

## **The Township of East Garafraxa Consultant Planning Report to Committee of Adjustment**

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**To:** Committee of Adjustment Members

**From:** Fotenn Consultants Inc.

**Date:** June 18, 2025

**Meeting Date:** June 24, 2025

**Applicant:** Ron Davidson Land Use Planning Consultant Inc.

**Owner:** Greenwood Construction

**Subject:** Minor Variance Application A5-25  
351093 17<sup>th</sup> Line, Part Lot 2, Concession 18, Township of East  
Garafraxa

**Official Plan  
Designation:** Extractive Industrial

**Zoning:** Extractive Industrial Exception One (MX-1) and  
Environmental Protection (EP)

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### **1. RECOMMENDATION**

The proposed Minor Variance (A5-25) seeks to permit a permanent concrete batching plant within the Extractive Industrial Exception One (MX-1) zone, within the concrete batching plant envelope as shown on the Ministry of Natural Resources approved site plans for Licence #10606 pursuant to the *Aggregate Resources Act, R.S.O. 1990, c. A.8*. The concrete batch processing plant shall have a minimum setback of 30 metres from any street line and 90 metres from any lot line abutting a residential zone for Planning Act purposes.

#### **It is therefore recommended:**

That the Consultant Planning Report dated June 18, 2025, Minor Variance Application A5-25, 351093 17<sup>th</sup> Line, Part Lot 2, Concession 18, be received;

AND THAT prior to the Committee of Adjustment making a decision with respect to Application A5-25, they should be satisfied that the proposed variance meets the Township objectives and consider any appropriate comments from the neighbours and agencies;

AND THAT should the Committee of Adjustment deem the proposal minor in nature and appropriate for the lands, as well as maintaining the general intent and purpose of the Official Plan and Zoning By-law, the following conditions should be established:

1. The proposed accessory structure, being the permanent concrete batching plant under the approval of Application A5-25 shall be located within the concrete batching plant envelope as shown on the Ministry of Natural Resources approved site plans for Licence #10606 (with the appropriate mapping refinements on the zoning mapping);
2. The owner/applicant shall complete an Environmental Compliance Approval and shall comply with any additional setbacks as may be required pursuant to that approval (and it is recognized that the setbacks under the Planning Act are the minimums);
3. The owner/applicant shall obtain a permit to take water, if required;
4. The aggregate to be used in the concrete batching plant shall be within the cumulative tonnage limits within the licensed pits, and which limits are as detailed in the 2019 Development Agreement;
5. The owner/applicant shall enter into a Supplemental Development Agreement with the Township to amend the 2019 Development Agreement, and if necessary, the May 22 Supplemental Development Agreement, all to the satisfaction of the Township.
6. The owner/applicant shall satisfy all conditions of the variance prior to installing/erecting/building the permanent concrete batching plant on the subject property.

## **2. BACKGROUND**

The subject property comprises 40.7 hectares and is situated on the northeast side of 17th Line, with approximately 618 metres of frontage and a depth of roughly 680 metres. The predominant land use in the surrounding area is aggregate extraction, with adjacent properties to the west, north, east, and south all licensed for this purpose.

Currently, about 75% of the site is actively used for aggregate extraction, while the rear portion remains in agricultural use (cash cropping). A scale and scale house are located near the front of the property.

The subject property is part of a larger Class A Licence (Licence #10606). A concrete batching plant is permitted within the licence; and was previously shown on the approved Site Plans under the Aggregate Resources Act west of 17<sup>th</sup> Line. The applicant has obtained a site plan amendment from the MNR to locate a concrete batching plant in the general location of the concrete batching plant envelope as shown on Attachment #4.

A small lot containing a residential dwelling lies to the southwest, across 17th Line. This property, also owned by Greenwood Construction Company Limited, is subject to an Official Plan Amendment and Zoning By-law Amendment application seeking permission to convert the residence into a pit office.

