

Attachment C

Final comments: Region of Waterloo



PLANNING, DEVELOPMENT
AND LEGISLATIVE SERVICES

150 Frederick Street, 8th Floor
Kitchener ON N2G 4J3 Canada
Telephone: 519-575-4400
TTY: 519-575-4608
Fax: 519-575-4449
www.regionofwaterloo.ca

Matthew Colley
519-577-6241

November 25, 2022

Andrew Martin
Manager of Planning
Township of Wilmot
60 Snyder's Road West
Baden, ON N3A 1A1

Mr. Martin

**Re: Regional Post-Circulation Comments
Zoning By-law Amendment Application ZC-06/22
Petersburg Sand Company
1856 Snyder's Road East – Middle Street Gravel Pit
Township of Wilmot**

The Region has received and reviewed the above-noted applications and supporting documents, and provides the following comments for the Township's consideration. The following comments are based on review of the following documents provided in support of the subject applications:

- Planning Summary Report, Proposed Middle Street Pit, 1856 Snyder's Road East (IBI Group, May 24, 2022)
- Middle Street Pit Site Plans (IBI Group, May 2022)
- Natural Environmental Level 1 & 2 Report and EIS (Dance Environmental Inc., March 31, 2022).
- Stage 1-2 Archaeological Assessment (Fischer Archaeological Consulting., August 2021)
- Hydrogeological Assessment, Petersburg Sand and Gravel Pit Above the Water Table (Harden Environmental Services Ltd., April 5, 2022)
- Traffic Impact Study (GHD Limited., February 2, 2022)

As well, peer reviews are being secured for the following studies:

- Agricultural Impact Assessment (DBH Soil Services Inc., February 2020)

- Cumulative Air Assessment and Best Management Practices Plan for Control of Fugitive Dust Emissions (GHD Limited., March 28, 2022)
- Noise Feasibility Study (HGC Engineering Inc., March 31, 2022)

General Comments

The owner/applicant is proposing a rezoning and licensing of the subject property identified as 1856 Snyder's Road, owned by Petersburg Sand Company Inc. In order, for extraction to occur on the subject property the following approvals are being pursued:

- Zoning By-Law Amendment to the Township of Wilmot Zoning By-Law 83-38 under the Planning Act to:
 - Rezone 27.54 hectares of the land from Agricultural to Extractive Industrial.
 - Extension of the Extractive Industrial permitted uses to include the importation of concrete and asphalt for recycling.
 - Rezone 1.5 hectares of land from Agricultural to Open Space
- Class A (Pit Above Water) License Application under the Aggregate Resources Act (ARA) for an above water pit.

The subject property is located just east of the Petersburg Rural Settlement Area. The total area of lands is 36.38 hectares in size. The lands to the south of the active CNR rail line will be excluded from the licensed/extraction area. The area north of the CNR rail line is proposed to be licensed and totals 27.54 hectares in area. With the defined setbacks required from the property limits a total of 22.52 hectares is proposed to be the resulting area of extraction. The extraction limit proposed is 450,000 tonnes.

The following summarizes some of the key details of the proposed operation identified through the provided Site Plans:

- Access will be provided directly onto Snyder's Road.
- The weight scale, scale house/site administration, maintenance/storage building and above-ground fuel storage tanks will be installed near the front entrance.
- The majority of the site will be fenced and/or is currently fenced with a 1.2 metre high fence.
- A 3 metre high noise berm is proposed along the east side of the haul route, approximately 80 metres in length.
- Proposed hours of operation are 7am to 7pm from Monday to Saturday.
- There is identified phasing of the proposed extraction operation.
- The operation will also import concrete and asphalt to be processed and used as recycled product.

- Once extraction has been completed in each Phase progressively, the final pit floor will be cross-rippled to improve drainage where lands have been compacted and the slopes and pit floor will be back-filled and ultimately graded to rehabilitate the site.

The surrounding land uses include a woodlot, agricultural land and rural estate homes, RJ Trucks, an active pit operated by Arriscraft (License #5717 and #5554) and is located 575 metres west of the Petersburg Rural Settlement Area.

The subject property is within the Countryside in an area designated “Rural Area” and “Protected Countryside” as depicted on Map 7 of the Regional Official Plan (ROP). The property is also within a “Mineral Aggregate Resource Area” as depicted on Map 8 of the ROP. The northern portion of the subject property is within a Core Environmental Feature as depicted on Map 4 of the ROP.

