitoring is required and the Town will not allow fill operations to continue should access to the temporary residential wells be restricted at any time or for any reason. Monitoring of the residential wells shall cease upon installation of the wells on the subject property.
  - Preparation of an initial report outlining the baseline well conditions (water levels and bacteriological and nitrate testing) of all known wells within 500m of the site boundaries, including searches of the MOE Water Well Records
  - Well monitoring frequency shall be in accordance with the Environmental Control Program outlined in Schedule 'C' of By-law 2011-0044(Reg-1).

**OPERATION PROTOCOL**

Operational Protocol Letter

- f) The Town requires securities be provided to guarantee payment of the Municipal Services Fee in the amount of \$149,000.00 in the form of cash, certified cheque, or Letter of Credit all to the satisfaction of the Director. This amount is based on the proposed volume of 298,000 cubic metres. Payment of the Municipal Services Fee is required to be provided on a quarterly basis based on the total amount deposited on the site each quarter as confirmed by the consulting engineer and outlined in a Work Progress Report submitted to the Town with payment.
- g) The owner shall operate in compliance with the provisions of the Town's Noise By-law
- h) The owner has prepared the following Site Regulations to be adhered to by all vehicles (which shall be posted on a clearly visible sign within the work area for all vehicles to see):
  - Loads must arrive fully covered by tarpaulins or acceptable alternatives
  - Directions by site personnel must be obeyed
  - All speed limits and signs posted on site must be obeyed
  - Safety helmets and safety boots/shoes must be worn in designated areas
  - Unloading is permitted only in authorized designated areas
  - Tarpaulins may be removed only in the unloading area
  - Loose material must be removed from truck boxes, and all doors and gates on the vehicle must be closed and secured, before the vehicle departs the unloading area
  - Unsafe vehicles are not allowed on site
- i) A suitable entrance and road cleaning schedule, subject to the Town's review and agreement, shall be implemented and maintained at all times
- j) Upon completion of the earth filling operation, the owner shall provide a Certificate of Completion along with a topographical survey taken of the subject site to confirm the total volume of fill material placed and ensure the surface grades are in conformity with the approved final grading plans

**GROUND WATER MONITORING PROGRAM**

- The Town requires that the Owner implement a ground water monitoring program in accordance with the requirements of By-Law 2011-0044 (REC-1) and provide an initial report detailing the current baseline conditions prior to the approval of the site alteration permit. The Town requires regular monitoring and will not allow fill operations to continue should access to the residential wells be restricted at any time or for any reason. Monitoring wells will be installed on the subject site in accordance with the by-law requirements once the permit has been issued.
- The baseline groundwater monitoring report shall also contain a contingency plan which outlines measures to be implemented in the event that there is any type of disruption or contamination of ground water to the adjacent residential properties. All proposed measures are solely at the expense of the owner. The report shall be prepared by and monitoring conducted by a qualified hydrogeological consultant.
- Ground water monitoring program has been prepared and outlined in the

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**OPERATION PROTOCOL**

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Operational Protocol Letter

Hydrogeology Assessment report by Alpha Environmental

The above noted information and suggested protocols were created in collaboration with the Town and the owner. We feel that it outlines in detail the requirements and obligations for this specific site alteration permit application. Please review and provide your comments as soon as possible.

Should you have any questions, or require additional information, please contact our office.

Yours truly,



Bill Schud, P. Eng  
SCHAD ENGINEERING



## SCHEDULE 'F'

**STANDARDIZED LIST OF  
PARAMETERS OF ANALYSIS OF SOURCE MATERIAL**

All soil samples will be analysed according to the following standardized list and shall conform to the MOE Table 2 Full Depth Generic Site Condition Standards in a Potable Ground Water Condition dated March 2004 or July 2009; whichever standard value is less.

| <b>Standardized Source Fill Material Sampling and Analytical Parameter List</b> |   |                                    |
|---|---|------------------------------------|
| Benzene   | Toluene   | Ethylbenzene                       |
| Xylene Mixture  | Petroleum Hydrocarbons F1 Fraction  | Petroleum Hydrocarbons F2 Fraction |
| Petroleum Hydrocarbons F3 Fraction  | Petroleum Hydrocarbons F4 Fraction (including Gravimetric Analysis if required) | Antimony                           |
| Arsenic   | Barium  | Beryllium                          |
| Boron (Total and Hot Water Extraction)  | Cadmium   | Chloride                           |
| Chromium (Total)  | Chromium (VI)   | Cobalt                             |
| Copper  | Cyanide (CN-)   | Electrical Conductivity (mS/cm)    |
| Lead  | Mercury   | Molybdenum                         |
| Nickel  | Nitrate/Nitrite   | Selenium                           |
| Silver  | Sodium Adsorption Ratio   | Thallium                           |
| Uranium   | Vanadium  | Zinc                               |
| 1,4 Dichlorobenzene   | Dichloromethane (Methylene Chloride)  | Vinyl Chloride                     |
| Tetrachloroethylene   | Benzo[a]pyrene  | Polychlorinated Biphenyls (PCBs)   |
| Phenol  | Heptachlor  | Chlordane                          |

