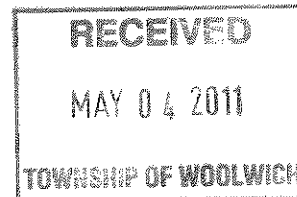


Peter Pickfield
9 Norwich St. W
Guelph, Ontario N1H 2G8
Telephone: 519-837-0500
Fax: 519-763-2204
Email pickfield@garrodpickfield.ca
File No. 11520

VIA OVERNIGHT COURIER

May 3, 2011

Christine Broughton, Clerk
Township of Woolwich
24 Church Street West
P.O. Box 158
Elmira, ON N3B 2Z6



Attention: Ms Broughton:

RE: Notice of Appeal – Proposed Zoning By-law Amendment – Proposed Hunder Pit

We act for Hunder Development Ltd. (Hunder) with respect to the above referenced matter. With this letter we are filing, on behalf of Hunder, a Notice of Appeal pursuant to section 34(11) of the *Planning Act*, R.S.O. 1990 c. P. 13, as amended, from the refusal or neglect of the Township of Woolwich to pass the proposed zoning by-law amendment for the proposed Hunder Pit. Please find enclosed the following material in support of the appeal:

- Completed Appellant form A1, with attachments including: A) Property Description, B) Reasons for the Appeal, C) Proposal and a proposed Draft Zoning by-law;
- Map of the lands under appeal;
- Cheque in the amount of \$125.00 representing the Board's appeal filing fee.

Hunder Developments is requesting that this matter be consolidated with two related matters: an appeal with respect to an application for an Official Plan Amendment, and an application under the *Aggregate Resources Act* for a licence to operate the proposed Hunder Pit.

Please contact me if you require any further information on this matter.

Yours truly,

A handwritten signature in black ink, appearing to be "Peter Pickfield", written over a horizontal line.

Peter Pickfield

cc. with enclosures:
David Sisco
Bob Hunsberger



Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

RECEIVED

MAY 04 2011

TOWNSHIP OF WOOLWICH

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
	<input type="checkbox"/> Appeal a decision	53(19)
Consent/Severance	<input type="checkbox"/> Appeal conditions imposed	53(19)
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
Zoning By-law or Zoning By-law Amendment	<input checked="" type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

Address and/or Legal Description of property subject to the appeal: See Attachment A for property descriptions

Municipality/Upper tier: Township of Woolwich, Region of Waterloo

Part 3: Appellant Information

First Name: _____ Last Name: _____

Hunder Development Ltd. c/o Peter Pickfield, Garrod Pickfield LLP.

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): Partner, Garrod Pickfield LLP

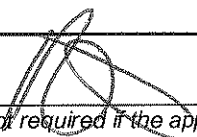
E-mail Address: pickfield@garrodpickfield.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 518 837 0500 Alternate Telephone #: _____

Fax #: 519 763 2204

Mailing Address: 9 Norwich Street West Guelph
Street Address Apt/Suite/Unit# City/Town

Ontario N1H 2G8
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: April 29, 2011
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: _____ Last Name: _____

Company Name: _____

Professional Title: _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____
Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

Zone Change Z/C 8/2009 - Hunsberger application to amend Township of Woolwich Zoning By-law 55-86, as amended, to rezone a portion of the lands on the subject property (the lands to be included within the licenced area for a proposed Aggregate Extraction operation) from Agriculture (A) to Extractive (E), to permit a Class A, Category 3 mineral aggregate extraction operation.

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

See Attachment B for Reasons

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** April 8, 2009, deemed complete April 29, 2009
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

See Attachment C and Draft Amending Zoning By-law

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

Hunsberger application under the *Aggregate Resources Act* for a Class A, Category 3 Licence to permit an above groundwater mineral aggregate extraction operation MNR Reference Number: FSD GUE 08/09.
Official Plan Amendment Application 1/2011, from C.G. Snyder Limited and Ronon Farms Inc. (Hunder Development Ltd.) to amend the designation on a portion of the subject lands (proposed area to be licensed) to permit the making or establishment of a pit. Received and deemed complete October 18, 2010. No decision on application received as of April 29th, 2011.

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: 30 Days

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
8

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):
Hydrogeology, Land use Planning, Natural Environment, Acoustical Engineering, Traffic Engineering, Dust/Air Quality, Aggregate Resource Quality/Quantity

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? This application should be consolidated with the ARA application and the zoning application. Pre-hearings will be required to determine the parties and participants, narrow and settle the issues list and develop a procedural order for the hearing.