Cumulative Impact Assessment:

Regional Staff acknowledge that Regional Official Plan (ROP) policy 9.C.4 states the following:

“The studies noted in Policies 9.C.3 and 9.D.1 will take into account the potential cumulative impacts that may result from a proposed new mineral aggregate operation when added to the other past, present and proposed future mineral aggregate operations in the vicinity of the proposed new operation. The appropriate level of detail, analysis boundaries and baseline data to be used in the cumulative impact assessment...”

Regional Staff note that all relevant studies identified through the pre-submission process have been submitted as detailed above and in accordance with the ROP.

The applicable technical studies have addressed the potential cumulative impacts of the proposed operation and have been assessed in the peer reviews completed. The technical work has been completed in accordance with ROP Policy 9.C.4.

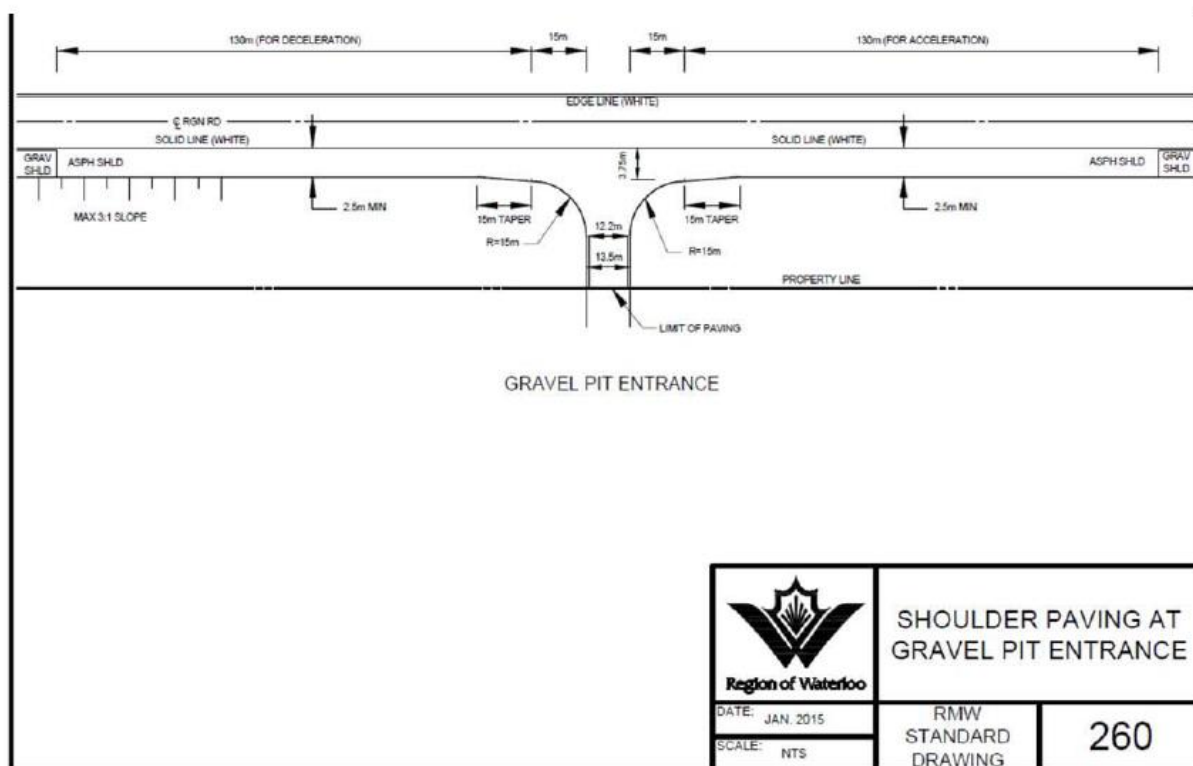
Archaeological Assessment

Regional Staff confirm receipt of the Stage 1 and 2 Archaeological Assessment completed by Fisher Archaeological Consulting (August 25, 2021) and the Ministry Acknowledgement Letter dated August 27, 2021 and have no further concerns on this matter.

Transportation Impact Study:

Regional Staff have reviewed the report entitled “Traffic Impact Study, 1856 Snyder’s Road, Petersburg Sand Company” authored by GHD Limited (February 2, 2022) and concur with the conclusions and recommendations noted therein. Please note there is an outstanding TIS fee of \$500.00 required by the Region.

