



Jeffrey J. Wilker  
416-868-3118  
jwilker@thomsonrogers.com

**Sent By Overnight Courier**

July 27, 2011

Ms. Christine Broughton  
Clerk/Director of Council and Information Services  
Township of Woolwich  
24 Church St. West  
P.O. Box 158  
Elmira, Ontario  
N3B 2Z6

Dear Ms. Broughton:

**2167534 Ontario Inc. (Kuntz Topsoil, Sand and Gravel Ltd.)  
Proposed Jigs Hollow Pit  
Part Lot 3, Crooks Tract WGR, Township of Woolwich  
Our File No. 500015**

We are the solicitors for 2167534 Ontario Inc.

On behalf of our client we are appealing the failure or neglect of the Council of the Township of Woolwich to make a decision on our client's application for a zoning by-law amendment with respect to the above referenced property. Please accept this correspondence as our client's notice of appeal to the Ontario Municipal Board.

We enclose a copy of the Board's form, together with the referenced documentation and our firm cheque in the amount of \$125.00. The application was received by the Township on December 16, 2008. Since that date, a final decision has not been made on the requested zoning by-law amendment by Township Council. The statutory period of 120 days has passed, permitting this appeal to be brought to the Ontario Municipal Board.

We request that the Township forward this appeal together with the enclosed documentation to the Ontario Municipal Board for hearing and determination pursuant to the *Planning Act*.

Finally, we wish to advise that, notwithstanding the filing of this appeal to bring certainty and a conclusion to this matter, our client remains willing to work with the Township to resolve the outstanding issues relating to this application and to endeavour to reach a mutually agreeable solution.

Should you have any questions regarding the foregoing, please contact the undersigned.

Yours very truly,



Jeffrey J. Wilker

JJW/lcs

cc: Raymond Kuntz  
cc: David Sisco, IBI Group, Planning Consultant



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

JUL 28 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(27)
	<input type="checkbox"/> Appeal changed conditions	53(14)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	34(19)
	<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)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	38(4)
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	17(24) or 17(36)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(40)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	51(39)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	51(43) or 51(48)
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(34)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	

**Part 2: Location Information**

125 Peel Street, Woolwich, Ontario, also described as Part of Lot 3, Crooks Tract, West of Grand River

Address and/or Legal Description of property subject to the appeal:

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

**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

2167534 Ontario Inc. c/o Raymond Kuntz

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

Professional Title (if applicable): President

E-mail Address: kuntztopsoil@sgci.com

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

Daytime Telephone #: (519) 888-1007 Alternate Telephone #: (519) 741-6179 (cell)

Fax #: \_\_\_\_\_

Mailing Address: 136 Water Street St. Jacobs  
Street Address Apt/Suite/Unit# City/Town

Ontario NOB 2N0  
Province Country (if not Canada) Postal Code

Signature of Appellant: Not required Date: July 25, 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: Jeffrey Last Name: Wilker

Company Name: Thomson, Rogers

Professional Title: Lawyer/Partner

E-mail Address: jwilker@thomsonrogers.com

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

Daytime Telephone #: (416) 868-3118 Alternate Telephone #: \_\_\_\_\_

Fax #: (416) 868-3134

Mailing Address: 390 Bay Street Suite 3100 Toronto  
Street Address Apt/Suite/Unit# City/Town

Ontario M5H 1W2  
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: July 27, 2011  
Jeffrey Wilker per Thomson, Rogers, Solicitors for the Appellant

*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):

On December 16, 2008 the Appellant submitted a Zoning By-law application (Application 3-2009) to amend Township of Woolwich Comprehensive Zoning By-law 55-86. The Application seeks to amend the zoning of the subject lands from 'Agricultural' to 'Extractive' to permit extraction of aggregate together with associated aggregate uses as set out in the proposed Zoning By-law. As the Application has been pending for more than two and half years, the Appellant is appealing the failure or neglect of the Council of the Township of Woolwich to make a decision on the Application within the statutory 120 day period.