**Blanchard – Site Alteration Permit – Town of Georgina Response to Questions/Comments at Public Meeting of October 15, 2013**

| Questions/Comments at Public Meeting October 15, 2013   | Response From Applicant and Consulting Team  |
|---|--|
| (1) <b>Amount &amp; Composition of Fill</b>   |  |
| <p>a. Why 700,000 cubic metres, why not 100,000 cubic metres?</p>   | <p>a. The initial volume was a calculation of the cubic metres to be filled to the original proposed height which maximized potential for receiving fill. The design of the Fill Site has been revised to address the concerns expressed.</p> <p>The revised plans result in a reduction in volume to approximately 298,000 cubic metres. This amount supports an economically viable fill site and the prescribed organic topsoil and grass/hay vegetation will improve the land for agriculture and visually improve the landscape.</p>  |
| <p>b. Why not just add one foot of topsoil to the property?</p>   | <p>b. The Applicant has applied in accordance with Town By-law 2011-044 (REG-1) to place clean fill on the site from construction and excavation sources graded to a and then grading and restoring the new surface with organic topsoil and vegetation for future agricultural uses.</p>  |
| <p>c. Where are the soils coming from, resident wants the Town to ensure steps as to how they will be dealing with contaminated soil.</p> | <p>c. Fill/soils brought to the Site are required to meet and implement the "Fill Source Acceptance Protocol" developed by the Town of Georgina. This Protocol includes provisions with respect to soils reports and chemical analysis relating to source material. This information is to be reviewed by a Geotechnical Consultant, who then issues a Letter of Acceptance (or Rejection). Only material from approved sites will be permitted to be imported. In addition, regular on-site testing is required to be conducted on the Fill Site on an established schedule of frequency.</p> <p>The Town of Georgina adopted a By-law in April 2011 to prohibit or regulate the placing of fill and alteration of the grade of land to prepare for the growth demands of Ontario, and in particular, the Growth Plan of the Greater Golden Horseshoe. By-law 2011-0044 (REG-1), spells out the requirements to be adhered to for both the "Fill Source" and the "Fill Receiver".</p> |
| <p>d. How will the Town ensure fill is not contaminated?</p>  | <p>d. The Town is expected to enforce the provisions of the By-law Refer as addressed in response c. above. This includes extensive sampling by a qualified person on a regular basis. The Town requires the owner to enter into an Agreement with the Town specifying all matters.</p>  |
| <p>e. Do we have resources to determine reasonable amount of fill for the site?</p>   | <p>e. The growth of the Greater Golden Horseshoe requires receiver sites such as</p>   |

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|  | <p>this one to accommodate excess fill. The plans have been revised to accommodate a reduced volume of fill and address the public concerns. The 298,000 cubic metres is a reasonable amount to fill and is compatible with the surrounding landscape. The agricultural end use will be improved.</p> |
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| <b>(2) Volume of Truck Traffic</b>   |   |
| a. Why is Old Homestead Road being used as part of the truck route, has steep hills?   | a. The Traffic Control Plan has been revised with the submission of March 11, 2014, to eliminate the use of Old Homestead Road.   |
| b. Concern of impact of the number of trucks to the quiet area and quality of life in this quiet area.   | <p>b. The volume of fill and therefore the number of trucks has been significantly reduced. The Traffic Control Plan directs the trucks to use Smith Blvd east of the subdivision.</p> <p>The applicant also proposes to revise the Operation Protocol by having no work performed:</p> <p><i>5) On Saturdays in July and August unless required for a public authority job with advance notice to the Town and neighbours. Should a Saturday operation be disruptive to a particular event on one or more of the abutting lots, the applicant will not operate on that particular day.</i></p> |
| c. Truck noise will be disruption.   | c. Fill site operations and trucking must comply with Town By-law and provincial regulations. There will be a large sign at the entrance advising truck drivers to adhere to the Hours of Operation, Noise By-law and No Engine Brake regulations.  |
| d. Concern of impact of the number of trucks on the roads and damage to the roads.   | d. The Town of Georgina will be receiving revenue of \$.50 per cubic metre of placed fill as regulated in By-law 2011-0044. This is available to maintain the roads used or any purpose the Town chooses.   |
| e. Are half load restrictions applicable? Can they be lifted for Smith Blvd to permit truck traffic year round?                                | e. The applicant will comply with half load restrictions on Smith Blvd. The applicant understands that restrictions are not generally lifted.   |
| f. Will half load restrictions increase the estimated time of completion (4 yrs to 6 yrs)? Was this taken into account in the 4 year proposal? | f. The time of completion based on market, weather and road restrictions under the revised plan is estimated to be completed 3 years.   |
| g. Large amount of truck traffic is dangerous to ride horses on the road.  | g. This is the case with all roads with truck traffic, as all traffic is required to adhere   |