### Notice of Public Meeting

The Applicant received a Notice of Public Meeting on June 13, 2025. The notice was circulated to property owners within 60 metres of the Subject Lands, and prescribed Agencies, as required by the Planning Act, as amended.

## **3. PURPOSE OF APPLICATION / SUMMARY OF PROPOSAL**

The purpose of the application is to permit the establishment of a permanent concrete batching plant within the existing licensed aggregate pit. It is understood that the aggregate used for concrete batching is included within the cumulative tonnage limits established in the January 10, 2019 development agreement.

While the Aggregate Resources Act site plans authorize an envelope for a permanent concrete batching plant on the property, there is ambiguity in the Township's Zoning By-law. The site is zoned 'MX-1' (Extractive Industrial Exception One), which permits resource management activities as well as a portable asphalt or concrete batching plant.

The purpose of the application is to provide certainty that a permanent concrete batching plant is permitted, and accordingly, a Minor Variance is required to allow for the proposed use on the subject property as accessory to the aggregate uses.

## **4. DISCUSSION**

Key applicable policies are those found in the Provincial Planning Statement 2024 (PPS), the County of Dufferin Official Plan 2014 (County Official Plan), and the Township of East Garafraxa Official Plan 2004 as amended (Township Official Plan). The Planning Act must also be considered. Planning decisions by the Township must be consistent with the policies of the PPS and conform to the policies of the County and Township Official Plans.

### **4.1 Conformity with the Official Plan**

According to Schedule A (Land Use and Transportation) of the East Garafraxa Official Plan, the subject property is designated as 'Extractive Industrial'. Permitted uses under this designation include licensed aggregate extraction operations, existing uses, agricultural operations, peat extraction, outdoor recreational uses, and forest, fisheries, and wildlife management.

The County of Dufferin Official Plan designates the property as part of the 'Greenbelt Plan Area' (Schedule A – Provincial Plan Area). On Schedule B (Community Structure and Land Use), the lands are identified as 'Countryside Area', which comprises both 'Agricultural Area' and 'Rural Lands' as delineated on Schedule C. Schedule C (Agricultural Area and Rural Lands) specifically designates the subject property as 'Prime Agricultural Area'. Permitted uses within this designation include agricultural, agriculture-related, and on-farm diversified uses, as well as licensed aggregate operations.

**Therefore, it is our opinion that the proposed Minor Variance is consistent with the County and Township's Official Plan based on the information submitted with the application.**

### **4.2 Conformity with Zoning By-law**

The subject lands are zoned 'MX-1' (Extractive Industrial Exception One), which allows for resource management activities and a "portable asphalt or concrete batching plant." The minor variance seeks to provide certainty that a permanent concrete batching plant may be permitted and it is our view that such certainty is recommended. Provided the plant is operated in conjunction with the pit license as an accessory use to those aggregate approvals – and therefore will cease on rehabilitation, it is our view that there is conformity with the Zoning By-law.

The table below provides a review of the setbacks with the applicable zoning provisions for processing as prescribed through By-law Number 60-2004, as amended. The setbacks mandated by the zoning by-law for processing are used to represent the minimum requirements for the proposed concrete plant. It is expected that the required Environmental Compliance Approval will impose even larger setbacks from the concrete batching plant to the property lines.

Zoning By-law	Provision	Proposed	Complies
<b>4.12 Extractive Industrial (MX) Zone</b>			
4.12.1 Permitted Uses	i) farm ii) pits iii) peat extraction iv) portable asphalt or concrete batching plant v) quarries vi) resource management activities vii) wayside pits and quarries	Fixed concrete batching plant	No
4.12.3.1 Exceptions (MX-1)	i) Minimum setback for extraction of sand or gravel to any street line or any lot line abutting a Residential zone or use shall be 30 metres.	Will comply	Yes
	ii) Minimum setback for extraction of sand or gravel to any other lot line shall be 15 metres.	Will comply	Yes
	iii) Minimum setback for processing plant from any street line shall be 30 metres	Will comply	Yes
	iv) Minimum setback for processing plant from any lot line abutting a Residential Zone or use shall be 90 metres.	Will comply	Yes
	v) Minimum setback for processing plant from any other lot line shall be 30 metres.	Will comply	Yes