Part 9: Other Applicable Information ** Attach a separate page if more space is required.

N/A

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.

PROPERTY DESCRIPTION

This appeal is brought by Hunder Development Ltd. on behalf of C.G. Snyder Limited and Ronon Farms Inc. with respect to the following properties:

- Lands owned by C.G. Snyder Ltd. comprising approximately 84.5 hectares (208.8 acres) including a proposed licenced area of approximately 32.6 hectares (80.6 acres) and a proposed extraction area of approximately 25 hectares (61.8 acres), which lands are legally described as: Part Lot 5, East of Grand River, Broken Front Concession, Crooks Tract, Woolwich Township, Region of Waterloo.
- Lands owned by Ronon Farms Inc. lands comprising approximately 82.1 hectares (202.8 acres) including a proposed licenced area of approximately 55.7 hectares (137.7 acres) and a proposed extraction area of approximately 37.1 hectares (91.4 acres) which lands are legally described as: Part Lot 6, East of Grand River, Broken Front Concession, Crooks Tract, Woolwich Township, Region of Waterloo.

REASONS FOR APPEAL – Application for Zoning Change

On April 8, 2009, Hunder Development Ltd. (Hunder) submitted a Zone Change application, together with supporting studies, for the properties described in Attachment A (hereinafter the Hunder lands). The application sought to amend the Township of Woolwich By-law 55-86, as amended, to rezone the Hunder lands from Agriculture (A) to Extractive (E), and to permit extended uses for the importation of clean inert material for rehabilitation, as well as the recycling of aggregate materials on-site. A concurrent application was submitted to the Ministry of Natural Resources for a Class A Licence, Category 3 (Pit above water table), under the *Aggregate Resources Act*.

An application for an amendment to the Official Plan designation of the property was submitted to the Township on October 1, 2010, and deemed complete on October 18, 2010. This application is to extend the Mineral Aggregate Resource Area designation as illustrated on Map 5 of the Waterloo Regional Official Policies Plan (ROPP) to include all of the Hunder lands.

The Township failed to render a decision on the OPA within 180 days, and therefore could not render a decision on the ZBA. Hunder is appealing the matter to the Ontario Municipal Board for the following reasons.

ROPP: All of the Hunder lands are currently designated as Prime Agricultural Resource Areas under the Waterloo Regional Official Policies Plan (ROPP) Map No. 3. According to policy 5.1.1.1 of the ROPP, the primary activities within the Agricultural Resource Areas are farming, mineral aggregate extraction and forestry. No official plan amendment is required to permit mineral extraction and related uses on the subject property.

Amendment to Township O.P.: An amendment to the Township of Woolwich Official Plan (“Township O. P.”) is required for the following reasons. Policy 5.1.1.2 of the ROPP limits non-farm activities available in Prime Agricultural Areas unless designated for non-farm use in the area municipal official plan. The Township of Woolwich Official Plan (Woolwich Official Plan) adopts the Mineral Aggregate Resource Area defined by Map No. 5 in the ROPP (policy 11.3.1) thereby permitting non-farm uses on the portion of the Hunder lands identified as a Mineral Aggregate Resource Area on Map No. 5. For the remaining portions of the Hunder land which are proposed to be included in the licence area for the proposed mineral extraction operation, an amendment is required before Hunder’s application for a Zone Change can be approved.

Hunder has filed an Official Plan Amendment application seeking an amendment to extend the mineral aggregate resource designation within the Township Official Plan (as shown on Map 5 of the ROPP) to coincide with the licenced area for a proposed aggregate extraction operation to be located on the Hunder lands.

Attachment B to Appeal Form - Hunsberger ZBA Appeal to OMB

Rehabilitation: The proposed rezoning will also permit the progressive rehabilitation of the lands to post-extraction agricultural uses. To facilitate this, the proposed zoning amendment includes as a permitted use the importation of clean inert fill to construct the sideslopes of the rehabilitated pit. All imported material will be tested at the source before being deposited on-site, as stipulated in the Site Plans. To ensure that the material meets MOE parameters under Table 1 of MOE's Soils, Groundwater and Sediment Standards for use under Part XV.1 of the Environmental Protection Act and sampling results will be provided to the Ministry of Natural Resources upon their request.

Supporting Studies: The proposed official plan amendment, and associated zoning amendment, is supported by a multidisciplinary study that demonstrates that the proposal can be undertaken in a manner which minimizes social and environmental impacts and will not cause any adverse impacts on natural heritage resources including surface and groundwater features and functions, meets all applicable provincial standards with respect to traffic, noise and dust, and accordingly will not adversely impact the Township or its residents.