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|   | to the <i>Highway Traffic Act</i> .  |
| h. Concern for speeding trucks on the Smith Blvd. | <p>h. Trucks, like all traffic in Ontario, are subject to rules and regulations of the <i>Highway Traffic Act</i> and enforced by the York Region Police. The speed limit is 70km per hour.</p> <p>Should Council consider decreasing the speed limit on Smith Blvd., this would be acceptable to the Applicant.</p> |

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| <b>(3) Hydrogeological Assessment &amp; Monitoring</b>   |  |
| a. If a well is contaminated and a new well is drilled, can it become contaminated?  | <p>a. No wells are expected to be contaminated. The Hydrogeological Investigation has concluded that there will be no impact to any residential wells near the Receiving Fill Site.</p> <p>As per the regulations and requirements of the MOE and the Town's By-law 2011-044, a Monitoring Program will be established and implemented in advance of the fill operations commencing.</p> <p>This will supply the necessary information on the Existing Conditions of the Ground Water Quality and Domestic Well Quality.</p>   |
| b. A resident in subdivision noted has had flooding in his basement, raising the property 40 feet will affect the surface water drainage, as it will run into the subdivision and compound the problem more. | <p>b. The grading for the Fill Site has been changed by decreasing the amount of cubic metres imported to the Site. The fill will be graded to a final slope of approximately 3% which is considered by OMAFRA to be gently rolling fields.</p> <p>The highest depth of fill will be about 4 m (13.1 feet) above the existing grade in one area along the east edge. The rest of the site has less fill depth. The fill grading has been designed in a manner that avoids drainage onto neighbouring properties. The drainage is to remain the same from pre-filling to post filling. The double layer of silt fence protects the exiting drainage ditch from sediments in runoff.</p> |
| c. Concerned for the impact to quality of family life and ground water source.   | c. Monitoring programs and mitigation measures will be in place to ensure  |

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|  | protection of groundwater from fill operations.   |
| d. Will monitoring wells be installed on the subject property? It was the Town's understanding that the monitoring of the adjacent residential wells was a temporary measure? Please confirm and revise the Operating Measures document. | d. Yes, three (3) monitoring wells are to be installed on subject site prior to fill import. The monitoring program will continue for the duration of filling the site and two years afterwards, as per the requirements of the Town's By-law and Protocol. Refer to response a. above. |

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| <b>(4) Agricultural Use</b>  |  |
| a. Intent of application does not appear to be solely for agriculture, appears to be a commercial fill operation. The By-law does not restrict commercial fill operations like other municipal by-laws so (ex. Uxbridge), a restriction is required on commercial fill operations. | <p>a. The application is for a fill permit for placing 298,000 cubic metres of clean fill in accordance with Town of By-law 2011-0044 (REG-1). The Town regulates all fill operations such as proposed.</p> <p>The Town issued a Fill permit for 680,000 cubic metres on a site to the east on Smith Blvd in 2011.</p> <p>The Applicant has revised the Design and reduced the amount of fill to 298,000 cubic metres to be placed on site based on Council and public comments. The Applicant has met the requirements of the Town By-law which was modelled on the Whitchurch Stouffville Fill By-law.</p> |
| b. What has to be done to clearly define this as a site alteration permit versus a commercial fill operation   | b. The Applicant submitted an application for a Fill Permit as per the provisions of the By-law 2011-0044 and has met the requirements of the By-law, including the required technical and Plan submissions. The By-law does not distinguish between fill and commercial fill. The By-law regulates the filling activities regardless of whether or not it is commercial.  |
| c. Ensure staff view on application is that of a commercial enterprise   | c. Town Staff have thoroughly reviewed the application in compliance with By-law 2011-044. Refer to response 4 (b).  |
| d. The numbers do not seem to add up, for example, to grow alpha is \$577/acre and would amount is approx \$23,000/year, as compared to \$100/truck load of fill with 70000 trucks amounts to \$7million in revenue to applicant.  | d. The application is for a large Fill Permit pursuant to the provisions of the By-law. This will be an economically worthwhile fill operation and leave the land in an improved agricultural condition for grass and hay.   |
| e. Feel that the long term view for this property is a non-agricultural use (example airport).   | e. The applicant is a farmer involved in several agricultural uses. He proposes to place Town approved fill on the site with restoration of the surface with organic topsoil and grass/ hay vegetation for improved agricultural land use.   |