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.

1. The Appellant submitted Application 3-2009 to the Township of Woolwich on December 16, 2008, copy attached.
2. The subject lands are currently designated as 'Mineral Aggregate Resource Area' in the Township and Regional Official Plans. Such designation permits the establishment of pits in such areas. No Official Plan Amendment is required.
3. The Appellant's Application conforms to the requirements of the Township Official Plan and the Regional Official Plan.
4. The Appellant's Application conforms to the Provincial Policy Statement, 2005.
5. On November 23, 2010, Council of the Township approved, in principle, the zoning by-law amendment application subject to nine conditions being met prior to final passing of the by-law. The Appellant has fulfilled all of these conditions with the exception of two conditions: one requiring a sunset clause to limit the mineral aggregate operation to a maximum of 15 years, and another requiring that vertical zoning be established in the zoning by-law to limit the depth of extraction. A copy of the Council resolution is attached. The Appellant does not agree with these two conditions as the conditions contravene provincial direction with respect to aggregate resources and provisions within the Provincial Policy Statement and the Aggregate Resources Act.
6. The Township had confirmed that visual impact had been addressed to its satisfaction. Subsequently Township Council has recently requested a peer review of the Visual Impact Assessment to be paid for at the Appellant's cost. Given the foregoing, the Appellant has no certainty that the processing and passing of its zoning by-law application will be finalized by the Township.
7. Notwithstanding the Appellant's efforts and multiple requests since December 15, 2010 to finalize a roads agreement with the Township regarding off-site haul route upgrades, the Township has not provided a draft agreement. The Appellant has provided a draft agreement to the Township, copy attached, but has received no comments or review regarding same.

### **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:** DECEMBER 16, 2008  
(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.

The property is currently zoned Agricultural (A). The desired zoning category is to zone the property of approximately 36 ha for Extractive (E) under with two zones with different permissions: (1) the area of approximately 17.5 ha to be extracted is proposed to be zoned for extraction together with permission for the importation of clean material for any required earthworks; the importation of clean material for screening and resale, and the importation and processing of recycling material limited to concrete and asphalt. This area is noted as the Eastern Section on the Zoning Map attached to the proposed zoning by-law; (2) the area of approximately 18.5 ha not to be extracted but licensed and subject to conditions in the licence proposes to permit a haul route, weigh scale, scale house, fuel storage and use of

the existing farmhouse for uses accessory to the permitted uses on the site. This area is noted as the Western Section on the Zoning Map attached to the proposed zoning by-law.

The proposed zoning by-law and explanatory note is attached.

**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:

On December 15, 2008 the Appellant also submitted an application to the Ministry of Natural Resources ("MNR") for an Aggregate Resources Act ("ARA") License, Class A License, Category 3 (Pit Above Water). On December 21, 2010, MNR confirmed that the ARA process was complete, subject to the Appellant obtaining final approval on Zone Change Application 3-2009. Given that the only objection to the license under the ARA was by the Township of Woolwich and the Region of Waterloo on the grounds that the subject site was not zoned for extraction, the disposition of this zoning appeal will resolve all outstanding approval matters, and it is not necessary for the License to be referred to the Board for disposition.

**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: 10 days

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

If the issues list is restricted to the following issues: (a) vertical zoning; (b) sunset clause; (c) visual evidence, it is anticipated that experts in these fields (+/-2 experts) and the appellant will be called. If the issues list is not confined, then 6 additional experts may be called.

Describe expert witness(es)' area of expertise *(For example: land use planner, architect, engineer, etc.):*

Land Use Planning, Aggregate Resources, Visual Impact, Hydrogeology, Noise, Traffic, Natural Environment, Dust  
(Planner/Architect/Engineers/GeoScientists)

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? To provide organization of the hearing, and to confirm the Issues List and length of the hearing.