The owner/applicant is required to provide a Functional Design and Cost Estimate for the proposed access to Snyder's Road East. The access is to be constructed in accordance with the Region's Standard Drawing 260, Shoulder Paving At Gravel Pit Entrance (see below). This is required to ensure the integrity of the Region's roadway on the approach to the gravel pit access. The gravel access must comply with the approved plan below.



The owner/applicant must also complete a Regional Access Permit for the new access to Regional Road #06 (Snyder's Road East). The fee for this permit is \$230.00. The application for the Access Permit can be found at the following link:

<https://forms.regionofwaterloo.ca/ePay/PDLS-Online-Payment-Forms/Commercial-Access-Permit-Application>

The Regional Access Permit will not be issued until the recommended and approved off site works are complete including the approved functional design, cost estimate, letter of credit and agreement to the satisfaction of the Regional Solicitor.

Hydrogeological Study:

Regional Staff acknowledge receipt of the report entitled, "Hydrogeological Assessment, Petersburg Sand and Gravel Pit Above the Water Table" authored by Harden Environmental Services Ltd. (April 5, 2022). Regional Staff have reviewed the response provided by the owner/applicant dated September 30, 2022, and have no further

concerns, subject to the required additions to the hydrogeological study and identified notes below. All applicable review of the technical materials is attached as Appendix A.

In addition, Regional Staff have reviewed the Spill Contingency Plan provided by the owner/applicant and have no further concerns. Implementation of the plan must be carried forward through the ARA license and site plans as detailed below.

The Region's concerns related to hydrogeology and source water protection are addressed through the implementation of the technical study in the site plan. The Region requests the Ministry of Natural Resources and Forestry (MNRF) to advise if any of the notes are modified:

The inclusion of these additional notes are required in the ARA Site Plans:

- 1) That during the lifetime of the aggregate pit operation, should future water level monitoring data indicate a water table elevation within 1.5 metres of the proposed pit floor elevation, the minimum pit floor elevation be adjusted upward to maintain 1.5 metres of undisturbed unsaturated zone sediments.
- 2) That fuel storage and refueling locations will be on impervious surfaces to prevent potential infiltration of contaminants.
- 3) That the final groundwater monitoring plan be included in the site plan notes indicating the following:
 - a. Low water level thresholds in SG2 and contingencies will be presented to the Grand River Conservation Authority (GRCA) and Ministry of Natural Resources and Forestry (MNRF) prior to extractive activities occurring within 200 metres of the wetland.
 - b. An annual report including all historical water level information will be completed and provided to the MNRF and the Region of Waterloo before March 31st every year.
 - c. Any detection of BTEX, PHC's or PAH's in BH6 and BH7 will trigger an immediate resampling of the groundwater and if contamination of the groundwater is confirmed the following will take place:
 - i. Notification of contamination to the Region of Waterloo, Township of Wilmot, and the MNRF,
 - ii. Investigation into the source of contamination and potential for migration of contamination off-site,
 - iii. If required, consultation with the MECP and commencement of contaminant source removal and mitigation of off-site migration.

- 4) That the Spill Management and Mitigation Plan entitled, “Recommended Procedures for the Prevention and Mitigation of Contaminant Spills 2022 – Petersburg Sand Company Inc. Middle Street Pit”, be implemented during the lifetime of the aggregate operation.

Noise Feasibility Study and Air Quality Assessment/Dust Mitigation:

Regional Staff note that the following was submitted to address matters of land use compatibility in support of the subject applications:

- Noise Feasibility Study (HGC Engineering, March 31, 2022)
- Cumulative Air Assessment (GHD, March 28, 2022)
- Best Management Practices Plan for Control of Fugitive Dust Emissions (GHD, March 28, 2022)

A peer review was completed by RJ Burnside & Associates and all commentary is provided as Appendix B. Preliminary comments were issued by the peer review consultant on the above-stated materials on September 7, 2022. The owner/applicant provided a formal response and revisions to the required materials (September 26, 2022). RJ Burnside & Associates, in letters dated October 7, 2022, provided clearance of the applicable studies indicating the following:

- That sound emissions from the proposed pit will meet applicable MNRF and MECP guidelines. All mitigation (i.e. barriers) must be implemented and installed as indicated in the Noise Feasibility Study (HGC Engineering, March 31, 2022).
- That the air emissions from the proposed pit will meet all applicable criteria.
- That the Best Management Practices Plan for dust management addresses the conditions at the site appropriately so that dust will be adequately controlled.
- The Cumulative Air Assessment (GHD, March 28, 2022) and Best Management Practices Plan for Control of Fugitive Dust Emissions (GHD, March 28, 2022) must be implemented through the site plans for the ARA license and must be reviewed regularly.
 - **Regional Staff note that the Cumulative Air Assessment (September 16, 2022) and Best Management Practices Plan for Control of Fugitive Dust Emissions (September 16, 2022) were revised to address items outlined by the consultant in their letter dated September 7, 2022. The formal clearance from the consultant dated October 7, 2022 confirms these changes were satisfactory.**

The Region’s concerns related to noise are addressed through the inclusion of the notes in the ARA Site Plans, and the Region requests the MNRF to advise if any of the notes are modified.

Regional Staff request that the notations in the Operational Plans be modified to reference the most current revised technical studies as detailed above.

Environmental Impact Statement:

Regional Staff acknowledge receipt of the report entitled, "Natural Environment Level 1 & 2 Report and EIS" authored by Dance Environmental Inc. (March 31, 2022).

The following recommendation was adopted by the Ecological and Environmental Advisory Committee (EEAC) on November 7 with regard to the proposed Middle Street pit in Wilmot Township for the associated Zoning By-law amendment (Recommendation c) and Aggregate Resources Act Site Plan (Recommendation d) applications.

All relevant materials are attached as Appendix C.

Recommendation:

That the Ecological and Environmental Advisory Committee (EEAC) provide the following comments and advice to Community Planning staff with respect to the proposed Zoning By-law amendment and associated aggregate licence for the proposed Middle Street Pit (1856 Snyder's Road East, Township of Wilmot, ZC-CC) on land contiguous to Core Environmental Features (St. Agatha Forest Environmentally Sensitive Policy Area (ESPA 15), and a Significant Woodland):

- a) That the Environmental Impact Statement and the additional information provided by the applicant in support of the proposed zone change satisfactorily fulfills the Terms of Reference adopted by EEAC on November 29, 2021 (EEAC-21-05), and that the Committee has no objection in principle to the approval of the zone change application;
- b) That the boundary of the St. Agatha Forest Environmentally Sensitive Policy Area (ESPA) be interpreted as the limits of the Dry-Fresh Sugar Maple forest stand (FODM5-1) on the subject lands, as shown on Figure 3, ELC Community Polygons, in the Natural Environment Level 1 and 2 Technical Report and EIS authored by Dance Environmental Inc. (March 31, 2022);
- c) That the ESPA and proposed enhancement areas be excluded from the area to be re-zoned to permit aggregate extraction, and instead are placed in a zoning to restrict the uses to environmental conservation pursuant to ROP Policy 7.A.2;
- d) Request the Ministry of Natural Resources and Forestry (MNRF) to consider including the following in the Site Plan of the proposed Middle Street Pit Category 3 Pit Licence:
 - i. That no clearing of vegetation on the Site occur during the bird breeding season in compliance with the Migratory Birds Convention Act, unless it

can be ascertained by a qualified expert that no birds covered by the Act are observed to be breeding in or adjacent to the affected area;

- ii. That an annual groundwater monitoring report be prepared by the applicant based on the program recommended in the Hydrogeological Assessment, Petersburg Sand and Gravel, prepared by Harden Environmental, April 5, 2022, as amended. The results of such measurements and testing are to be reported by a qualified professional on an annual (calendar year) basis to the MNRF, Township, and Region by March 31 of the year following. The report is to include an assessment of the measured groundwater elevations in relation to the pit floor and/or the proposed maximum depths of extraction to ensure that extraction is not carried out within a minimum of 1.5 metres of the permanent shallow water table. Annual reports are to continue for the operational life of the pit, and if required by the Region's or Grand River Conservation Authority's technical matter experts, for five years after completion of rehabilitation and licence surrender, unless otherwise determined by the MNRF;
- iii. That an ecological monitoring programme be developed, in consultation with and to the satisfaction of, the Region of Waterloo to assess the effectiveness of the proposed buffer around the limits of the St. Agatha Forest Environmentally Sensitive Policy Area (ESPA). The monitoring program should address invasive species and provide remedial or mitigative measures to control invasive species along the periphery of the ESPA and buffer should they be identified, and provide for reporting to be submitted to the Region of Waterloo.
- iv. That a detailed planting plan and associated ecological monitoring programme be developed to the satisfaction of the Region of Waterloo and GRCA, to address the proposed enhancement of the area depicted in the Draft Planting Plan (Dance Environmental Inc., September 27, 2022) for the enhancement area along the northeastern portion of the subject lands. The monitoring program should include a schedule for reporting to be submitted to the Region of Waterloo.