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|  | No non-agricultural use is proposed. No use, not permitted by the RU Zone, would be permitted without a Zoning By-law Amendment. That would involve an application and public review process.   |
| f. Information should be provided on the yield of the proposed crops.  | f. The site is to be restored with 200-300 mm of organic topsoil and grass/hay vegetation.  |
| g. Applicant should be required to demonstrate benefit or improvement to farming operation.  | g. Filling the pond and restoring top soil and grass/hay crop over the placed fill will be an improvement of the site over the existing site conditions.  |
| h. Can information be brought back to Council that indicates how much fill and topsoil is needed for agricultural use? What is the minimum number of cubic metres? | h. Correspondence March 21, 2014 from J.G. Ritter, P.Eng., C.R.S.P. Engineer, Soil Management, Ministry of Agriculture and Food, Ministry of Rural Affairs. (OMAFRA)<br>OMAFRA has indicated that due to variations in farming practices, soil conditions, crops, cropping practices, equipment, and topography, it is difficult to establish universal criteria for land improvement (email January 24, 2014). The site is to be restored with 200-300 mm of organic topsoil and grass/hay vegetation over 298,000 cubic meters of fill. |
| i. Why can't soil be turned today and used for agriculture?  | i. The site is generally composed of gravel. The Applicant proposes to place and grade clean fill on the site and when filling is completed to improve the site for future agricultural uses with organic topsoil cover and grass/hay vegetation.   |
| j. What is the reason why the applicant wants to put fill on this property?  | j. The applicant seeks permission to place fill on site to accommodate approximately 298,000 cubic metres of clean fill from construction and excavation sources.   |
| k. Is 700,000 cubic metres required for useable farmland? How much fill would be necessary for farmland?   | k. The Grading and Drainage Plan design has been revised for approximately 298,000 cubic metres. The site will be restored with 200-300 mm of organic topsoil and grass/ hay vegetation.  |
| l. Ability of applicant to create revenue.   | l. With the increased need to supply control for such activities taking place in municipalities in Ontario, Site Alteration By-law and Fill Permits are being created and amended around the Province. At the "Large Fill Symposium" held in Port Perry last year, the Town of Georgina was applauded as one of the only municipalities in Ontario to be proactive and create By-law 2011-0044 (REG-1).   |

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|  | <p>The Town By-law ensures that excess fill resulting from the economic growth in Ontario is regulated by the Town for the purposes stated in the By-law. There is a significant cost required for the studies, plans and other requirements of the fill permit application as set by By-law 2011-0044 (REG 1).</p> <p>The Town regulates the fill placement on a site and the requirements and related fees, securities and costs of an application and fill operation. The Town does not address the ability of an applicant to recover costs or create revenue.</p> |
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| <b>(5) Application/Site Plan</b>   |   |
| a. What are the contours of the Site Plan?   | a. The existing contours and the proposed fill grade elevations are shown on the Grading and Drainage Plan.   |
| b. What is the final height/elevation after the fill?  | b. The revised Plan, with the reduced volume of fill being placed, will involve fill depth from less than .3 m (1 foot) at the western limit of fill to 4.0 m (13.1 feet) along one part of the eastern edge. The highest elevation after fill will be 237.7 m at a location which is now approximately 235 m in elevation.   |
| c. Appendix 6, Subsection 2 of Agenda Package – cross section of what finished grade would look like, is that what we as residents want?   | <p>c. The Grading Plan has been revised and redesigned to accommodate concerns over a visual impact.</p> <p>The fill grading plan proposes the future the finished elevation to match the existing elevations along a portion of the west boundary that is the closest to the residents. The visual effect will be similar to existing conditions when looking eastward from those residences. The slope up to the eastern height of fill will be approximately 3%.</p> |
| d. There are grey areas in the application, 4 years is not temporary. Applicant has owned for 40 years, why is this a problem now that fill needs to be brought in to improve for agriculture. | d. The reduced volume of fill is to be placed and graded on site in three years. This is listed as the Fill Schedule- Phasing on the Grading and Drainage Plan.   |
| e. Four years of filling and then farming for alpha does not make sense.   | e. After three years of placing clean fill on the property would be restored with organic soil cover for grass and hay and continuing agricultural use.   |
| f. LSRCA map – public seeing for first time, why the changes to the map from previous map obtained by residents vs. that in the presentation of SBA?   | f. LSRCA reviewed and revised the map as provided in an email dated January 31, 2014. This map is the same as the map received and presented Skelton Brumwell & Associates at the October 15, 2014 meeting.   |