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

Notwithstanding the filing of this appeal, the appellant is prepared to have dialogue to endeavour to resolve this appeal and is of the view that the Board's mediation process would bring consistency of approach and direction to determine if a mutually agreeable resolution could be reached between the Township and the appellant.


**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.**



**TOWNSHIP OF WOOLWICH  
ZONE CHANGE  
APPLICATION FORM**

P.O. Box 158  
24 Church Street West,  
Elmira, ON N3B 2Z6

PHONE: 519-669-1647 / 519-664-2613  
ENGINEERING & PLANNING SERVICES FAX: 519-669-4669

Pursuant to Section 34 of the Planning Act, R.S.O. 1990 c.P. 13, I/We hereby submit an application for amendment to Zoning By-law 55-86, as amended, of the Township of Woolwich in respect of the lands hereinafter described.

2167534 Ontario Inc.

1. Registered Owner: c/o Raymond Kuntz Telephone# 519-741-6179  
Mailing Address: 136 Water Street, St. Jacobs, ON Postal Code: N0B 2N0
2. Authorized Agent: David Sisco, IBI Group (david.sisco@ibigroup.com) Telephone# 519-745-9455  
Mailing Address: 379 Queen Street South Postal Code: N2G 1W6  
Kitchener, ON
3. Name and address of any mortgagees, charges or other encumbrances of the subject lands.  
none

4. Township Official Plan Designation: Rural Land Use Designation  
Regional Official Policies Plan Designation: Agricultural - Mineral Aggregate Resource Area  
Existing Zoning: Zone A: Agricultural  
Proposed Zoning: \* See Below  
Reason for Proposed Zoning: To permit aggregate extraction on site along with an additional permitted use to allow the recycling of asphalt and concrete and screening of topsoil.  
Please see cover letter and sketch for details of the additional permitted use.

5. Location of Subject Land:  
Municipal Address: 125 Peel Street  
Reference Plan No./Part(s): \_\_\_\_\_ Registered Plan No./Part(s): Part of Lot 3  
Tract/Concession/Lot No.: Crooks Tract West of Grand River, Township of Woolwich  
Regional Municipality of Waterloo

6. Description of Subject Land  
Frontage 156.4 metres; Depth 1105.4 metres; Area 360200 sq. metres  
Existing Use: Agricultural Farming  
Length of Time Existing Use Has Continued: unknown  
Proposed Use: Aggregate extraction with concrete and asphalt recycling onsite  
Existing and Proposed Buildings and Structures: List number and use of buildings/ structures on the land to be rezoned along with setbacks of each from front, rear and side lot lines, the dimensions or floor area of all buildings/ structures and the height of each building/ structure (or show on site plan)  
no proposed buildings/structures.  
Recycling of asphalt and concrete materials will be within limit of extraction.

7. Type of road access (e.g. Regional Road, Municipal Road, Provincial Highway, Right-of Way):  
Municipal Road

8. Type of water supply (check appropriate space)
- |                                     |                          |   |
|-------------------------------------|--------------------------|---|
| provided                            | proposed                 |   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Municipally-owned & operated piped water supply |
| <input type="checkbox"/>            | <input type="checkbox"/> | Lake, stream, river                             |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Well - private                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Well - communal                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Other (specify)                                 |

9. Type of sewage disposal:
- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| provided                            | proposed                 |  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Municipally-owned & operated sanitary sewers |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Septic Tank                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Pit Privy                                    |
| <input type="checkbox"/>            | <input type="checkbox"/> | Other (specify)                              |

\* Western or Upper Section: Zone 'E' Extractive with a not withstanding clause prohibiting extraction.  
Eastern or Lower Section: Zone 'E' Extractive  
Eastern or Lower Section: Temporary zoning provision to permit importation of topsoil for screening and resale and asphalt and concrete for recycling and resale.