**Therefore, it is our opinion that the proposed Minor Variance is consistent with the Township of East Garafraxa Zoning By-law 60-2004, as amended based on the information submitted with the application.**

### **4.3 Conformity with Provincial Planning Statement**

The Provincial Policy Statement (PPS) supports and encourages the protection and continued use of

mineral aggregate resources, including associated operations such as the processing of derived products, including concrete. No other PPS policies are directly applicable to this proposal. The establishment of a permanent concrete batching plant within an existing, licensed aggregate operation is consistent with the intent and direction of the PPS.

**Therefore, it is our opinion that the proposed Minor Variance is consistent with the PPS based on the information submitted with the application.**

#### **4.4 Greenbelt Plan**

The Subject Lands are located within the Greenbelt Plan area and are specifically designated as 'Protected Countryside.' As the property is also identified as 'Prime Agricultural Area' in both the County and Township Official Plans, the Prime Agricultural Area policies of the Greenbelt Plan apply. Permitted uses within this designation include licensed aggregate operations and associated uses, such as concrete batching plants.

**Therefore, it is our opinion that the proposed Minor Variance is consistent with the Greenbelt Plan based on the information submitted with the application.**

### **5. PLANNING ACT – FOUR TESTS OF A MINOR VARIANCE**

Section 45(1) of the Planning Act prescribes four tests for a minor variance to determine its appropriateness and supportability which are as follows:

**Test 1:** Is the general intent and purpose of the Official Plan maintained?

**Test 2:** Is the general intent and purpose of the Zoning By-law maintained?

**Test 3:** Is the variance minor?

**Test 4:** Is the variance desirable for the appropriate development or use of the lands in question?

#### **Test 1: Is the general intent and purpose of the Official Plan maintained?**

The subject property is designated 'Extractive Industrial' under the East Garafraxa Official Plan. The proposed Minor Variance to permit a permanent (fixed) concrete batching plant is consistent with the intent of this designation, as aggregate extraction and associated operations are permitted uses on lands designated for Extractive Industrial purposes.

Section 5.6 of the Official Plan outlines development policies for Extractive Industrial uses. While most of these policies apply primarily to the establishment or expansion of new pits, they are less applicable to a proposal such as this, where a new use, specifically, a permanent concrete batching plant, is proposed within an existing, licensed operation. However, Section 5.6.5(e) is relevant, stating that all extractive industrial uses must satisfy the requirements of the Ministry of the Environment and Energy with respect to groundwater and surface water impacts, waste disposal, noise, dust, air pollution, and compliance with the Aggregate Resources Act. It is noted that as the aggregate to be used in the concrete batching plant is within the cumulative tonnage limits already approved that no additional truck traffic is anticipated.

As noted, the Site Plans approved under the Aggregate Resources Act license for the property specifically allow for the installation of a concrete batching plant. This component of the operation was planned for during the original pit approval process, albeit to be located on the pit on the west side of

17<sup>th</sup> Line. The proposed plant location on the east side of 17<sup>th</sup> Line, as illustrated on the attached site drawing, is approximately 60 metres from the front lot line and 50 metres from the northwesterly side lot line. A berm has already been constructed in this area to assist in screening both the pit and the batching plant from view.

Accordingly, it is our professional opinion that the proposed development maintains the general intent and purpose of the East Garafraxa Official Plan.

### **Test 2: Is the general intent and purpose of the Zoning By-law maintained?**

The subject property is predominantly zoned 'MX-1' (Extractive Industrial Exception One). A small portion located in the southeast corner is zoned 'EP' (Environmental Protection), which lies outside the licensed extraction area as identified on the approved Site Plans. The proposed location of the batching plant will comply with all applicable setback requirements outlined above. Accordingly, the requested Minor Variance maintains the intent and purpose of the Township's Zoning By-law. The Zoning By-law mapping should be amended to reflect the proposed location, as opposed to the prior location shown on the west side of 17<sup>th</sup> Line.