Agency and Township Peer Reviews: These studies underwent a comprehensive agency review and an independent peer review overseen by the Township of Woolwich. Arising from the agency review, specific and detailed comments were received from the Ministry of Environment, Ministry of Natural Resources, the Regional Municipality of Waterloo, and the Grand River Conservation Authority (GRCA). The applicant responded with additional information and field work to address all comments received. The GRCA confirmed that they have no objection to the application for Zone Change or OPA, and that all their concerns were addressed.

The Township of Woolwich conducted independent peer reviews in the disciplines of geological assessment, hydrogeological assessment, dust, acoustical impact, traffic impacts, visual impact, and cultural heritage. Comments were received by Hunder and its study team, and responses were provided. Hunder is not aware of any outstanding technical concerns from the Township peer reviewers.

Summary: In summary, the proposed Official Plan Amendment for the Hunsberger Pit, as well as the related proposed zoning amendment, conforms to the Waterloo Regional Official Policies Plan and Woolwich Official Plan, is consistent with the *Provincial Policy Statement* and represents sound planning. Both applications have undergone extensive agency and independent peer review. The proposed zoning amendment also permits accessory recycling uses which conserves non-renewable aggregate resources and is also consistent with the *Provincial Policy Statement* and the applicable municipal planning documents.

The Township failed to approve the OPA within 180 days, and also failed to approve the Zone Change within 120 days. Therefore Hunder Development Ltd. is appealing both matters to the Ontario Municipal Board.

PROPOSAL – Application for Zoning Change

Existing Zoning Category - Agricultural

The lands described in Attachment A (the Hunder lands), are currently zoned A: Agricultural, under section 7 of By-Law 55-86, as amended (see attached). Permitted uses include farming, sale of produce grown on premises, residential, and veterinary clinic, among others. The lands are currently actively farmed.

Proposed Zoning Category - Extractive

The application seeks to rezone the portion of the Hunder Lands which are to be included with the licence area of the proposed mineral extraction operation Zone A (Agriculture) to Zone E (Extractive) as set out in Township of Woolwich By-law 55-86 (“Township ZBL”). (See attached excerpt of Township ZBL, section 25). The proposed amending zoning by-law would permit both the establishment and operation of a gravel pit, and continued farming uses as permitted under section 25 as well as two other related/accessory uses: (1) recycling materials through the crushing and blending of imported concrete and asphalt with aggregates mined from the licensed area; and (2) the importation of clean inert fill to construct the side slopes of the rehabilitated pit.

Purpose of the Proposed Amendment

The purpose of the proposed amendment is to amend is to amend Township of Woolwich By-law 55-86 to permit the establishment, operation and rehabilitation activities required for a proposed sand and gravel extraction operation on the Hunder Lands together with the proposed recycling operations. The proposed amendment will also permit the implementation of progressive rehabilitation to agricultural uses. The proposed pit will be operated and rehabilitated in phases, with pre-extraction and rehabilitated post-extraction portions of the licenced area available for agricultural uses throughout the lifespan of the pit.

Description of lands under appeal

The Hunder lands comprise of two independently owned active farm properties; the Hunsberger Farm and the Snyder Farm. Most of the land is currently farmed while the remainder contains natural areas. The properties are traversed by a hydro easement corridor with large steel towers, and are boarded by a mix of surrounding land uses including active farm land and non-farm rural residences. The Grand River lies to the north and west of the lands.

The Hunsberger Farm is comprised of lands both north and south of Hunsberger Road. The southern portion of the site is approximately 35 hectares (88 acres), is predominantly level with few undulating slopes, and contains a small woodlot in the southwest corner of 1.7 hectares (4.2

Attachment C to Appeal Form - Hunsberger ZBA Appeal to OMB

acres). It also contains two small man-made wetlands on the eastern portion of the site. Both the woodlot and the wetlands are to be excluded from the licensed area.

The north Hunsberger lands are at a higher elevation and contain several active hog barns and outbuildings. The west side of the property is a mixed hardwood bush of approximately 4.2 hectares (10.5 acres). This woodlot will be excluded from the licensed area along with the 0.8 hectares (2 acre) farmed parcel located between the woodlot and the neighbourhood known as Conestoga Estates.