10. Type of storm drainage provided/ proposed:

- |                                     |                          |         |
|-------------------------------------|--------------------------|---------|
| provided                            | proposed                 |         |
| <input type="checkbox"/>            | <input type="checkbox"/> | Sewers  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ditches |
| <input type="checkbox"/>            | <input type="checkbox"/> | Other   |

11. Date current owner acquired the property: March 2008

12. Date buildings/ structures were constructed: exact date unknown. approximately 1930

13. Previous zone change application file # \_\_\_\_\_ (if applicable)

14. Current severance or subdivision application file #s \_\_\_\_\_ (if applicable)

15. Please provide any other background information you think may be of assistance to the Township Council in its consideration of your application (including names of supporting documents such as traffic studies, stormwater reports, etc.)

Reports submitted: Planning Background Report, Natural Environmental Level 1 & 2, Hydrogeological, Acoustical, Archaeological (Stage 1-2), Traffic, Road Quality Evaluation and Aggregate Inventory

16. This application must be accompanied by a site plan, drawn to scale, showing the following:

- Boundaries and dimensions of the subject land and North arrow;
- Location, size and type of all existing and proposed buildings/ structures on property;
- Distances from existing and proposed buildings/ structures to front, side and rear lot lines;
- Location of all natural and artificial features (e.g., wells, septic fields, creeks, wooded areas, parking spaces, etc.);
- Current use of lands/ buildings adjacent to property;
- Location, width and name of abutting roads; and
- the location and nature of any easement or right-of-way affecting the lands.

I, David Sisco of the Township of Wilmot in the Regional Municipality of Waterloo solemnly declare that all the statements contained in this application are true, and I make this my solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

[Signature]  
Signature of Applicant/ Agent

**APPOINTMENT OF AUTHORIZED AGENT/SOLICITOR**

I, Raymond Kuntz hereby appoint David Sisco

of IBI Group to act as my Agent in this application.

Signed: [Signature]  
Dated: Dec. 12, 2008

Witness: Bonni Kuntz  
Dated: DEC. 12, 2008

**FOR OFFICE USE ONLY**

Date Received: Dec 16/08 Received By: NA

Fee only Fee: 5000. Receipt Number: 124020 Roll Number: 3029

Sign / Advertising Deposits - January 6, 2009 Receipt 124031 NA  
Sign picked up - Jan 6/09 NA





THE TOWNSHIP OF  
**WOOLWICH**  
BOX 156, 24 CHURCH ST. W.  
ELMIRA, ONTARIO N3B 2Z8  
TEL. 519-869-1847 / 848 EX. 519-864-2813  
COUNCIL/CAO/CLERKS FAX 519-869-1820  
PLANNING/ENGINEERING/BUILDING FAX 519-869-4869  
FINANCE/RECREATION/FACILITIES FAX 519-869-9348

**RECEIVED**

**DEC 06 2010**

**IBI GROUP**

December 1, 2010

IBI Group  
Attn: David Sisco  
1-379 Queen Street South  
Kitchener, ON  
N2G 1W6

Kuntz Topsoil Sand and Gravel  
Attn: Ray Kuntz  
136 Water Street  
St. Jacobs, Ontario  
N0B 2N0

Dear Mr. Sisco and Mr. Kuntz

**RE: Kuntz Topsoil Sand and Gravel**

Please be advised that Council of the Township of Woolwich passed the following resolution on November 23, 2010:

*THAT the Council of the Township of Woolwich approves in principle Zone Change Application 3/2009 for 2167534 Ontario Inc. (Jigs Hollow Pit, Kuntz Topsoil, Sand and Gravel), to rezone Chalmers Blk, West of Grand River Lots 3, 4 and 5, known as 125 Peel Street, being 36.2 hectares in total, from Agricultural (A) to Extractive (E) with site specific provisions to permit:*

- mineral aggregate extraction, the processing of recycled material (limited to concrete and asphalt) as an accessory use to the extraction operation, and the importation and processing of topsoil as a temporary use for a maximum of three years on the eastern 17.5 hectare portion of the property,*
- agricultural uses and a haul road, weigh scale, scale house refuelling storage area, with no extraction of mineral aggregate extraction, on the remainder of the property,*