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| <p>g. Does this application make good planning sense with this amount of fill adjacent to a subdivision? This application has a residential component that would be a concern.</p> | <p>g. The applicant proposes to accommodate a reasonable portion of the demand for excess fill from construction and excavation. The plans have been revised to address the public concerns including those of the residential neighbours.</p>   |
| <p>h. If council restricted applicant from being able to receive revenue for dumping of fill, would the applicant still proceed with his proposal?</p>                             | <p>h. The question of monetary value is not a provision of the By-law. Refer to response 4(l).</p>   |
| <p>i. Placing fill is not a use permitted in the Zoning By-law.</p>  | <p>i. Placing fill is not a land use regulated by zoning. The Planning Department has advised of no planning concerns and advised that the continuing agricultural use complies with the RU rural zoning.</p> <p>The Town Fill By-law 2011-0044 regulates the placement of clean fill on a site.</p> |
| <p>j. Is there a restriction related to the gravel pit?</p>  | <p>j. The gravel pit is a separate parcel of land under the jurisdiction of the Ministry of Natural Resources.</p> <p>A fill permit does not give permission for extraction of gravel.</p>   |
| <p>k. The follow up report and information from applicant should be clear that the proposal meets the Site Alteration By-law.</p>  | <p>k. The revised submission to March 11, 2014 meets the requirements of the Town's By-law 2011-044(REG-1).</p> <p>The Town Staff will advise on the compliance with the By-law and the procedural requirements for issuance of the Permit in accordance with By-law 2011-044(REG-1).</p>            |

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| <p><b>(6) Adjacent Subdivision</b></p>  |  |
| <p>a. Any changes made in relation to lot lines of the adjacent subdivision?</p>  | <p>a. No lot line changes are proposed. The limit of fill, starting at .3 m (1 foot) is setback 25 m from the residential lots across an existing ditch and drainage easement.</p>   |
| <p>b. If there are contamination issues, the responsibility will fall on the Town and residents as there is no deposit to the Town for the environment.</p> | <p>b. All fill being received at this Site will meet all testing requirements. The Site operator is responsible to satisfy MOE guidelines and the Town's Protocol. Materials are to be certified as clean prior to importation. There is sampling required at the source sites and the receiving site.</p> |

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|  | <p>Any remediation required for problems caused by the fill operation are the responsibility of the applicant.</p> <p>The Town By-law Section 4.2 i) requires the owner:<br/>         "i) To provide security to be used to remedy any breach ...and to indemnify the Town for any liability costs, damages or losses ..."</p> |
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| <b>(7) Security</b>   |  |
| <p>a. Security amount/requirements of the applicant, what it is for, the process?</p> | <p>a. The Town of Georgina's By-law 2011-044 requires an Applicant to supply a "Letter of Credit" or equal, in the amount of 50 cents per cubic metre of fill to be placed. This is calculated on the total amount of fill that the Site is approved to receive. This is required in advance of the issuance of the Site Alteration and Fill Permit.</p> <p>The revised fill plan requires a security deposit of \$149,000. The deposit is held In Trust for the duration of the Permit. At the end of the Fill Permit, if the Operation has met the requirements to the satisfaction of the Town of Georgina, then the original Security Deposit will be returned to the applicant.</p> <p>The fill operator will also provide the Town of Georgina with a cheque every three (3) months for part of the Municipal Services Fees calculated on the volume of fill received in that period multiplied by 50 cents per cubic metre. This Fee is used by the Town at its discretion.</p> <p>The Terms are set out in the Town By-law and in the Site Alteration Agreement.</p> |
| <p>b. Is \$350,000 security adequate should there be environmental contamination?</p> | <p>c. The \$149,000 security amount is set by the Town By-law 2011-044 (REG-1) as \$.50 per cubic metre of fill to be placed.</p>  |

**Blanchard – Site Alteration Permit – Town of Georgina Response to Questions of Debbie Molnar Letter of March 19, 2014**