The Snyder Farm is approximately 68 hectares (167 acres) of generally level farmland, with a slope down at the western property boundary, abutting the homes within Conestoga Estates. The land also slopes down towards the Grand River, where it contains a mixed woodlot. Both the sloping lands and the Grand River banks are excluded from the area to be licenced, along with the northern portion of the site containing numerous buildings, a small woodlot on Katherine Street, and active farmland adjacent to Winterbourne.

The total application is comprised of:

Total Property Area: 166.6 ha (411.6 acres)
Total Area to be Licensed 88.3 ha (218.0 acres) (and total area to which the zone change will apply)
Total Area to be Extracted 62.0 ha (153.2 acres)
Annual production volume: 500,000 tonnes
Estimated extraction period – 10 to 20 years

Enclosed with this Notice of Appeal is the proposed amending zoning by-law for which approval is sought through this appeal.

EXPLANATORY NOTE
Zone Change 8/2009
Hunder Development Ltd.

This is a By-Law to amend Zoning By-law 55-86, as amended, of the Township of Woolwich.

The By-Law applies to the properties located at 1081 Hunsberger Road and 126 Katherine Street and described as Part of Lot 6, East of Grand River Broken Front Concession, Crooks Tract, Woolwich Township, Region of Waterloo and Part of Lot 5, East of Grand River, Broken Front Concession, Crooks Tract, Woolwich Township, Region of Waterloo (see Map 1, hereinafter referred to as the Subject Lands"). The Subject Lands are designated as Mineral Aggregate Resource Area and Agricultural Land Use Areas in the Township Official Plan and are presently zoned Agriculture (A).

The purpose of this By-Law is to rezone portions of the Subject Lands from Agricultural (A) to Extractive (E) with site specific provisions to permit the creation of a gravel pit on an 86.1 hectare portion within the property with permissions to allow:

- The importation of clean material only for the purposes of backfilling slopes; and
- The importation and processing of recycling material, but to be limited to concrete and asphalt.

The effect of the By-Law is to permit the extraction of aggregate on the lands identified above together with two related site specific provisions for regulate: (1) importation of clean material for the purposes of constructing side slopes required as part of the Rehabilitation Plan; and (2) importation, and processing for the purposes of recycling, of concrete and asphalt within the limits of the proposed extraction area, as an extension to the permitted uses within the Extractive zone. The remainder of the property, outside of the proposed area to be licensed, being 80.5 hectares (198.9 acres), will continue to be zoned Agricultural (A).

This By-Law is deemed to be in compliance with the Official Plan of the Township of Woolwich.

D R A F T

THE CORPORATION OF THE MUNICIPALITY OF WOOLWICH

BY-LAW NO. _____

**Being a By-Law to amend By-Law No. 55-86,
insofar as it relates to the lands located at
Part of Lot 5 and 6, East of Grand River
Broken Front Concession, Crooks Tract,
Woolwich Township, Region of Waterloo.**

**(1081 Hunsberger Road and 128 Katherine Street –
Hunder Development Ltd.)**

WHEREAS the Council of The Corporation of the Municipality of Woolwich deems it advisable to amend By-Law No. 55-86 as amended;

NOW THEREFORE the Council of The Corporation of the Municipality of Woolwich hereby enacts as follows:

1. **THAT** Schedule 'C' to By-Law No. 55-86, be amended by adding Map ____, whereby the Site Specific General Agricultural (A) Zone is changed to Site Specific Extractive (E) Zone for those lands as outlined in heavy solid lines and described as (E) on Schedule 'A' attached hereto forming a part of this By-Law, and being Part of Lots 5 and 6, East of Grand River, Broken Front Concession, Crooks Tract, Woolwich Township, Region of Waterloo.
2. **THAT** Schedule 'B' to the By-Law 55-86 be amended by adding the following Exemption:

26.1. _____

With regard to lands described as Part of Lots 5 and 6, East of Grand River, Broken Front Concession, Crooks Tract, Woolwich Township, Region of Waterloo, notwithstanding the uses permitted under By-Law 55-86 under Section 25.1, Extractive uses with permissions:

- To import clean material only for the purposes of backfilling for final rehabilitation slopes; and
 - To import and process recycling material, but to be limited to concrete and asphalt.
3. **THAT** this By-Law comes into force upon the day it is passed in the event an appeal has not been filed with the Clerk within the time prescribed by the Planning Act,

R.S.O., 1990, as amended. In the event an appeal is filed with the Clerk within the time prescribed by the Planning Act, R.S.O., 1990, as amended, the By-Law shall be deemed not to have come into force until the appeal has been finally disposed of, whereupon the By-Law (except for such parts as are repealed or amended as so directed by the Ontario Municipal Board) shall be deemed to have come into force on the day it was passed.