*Subject to the following conditions which must be met prior to Council's passing of the zoning by-law:*

- 1. That the mineral aggregate operation have a maximum period of operation of 15 years and that this condition be implemented through a note on the Aggregate Resources Act ("ARA") site plan;*
- 2. That the applicant agrees not to object to the Township rezoning the lands back to Agricultural after the 15 year maximum period of operation;*

*"Proudly remembering our past; Confidently embracing our future."*

3. That the hours of operation for the mineral aggregate operation as indicated in Appendix C (see Noise Study, #3) be modified, and implemented through a note on the ARA site plan, to include the additional restriction on processing as follows:

a) Processing (crushing) will only occur between the hours of 8 a.m. and 5 p.m. on weekdays;

4. That the requirements of the Region of Waterloo with respect to with respect to the intersection of Jigs Hollow and Northfield Drive be addressed to the Region's satisfaction;

5. That a minimum of two years of monitoring data (depth and geochemical), collected in a manner acceptable to the Township and the Region, be provided as a basis for reflecting the appropriate depth of extraction above water table in the zoning by-law and that this depth of extraction above water table also include a minimum 1.5 metre buffer;

6. That the applicant enter into an agreement with the Township to provide for the paving of Jigs Hollow Road from the entrance to the extraction operation to Northfield Drive;

7. That the applicant submit a report that summarizes the water monitoring and includes figures of the monitoring well locations and groundwater contours, which will be reviewed by the Region and the Township.

8. That the notes on the ARA site plan be revised as per Appendix C, but specifically:

a) to indicate that any fuel spills that must be reported to the Ministry of the Environment, also be reported to the Township and the Region at the same time;

b) to indicate that an appropriately qualified professional confirm in writing to the MNR and the Township that, for the recycling area, a minimum of 2.0 metres of buffer above the water table has been achieved before any stockpiling takes place; and

c) that the noise levels not exceed 45 dBA.

9. That the applicant be required to carry-out an Environmental Site Assessment, and restoration if required, to the satisfaction of the Township of Woolwich, including any necessary peer reviews, and in accordance with Section 13.19 of the Township of Woolwich Official Plan.

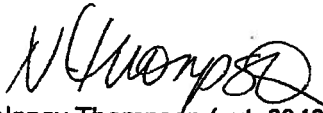
**AND FURTHER THAT Council deems that another Public Meeting, pursuant to Section 34 (17) of the Planning Act is not necessary.**

**AND FURTHER THAT Council shall advise the Ministry of Natural Resources of this decision.**

**AND FURTHER THAT Council agrees to allocate \$50,000.00 as cost sharing for the paving of Jigs Hollow Road from the entrance to the extraction operation to Northfield Drive.**

Should you have any questions, please contact our office.

Yours truly,



**Nancy Thompson (ext. 6040)  
Administrative Coordinator / Planning Assistant  
Engineering and Planning Services**

**c.c. Regional Municipality of Waterloo, Attn: Sylvia Rafalski-Misch,  
Community Planning, Planning Housing and Community Services  
Ministry of Natural Resources, Attn: Diane Schwier**

**This Agreement made this            day of            , 2011.**

**BETWEEN**

Corporation of the Township of Woolwich

(hereinafter referred to as “Township”)

**And**

Kuntz Topsoil, Sand & Gravel Ltd.

(hereinafter referred to as “Owner”)

**RECITALS:**

WHEREAS the Owner is an affiliated body corporate of 2167534 Ontario Inc. which is the owner of lands within the Township at 125 Peel Street and legally described as Part Lot 3, Crooks Tract West of the Grand River, Township of Woolwich, Region of Waterloo (the “Kuntz Lands”).

WHEREAS the Owner has made application to the Ministry of Natural Resources (MNR) for a Class A, Category 3 Licence (herein referred to as the “Licence”) for the Kuntz Lands and to the Township for the appropriate zoning to permit extraction on a portion of the Kuntz Lands.