### **Test 3: Is the variance minor?**

The determination of whether a requested variance is minor is not a mathematical consideration, but rather, an assessment of the degree of impact from the resulting development. Given that licensed aggregate operations surround the subject property on all sides, that the proposed concrete batching plant will be substantially screened by existing berms, and that the use will not result in any increase in truck traffic, it is highly unlikely that the requested variance would have any adverse impact on neighbouring landowners. Therefore, it is our opinion that the proposed variance is minor in nature and appropriate to the surrounding rural area. Additionally, the requirement as a condition to obtain an Environmental Compliance Approval (ECA) requires that the Ministry of Environment, Conservation and Parks (MECP) be satisfied regarding any environmental impacts, together with a Permit to Take Water (PTTW) should such permit be necessary.

### **Test 4: Is the variance desirable for the appropriate development of the lands in question?**

The most appropriate location for a concrete batching plant is within a licensed aggregate pit, where raw materials are readily available for concrete production. This co-location minimizes truck traffic, thereby reducing impacts on local roads and the environment. It also lowers production costs, offering benefits to both the business owner and end users. The proposed use is compatible with the surrounding land uses, which are similarly dedicated to aggregate operations. In our professional opinion, the requested variance is both desirable and appropriate for the development of the Subject Lands. The imposition of the condition to amend the 2019 Development Agreement and, if necessary the 2022 Development Agreement with the Township provides additional certainty on this point.

## **6. CONCLUSION**

The requested Minor Variance is intended to permit the establishment of a permanent concrete batching plant within an existing pit, and provided that the aggregate used for concrete batching is included within the cumulative tonnage limits established in the January 10, 2019 Development agreement. The batching plant is proposed to be located in the southwest corner of the subject property, an area already identified for this use under the approved pit license.

Although the original zoning approved for the site permitted a permanent concrete batching plant, it has been suggested that this permission was inadvertently removed during a later update to the Township's Comprehensive Zoning By-law.

It is our opinion that the requested variance meets the general intent and purpose of the Official Plan and Zoning By-law, is minor in nature, and is desirable for the appropriate development of the subject lands for the following reasons:

- / Permits an aggregate-related use that is already authorized under the Aggregate Resources Act license and is compatible with surrounding licensed aggregate operations; and
- / Supports efficient on-site processing of materials, minimizing truck traffic and environmental impact, with no anticipated negative effects on adjacent properties or the surrounding area.