Regional Staff have reviewed the Ecological Monitoring Plan authored by Dance Environmental Inc. (November 24, 2022) submitted in accordance with EEAC Recommendation d) iii and iv. Regional Staff acknowledge the plan satisfies the requirements relative to the planting of the enhancement area and the monitoring of the enhancement area, outer edge of the ESPA and associated buffer.

Therefore, Regional Staff require the inclusion of the following note, in addition to the recommendations above, in the Site Plan of the proposed Middle Street Pit Category 3 Pit Licence:

1. That the “Ecological Monitoring Plan for the Proposed Middle Street Pit, 1856 Snyder’s Road East, Region of Waterloo”, authored by Dance Environmental Inc. (November 24, 2022) be implemented for the Middle Street Pit Category 3 Pit License.

Agricultural Impact Assessment

Regional Staff acknowledge receipt of an Agricultural Impact Assessment, authored by DBH Soil Services (March 28, 2022). A peer review was completed by Colville Consulting and all commentary is provided as Appendix D. Peer review comments provided by the consultant on October 24, 2022 generally agreed with the conclusions presented. However, minor revisions were recommended to ensure the AIA meets the requirements of the Draft Agricultural Impact Assessment (AIA) Guidance Document (2018).

These minor revisions were submitted by the owner/applicant on November 1, 2022. The consultant provided a follow up response dated November 14, 2022 accepting all provided responses and revisions. **However, one item as per the AIA Guidance Document is outstanding and requires to be implemented through the site plan, with regards to an agricultural rehabilitation monitoring program.**

Regional Staff have reviewed the owner/applicant’s response, dated November 15, 2022 and ultimately defer to the MNRF for determination on the requirement for an agricultural rehabilitation monitoring program. This requested notation is consistent with the ARA Guidance Document

- 1) That an agricultural rehabilitation monitoring program be required, which includes an annual report prepared by a Qualified Professional that reports on all stages of the rehabilitation process (including soil removal, storage and handling), evaluates the results of on-going post rehabilitation management and documents agricultural condition including soil capability.

The Region concerns related to the agricultural impact of the proposed use are addressed, in addition to inclusion of the above-stated note, and the Region requests the MNRF to advise if any of the notes are modified.

Summary

Zoning By-Law Amendment:

Regional Staff have **no objection** to Zoning By-Law Amendment ZC-06-22, subject to the following:

- 1) That the boundary of the St. Agatha Forest Environmentally Sensitive Policy Area (ESPA) be interpreted as the limits of the Dry-Fresh Sugar Maple forest

stand (FODM5-1) on the subject lands, as shown on Figure 3, ELC Community Polygons, in the Natural Environment Level 1 and 2 Technical Report and EIS authored by Dance Environmental Inc. (March 31, 2022);

- 2) That the ESPA and proposed enhancement areas be excluded from the area to be re-zoned to permit aggregate extraction, and instead are placed in a zoning to restrict the uses to environmental conservation pursuant to ROP Policy 7.A.2;

Aggregate Resources Act License Application –Site Plan

Regional Staff has **no objection** to the Aggregate Resources Application Act License Application, and request that all applicable notes identified in the technical materials be included/maintained in the site plan approved under the Aggregate Resources Act (ARA), and requests notification if any of the Site Plan notes are modified.

1. That during the lifetime of the aggregate pit operation, should future water level monitoring data indicate a water table elevation within 1.5 metres of the proposed pit floor elevation, the minimum pit floor elevation be adjusted upward to maintain 1.5 metres of undisturbed unsaturated zone sediments.
2. That fuel storage and refueling locations will be on impervious surfaces to prevent potential infiltration of contaminants.
3. That the final groundwater monitoring plan be included in the site plan notes indicating the following:
 - a. Low water level thresholds in SG2 and contingencies will be presented to the Grand River Conservation Authority (GRCA) and Ministry of Natural Resources and Forestry (MNRF) prior to extractive activities occurring within 200 metres of the wetland.
 - b. An annual report including all historical water level information will be completed and provided to the MNRF and the Region of Waterloo before March 31st every year.
 - c. Any detection of BTEX, PHC's or PAH's in BH6 and BH7 will trigger an immediate resampling of the groundwater and if contamination of the groundwater is confirmed the following will take place:
 - i. Notification of contamination to the Region of Waterloo, Township of Wilmot, and the MNRF,
 - ii. Investigation into the source of contamination and potential for migration of contamination off-site,
 - iii. If required, consultation with the MECP and commencement of contaminant source removal and mitigation of off-site migration.