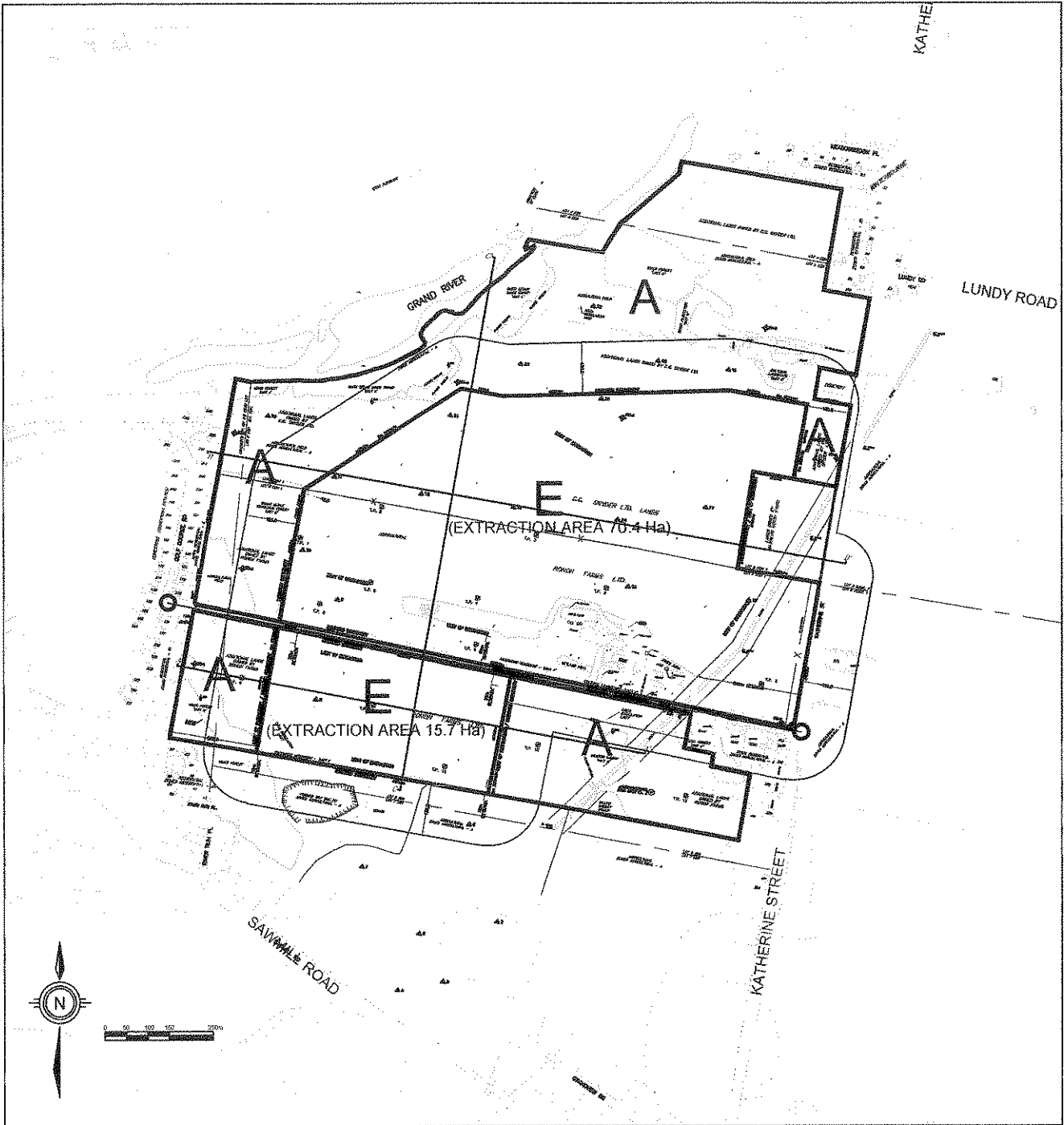
READ a **FIRST** and **SECOND** time, this ____ day of _____, 2011.

READ a **THIRD** time and **FINALLY PASSED** this ____ day of _____, 2011.

Mayor, Todd Cowan

Clerk, Christine Broughton

The Corporation of The Township of Woolwich
By-Law _____
Schedule "A"



This Schedule "A" to By-law No. _____
Passed this _____ of _____, 2011

Mayor Todd Cowan

Clerk Christine Broughton

Map 1
Location Plan