## 7. DOCUMENTS

Attachment 1: Aerial Photo

Attachment 2: Official Plan Designation

Attachment 3: Zoning Map

Attachment 4: Site Plan

Attachment 5: Comments Received

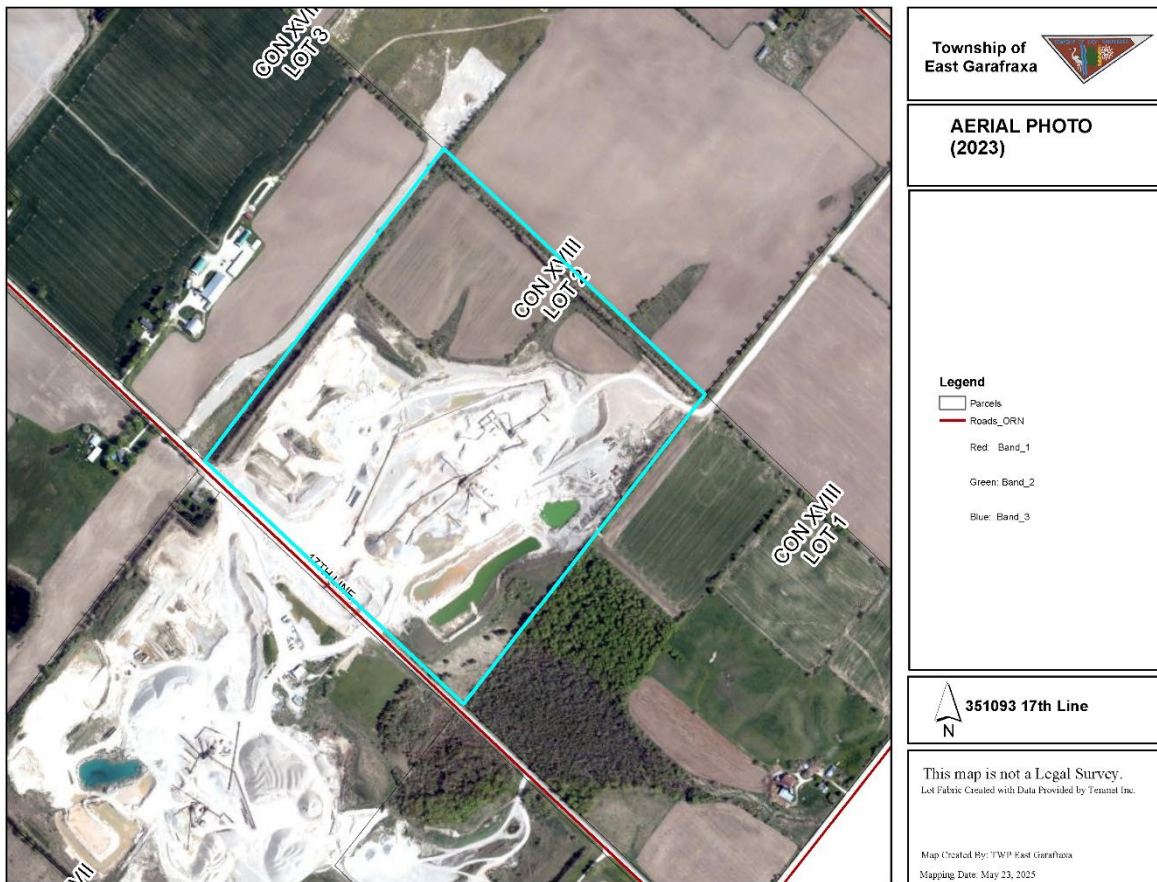
**Submitted by:**



Michael Keene, MCIP, RPP  
Fotenn Planning Consultants Inc.