| Questions/Comments from Debbie Molnar Letter of March 19, 2014   | Response From Applicant  |
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| <p>1. What are the criteria used for the fill amount of 298,000 cu M? Why was the amount changed from 700,000 cu M as originally proposed?</p>   | <p>The initial volume was a calculation of the cubic metres to be filled to the original proposed height which maximized potential for receiving fill. The design of the Fill Site has been revised to address the concerns expressed. The revised plans result in a reduction in volume to approximately 298,000 cubic metres. This amount supports an economically viable fill site and will improve the utility of the land for agriculture.</p>  |
| <p>2. As previously commented, the site alteration Bylaw 2011-0044 requires that several steps must be taken by the applicant prior to commencing any filling operation if the fill volume to be introduced to the site exceeds 2,000 cu M. Again we ask, is it reasonable to consider the same requirements for 2,000 cu M of fill as it is for 298,000 cu M of fill?</p>   | <p>The Applicant has submitted an application for a Fill Permit as per the provisions of By-law 2011-0044 (REG-1) and has met the requirements of the By-law, including the required technical and Plan submissions.</p> <p>Town Staff have thoroughly reviewed the application in compliance with By-law 2011-044 (REG-1). The By-law regulates the placing of fill material of all operations and requires a Site Alteration Agreement with Council for fill amounts greater than 2,000 cubic metres.</p>  |
| <p>3. Considering the application is being submitted to "improve the lands for farming", has this application been assessed within the context of Provincial legislation put in place to govern Normal Farm Practices as set out by the Normal Farm Practices Protection Board (NFPPB) under the Ontario Ministry of Agriculture Foods and Rural Affairs (OMAFRA) and The Farming and Food Production Protection Act? Specifically, are the volumes and scope of this proposed fill operation consistent with the spirit of the regulations and the Act?</p> | <p>OMAFRA – email of March 21, 2014 from Jim Ritter, Engineer Soil Management, Ministry of Agriculture and Food and Ministry of Rural Affairs:</p> <p>"The Ministry of Agriculture and Food (OMAF) and Ministry of Rural Affairs (MRA) does not have a regulatory role with respect to fill activities. These activities are normally regulated by municipal by-laws under Section 142 of the Municipal Act, 2001. It is my understanding that Mr. Blanchard has applied for a site alteration permit and has been working diligently with your department to satisfy all of the requirements of By-law 2011-0044 (REG-1)."</p> <p>"It appears that by-law 2011-0044 (REG -1) is very comprehensive and detailed document designed to ensure that existing drainage patterns are maintained, that any changes to existing drainage patterns are appropriate to protect environmental features, that the importation of hazardous material is prevented and that the disturbance of landform characteristics is minimized."</p> <p>"Grade alterations on agricultural land, including the placement of fill, is routinely done to address soil erosion problems, to improve workability issues related to the safe and efficient operation of farm equipment and/or to improve crop yield/productivity. As discussed yesterday, variations in types of crops, cropping practices, equipment, and topography makes it difficult to establish a land improvement criteria that could be applied universally."</p> |

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|   | <p>“As I understand it the final grade of the field is proposed at three percent. Agricultural fields in the 2-6% slope range are considered “gently sloping fields”.</p>  |
| <p>4. If this assessment has not yet been made, has the Town of Georgina requested comment and/or a hearing from the NFPPB and OMAFRA to make this determination?</p>   | <p>No assessment is required. See Response 3 above.</p>  |
| <p>5. If a hearing has taken place and a ruling set forth, then, according to the regulations, all residents within a 120 M radius of the proposed fill site are to be notified. This has not happened.</p>   | <p>No hearing is required. See Response 3 above.</p>   |
| <p>6. If a hearing has not taken place our interpretation of the Act is that this must be done prior to approval of any filling application that is being submitted for the purposes of improving land for farming.</p>   | <p>No hearing is required. See Response 3 above.</p>   |
| <p>7. Has the Town's Planning Department established an appropriate minimum farm parcel size for the proposed amendment to this land to facilitate farming? A minimum parcel size of 40 hectares is recommended as set out in the OMAFRA regulations. We are seeking further clarification of this point from the Ontario Ministry of Municipal Affairs and Housing (OMMAH) and OMAFRA. From the Geotechnical Report submitted within the Staff Report for the October 15, 2013 Council meeting, the parcel of land for the proposed filling site is 13.34 hectares of farm land and of an insufficient size to be further amended to facilitate farming.</p> | <p>Town Planning response - email of March 20, 2014 from Harold Lenters, Director of Planning and Building, Town of Georgina:</p> <p>“Based on the information provided, the lands to be filled under this application are zoned Rural (RU) in the Town’s Zoning Bylaw 500, as amended. Agricultural Uses are permitted in the Rural (RU) zone provided the subject property has a minimum lot area of 8,000 sq. m (0.8 ha) and minimum lot frontage of 60 m.”</p> <p>The lot is 17 ha with two sections of frontage of 72 metres and 28 metres on Smith Blvd. The continuing agricultural use of the site complies with zoning.</p> |
| <p>8. Have the zoning regulations been further reviewed to clarify which zone the proposed filling site will fall under? As currently written, the rural zoning of the proposed fill site allows for agriculture, of which farming is a part. What amount of fill is reasonable to facilitate farming operations and maintain the zoning of this property as rural?</p>   | <p>Town Planning response - email of March 20, 2014 from Harold Lenters, Director of Planning and Building, Town of Georgina:</p> <p>“an agricultural use is only permitted on the portion of the property zoned Rural (RU)”</p>   |