4. That the Spill Management and Mitigation Plan entitled, “Recommended Procedures for the Prevention and Mitigation of Contaminant Spills 2022 – Petersburg Sand Company Inc. Middle Street Pit”, be implemented.
5. The Region’s Ecological and Environmental Advisory Committee (EEAC) issue the following comments to the Ministry of Natural Resources and Forestry (MNRF) to consider including the following in the Site Plan of the proposed Middle Street Pit, Category 3 Pit Licence. Regional Staff request notification if any of the Site Plan notes are modified.
 - a. That no clearing of vegetation on the Site occur during the bird breeding season in compliance with the Migratory Birds Convention Act, unless it can be ascertained by a qualified expert that no birds covered by the Act are observed to be breeding in or adjacent to the affected area;
 - b. That an annual groundwater monitoring report be prepared by the applicant based on the program recommended in the Hydrogeological Assessment, Petersburg Sand and Gravel, prepared by Harden Environmental, April 5, 2022, as amended. The results of such measurements and testing are to be reported by a qualified professional on an annual (calendar year) basis to the MNRF, Township, and Region by March 31 of the year following. The report is to include an assessment of the measured groundwater elevations in relation to the pit floor and/or the proposed maximum depths of extraction to ensure that extraction is not carried out within a minimum of 1.5 metres of the permanent shallow water table. Annual reports are to continue for the operational life of the pit, and if required by the Region’s or Grand River Conservation Authority’s technical matter experts, for five years after completion of rehabilitation and licence surrender, unless otherwise determined by the MNRF;
 - c. That an ecological monitoring programme be developed, in consultation with and to the satisfaction of, the Region of Waterloo to assess the effectiveness of the proposed buffer around the limits of the St. Agatha Forest Environmentally Sensitive Policy Area (ESPA). The monitoring program should address invasive species and provide remedial or mitigative measures to control invasive species along the periphery of the ESPA and buffer should they be identified, and provide for reporting to be submitted to the Region of Waterloo.

- d. That a detailed planting plan and associated ecological monitoring programme be developed to the satisfaction of the Region of Waterloo and GRCA, to address the proposed enhancement of the area depicted in the Draft Planting Plan (Dance Environmental Inc., September 27, 2022) for the enhancement area along the northeastern portion of the subject lands. The monitoring program should include a schedule for reporting to be submitted to the Region of Waterloo.
6. That the “Ecological Monitoring Plan for the Proposed Middle Street Pit, 1856 Snyder’s Road East, Region of Waterloo”, authored by Dance Environmental Inc. (November 24, 2022) be implemented for the Middle Street Pit Category 3 Pit License.
7. That an agricultural rehabilitation monitoring program be required, which includes an annual report prepared by a Qualified Professional that reports on all stages of the rehabilitation process (including soil removal, storage and handling), evaluates the results of on-going post rehabilitation management and documents agricultural condition including soil capability
8. Regional Staff request that all notations in the Operational Plans referencing the Cumulative Air Assessment (GHD, March 28, 2022) and Best Management Practices Plan for Control of Fugitive Dust Emissions (GHD, March 28, 2022) be amended to reflect the following revised versions as detailed below:
 - o Cumulative Air Assessment (GHD, September 16, 2022)
 - o Best Management Practices Plan for Control of Fugitive Dust Emissions (GHD, September 16, 2022).

General Comments

By way of this correspondence, the Region requests that the Ministry of Natural Resources and Forestry incorporates the notes provided on any Site Plans approved under the ARA, and requests that the Region be advised if any changes are made to the Site Plans.

Any future development on the lands subject to the above noted application will be subject the provisions of Regional Development Charge By-law 19-037, or any successor thereof.

Please accept this letter as our request for a copy of the decisions and minutes pertaining to the Zone Change application and ARA noted above. Should you require Regional Staff to be in attendance at the meeting or have any questions, please do not hesitate to contact the undersigned.

Yours truly,

A handwritten signature in dark ink, appearing to read "Matthew Colley", is written over a light blue horizontal line.

Matthew Colley, MCIP, RPP
Senior Planner

cc. J. Tighe, Ministry of Natural Resources and Forestry
Dave Barrett, IBI Group