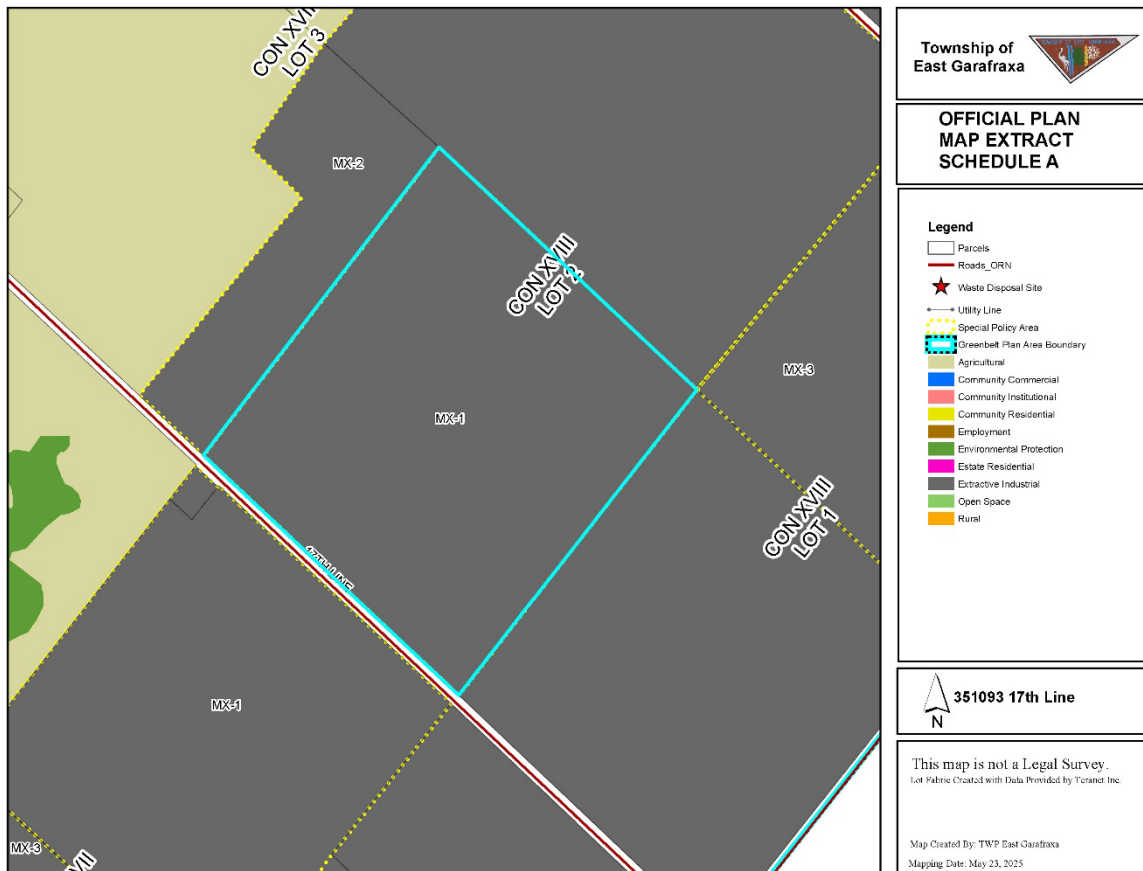


# ATTACHMENT 1 – Aerial Photo

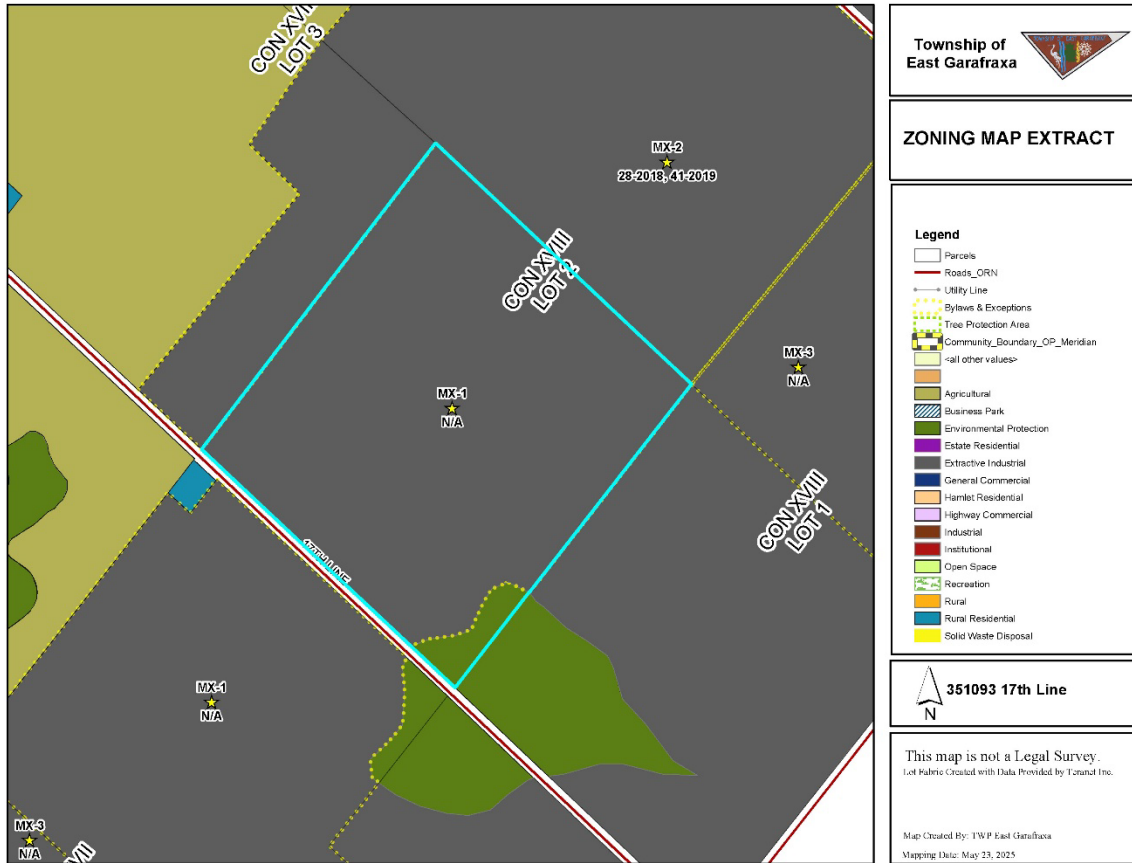




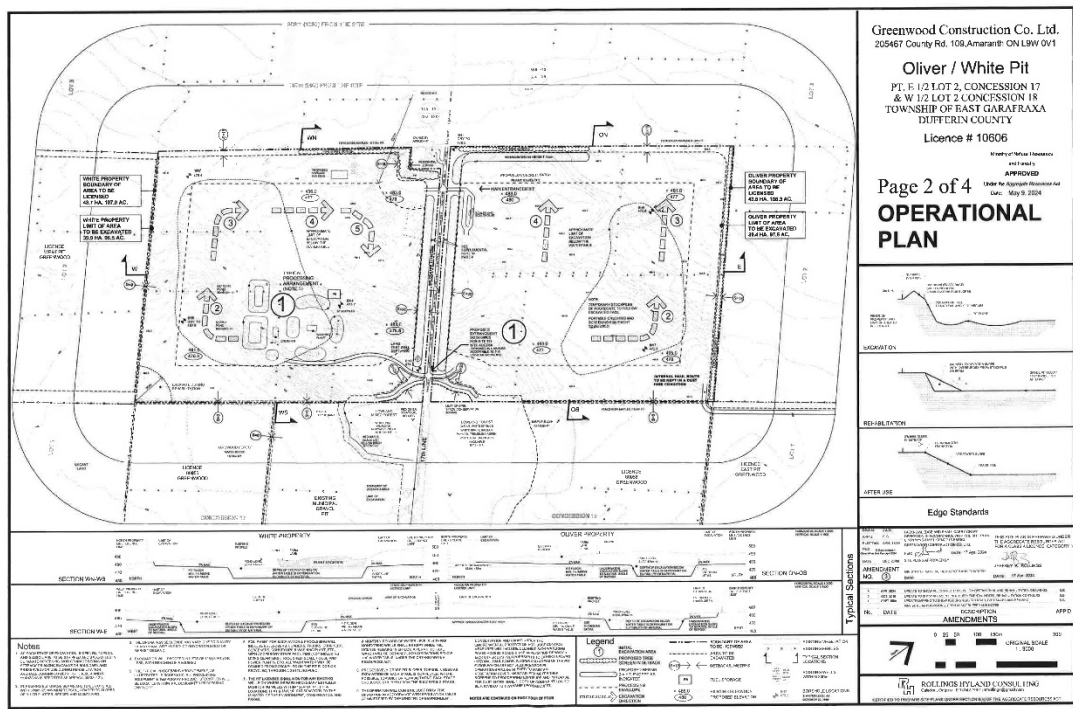
## ATTACHMENT 2 – Official Plan Designation Map



## ATTACHMENT 3 – Zoning By-law 60-2004 Map



Attachment 4: Site Plan



## **Attachment 5: Comments Received**