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| <p>9. The residents have still not been advised as to where the fill will be coming from Approval cannot be granted until this has been established.</p>  | <p>Fill/soils brought to the Site are required to meet and implement the "Fill Source Acceptance Protocol" developed by the Town of Georgina. This Protocol includes provisions with respect to soils reports and chemical analysis relating to source material. This information is to be reviewed by a Geotechnical Consultant, who then issues a Letter of Acceptance (or Rejection). Only material from approved sites will be permitted to be imported. In addition, regular on-site testing is required to be conducted on the Fill Site on an established schedule of frequency.</p> <p>The Town of Georgina renewed the Site Alteration By-law to prepare for the growth demands of Ontario, and in particular, the Growth Plan of the Greater Golden Horseshoe in 2006. By-law 2011-0044 (REG-1), spells out the requirements to be adhered to for both the "Fill Source" and the "Fill Receiver".</p> |
| <p>10. The residents are still greatly concerned about the possibility of the fill contaminating the ground water, our water wells as well as the adverse effects on the quality of the wetlands surrounding the proposed filling site. We are not convinced that sufficient protection of the lands and wetlands has been ensured. Nor do we feel that the interests of the residents have been fully considered regarding such things as:</p> <ul style="list-style-type: none"> <li>a. Property values;</li> <li>b. Storm water management and flood containment;</li> <li>c. The health and well-being of the residents and their families; and,</li> <li>d. The environment, should the areas surrounding the proposed fill site become contaminated or adversely affect the water table.</li> <li>e. This would amount to a loss of revenue for the Town and exposes both the municipality and its taxpayers to the potential for substantial mitigation expenses.</li> </ul> | <p>No wells are expected to be contaminated. The Hydrogeological Investigation has concluded that there will be no impact to any residential wells near the Receiving Fill Site.</p> <p>As per the regulations and requirements of the MOE and the Town's By-law 2011-044 (REG-1), a Monitoring Program will be established and implemented in advance of the fill operations commencing.</p> <p>This will supply the necessary information on the Existing Conditions of the Ground Water Quality and Domestic Well Quality.</p> <p>Monitoring programs and mitigation measures will be in place to ensure protection of groundwater from fill operations.</p>   |
| <p>11. How has the Town protected its liability in this regard and protected the residents?</p>   | <p>The Town prepared and adopted By-law 2011-0044 (REG-1), a By-law to regulate the placing of fill material in all areas of the Town of Georgina. This By-law requires a security and indemnification for the Town.</p>  |

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| <p>12. What studies have been done to ensure the turn radius is acceptable for trucks turning from Park to Smith Blvd. and from Smith Blvd. to the proposed fill site road at or near 6003 Smith Blvd. prior to any fill operation approval? The sight lines at this intersection are already less than optimal, and with the grossly exaggerated traffic this proposal will bring could very well put someone's life at risk.</p>   | <p>According to the Region of Peel, clearance was provided and did not request further studies to be completed. There is no reference to inadequate site lines. Smith Blvd is a truck route.</p>   |
| <p>13. What studies have been done to ensure the structural integrity of the roadway will remain intact during and after the transport phase of the proposed filling operation prior to any approval being granted?</p>  | <p>Smith Blvd is used by two gravel pits as a haul route. The Town staff can advise on monitoring roadway conditions.</p>  |
| <p>14. When will appropriate well water samples be taken prior to approval? The benchmark samples taken in June 2013 did not meet the MOE guidelines for well water sampling. Only surface samples were taken and tested. However, the test results were included in the report for the Town Council meeting of October 15, 2013 as "acceptable."</p> <p>Further email comment:</p> <p>"Although access was gained to an exterior outlet which bypassed all water treatment components within the house, the samples were not taken according to MOE guidelines which requires the outlet to be flushed for 2-3 minutes prior to the sample being removed. This was not done and so the report included is not representative of a benchmark. In order to receive a proper sample that is to be used for a benchmark for this project, proper sampling must be done and the tests repeated."</p> | <p>Email of March 27, 2014 from Ross Campbell, Hydrogeologist, Alpha Environmental Services Inc.:</p> <p>The sampling protocol followed was:</p> <p>Sampling protocol:</p> <ul style="list-style-type: none"> <li>• Sample an outlet that bypasses all water treatment components</li> <li>• Open the tap and feel the water temperature</li> <li>• Label the bottles while the water is running <ul style="list-style-type: none"> <li>- First set of samples had 7 bottles were collected on June 13, 2013</li> <li>- The samples were collected between 12:10 pm and 7:10 pm on this date, the first samples were collected at the Molnar residence at 12:10 pm and because the other residents were not home, their samples were collected that evening at 6:50 pm (Chaisson) and 7:10 pm (Garcia)</li> <li>- To label the 7 bottles would take at least 3 minutes</li> <li>- Second set of samples had 5 bottles that were collected on July 4, 2013 between 7:15 pm and 7:45 pm – this would take at least 2 minutes to label</li> </ul> </li> </ul> |

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|  | <ul style="list-style-type: none"> <li>• Upon completion of labeling the bottles, feel the water temperature again and determine if it cold and therefore fresh</li> <li>• Continue to let the water run and fill the bottles, again taking additional time</li> <li>• Ice the water samples and drive them to the lab for analyses <ul style="list-style-type: none"> <li>- The first set were delivered to the lab June 14, 2013 at 11:20 am</li> <li>- The second set were delivered to the lab July 5, 2013 at 11:15 am</li> </ul> </li> <li>• The water samples met MOE guidelines for all the tested parameters</li> </ul> <p>Department of Operations and Engineering comment to applicant in email March 27, 2014:</p> <p>It should be noted that before you begin any fill placement, you will be required to install 3 monitoring wells on your property downstream from the fill area. These wells will be monitored to establish a (second) baseline prior to the first load being placed on the site. This should eliminate any question with regards to the baseline condition of the groundwater in the area.</p> |
| <p>15. The Lake Simcoe Conservation Authority (LSRCA) has not acknowledged the hydro easement to the west of the proposed fill site as wetlands, yet it meets all of the criteria set out in the MNR guidelines and the Town of Georgina definition of "wetlands". What steps is the Town undertaking to further study this area for inclusion in conservation lands prior to any fill operation approval?</p> | <p>No further steps are required.</p> <p>Comment from Town Department of Operations and Engineering email March 24, 2014:</p> <p>"The drainage ditch directly behind the Audubon properties (on the west side of 6003 Smith Blvd.) is constructed on lands owned by Baldwin 33 Inc. This ditch is part of the perimeter drain of the subdivision, to which surface drainage from the subdivision and external properties is directed.</p> <p>As part of the subdivision agreement, the Town was granted a drainage easement over the perimeter drainage ditch, including the portion located on lands owned by Baldwin 33 Inc. The purpose of this easement is to allow the Town access to the property to maintain the function of the perimeter drain and undertake any repairs or maintenance as may be necessary. I have looked through our files and have not been able to locate any "hydro" easements over said lands. However, even if HydroOne has an easement over these lands, the purpose of the ditch is to convey drainage, and the easement granted to the Town would allow the Town access to the</p>            |

lands to undertake any necessary work required to maintain said drainage in accordance with the overall subdivision drainage plan.

It should be noted that the proposed work at 6003 Smith Boulevard does not include any disturbance or alteration to the perimeter drainage ditch located at the western most part of the property. Erosion and sediment control measures have been proposed in order to ensure that the ditch is not adversely affected by the works during construction.”

**Further comments from the Town (email of March 25, 2014):** “Based on my conversation with Harold Lenters, Director of Planning and Building as well as staff at the LSRCA, and given that the drainage ditch was constructed solely for the purposes of conveying storm water drainage, it is not considered a wetland feature.

The Ontario Wetland Evaluation System, which is maintained by the Ministry of Natural Resources states that:

*“Wetlands constructed for purposes other than wetland conservation (e.g., storm water management ponds, sewage lagoons, water treatment ponds) and in active use as such are **not** considered under OWES.”*

Further, the LSRCA has responded as follows:

*“The Ontario wetland evaluation criteria states “as a rule, wetland areas effectively converted to other uses should not be considered wetlands”. On this basis, drainage features for agricultural, transportation, storm water purposes are not considered wetlands. The pre to post development water balance was assessed by staff of the LSRCA and it was determined that the hydrological function of the adjacent wetlands would be maintained, and that the ecological function would continue to be supported downstream.”*

If a storm water management facility (pond, swale, lagoon, etc.) were to be designated as a wetland feature, the ability to perform maintenance in order to ensure the function of the facility is effectively removed. In this case, a failure to maintain the function of the ditch may result in ponding/flooding on the adjacent lots, being those in Audubon Acres.

Based on the above, and given that the ditch makes up the drainage system for the Audubon Acres development and continues to receive and convey storm drainage, no further studies or analysis are required. Sediment and erosion control measures have been designed and proposed by the Owner's Engineer's and are required to be implemented and maintained for the duration of the project."