WHEREAS Township Council passed a resolution on November 23, 2010 approving the requested rezoning in principle, subject to the Owner fulfilling a number of conditions, including entering into this Agreement.

WHEREAS in order for the Owner to haul the sand and gravel from the proposed pit to the nearest Regional road (Regional Road 22 – Northfield Drive), it will be necessary for trucks to utilize a portion of Jigs Hollow Road (a Township Road), as illustrated on Schedule A, (herein referred to as the “Haul Route”).

WHEREAS, in correspondence prepared by Township staff to the Owner dated June 28, 2010 and attached as Appendix B, the Township specified what upgrades to Jigs Hollow Road were required.

WHEREAS on November 23, 2010, Township Council passed a resolution whereby it allocated \$50,000 as cost sharing for the paving the Haul Route. A copy of the resolution is attached as Appendix C.

NOW THEREFORE in consideration of mutual covenants, agreements and promises herein contained and the sum of Two Dollars (\$2.00) of lawful money of Canada now paid by each of

the parties hereto to the other (the receipt and sufficiency of which is hereby acknowledged) and other good and valuable consideration and the mutual agreements contained herein, the parties hereto covenant and agree as follows:

1. The parties agree that all of the obligations contained in this Agreement shall be contingent on:
  - a. the Owner or a related company obtaining the Licence from the MNR; and
  - b. the Kuntz Lands being rezoned to an appropriate zoning to permit extraction on a portion thereof satisfactory to the Owner;

Should the Owner's application for either or both of the above approvals be refused, or should the conditions of the Licence, site plans or area rezoned not be satisfactory to the Owner, the Owner may, at its option elect to terminate this Agreement by notice in writing to the Township, upon which termination, all obligations under this agreement shall be come null and void.

2. The Owner agrees to engage a contractor to pave the Haul Route at its own expense in accordance with the following requirements:
  - a. Minimum 150mm Granular A
  - b. Minimum 100mm asphalt paving
  - c. 8m wide asphalt platform
  - d. 1m wide shoulder
3. The Owner shall engage, at its cost, the services of a Professional Engineer registered in the Province of Ontario, approved by the Township to:
  - a. Design and stamp the necessary engineering drawings that depict the upgrading of the Haul Route to meet Township requirements noted in paragraph 2 above;
  - b. Prepare a cost estimate for the upgrading of the Haul Route based on the engineering drawings;
  - c. Supervise the upgrading of the Haul Route to ensure that all works comply with Township and other applicable standards;
  - d. Provide to the Township all records and as constructed drawings related to the upgrading for its records; and
  - e. Provide certification in the form of a letter to the Township stating that all works were completed in accordance with the drawings and applicable standards.
4. The Township shall review and approve the engineering drawings and cost estimate prepared pursuant to subparagraphs 3 a) and b) and the same shall be attached to this Agreement as Schedules D and E respectively.
5. The Owner shall make arrangements with the owner of the land known as 1095 Jigs Hollow Road and described more particularly as Part Lot 4, Concession West of Grand

River in the Township of Woolwich, Regional Municipality of Waterloo, to transfer the following lands to the Township free of all encumbrances:

- a. A daylight triangle, as shown on the attached Schedule F, to be located in the southeast corner of the intersection of Northfield Road and Jigs Hollow; and
- b. A road widening, as shown on the attached Schedule G, along a portion of the Haul Route and specifically on the south side of Jigs Hollow Road.

The Owner shall engage at its cost, a Professional Ontario Land Surveyor to prepare the necessary reference plans to illustrate the parcels described above, and such reference plan shall be attached hereto as Schedule H. All costs related to the land transfer, including legal and survey costs, shall be the borne by the Owner and no cost shall be borne by the Township.

6. The Township, at its own cost, may, on occasion, arrange its own inspection and testing of the upgrading of the Haul Route while work on the same is proceeding.
7. Upon completion of the upgrading of the Haul Route, the Owner, and/or the Professional Engineer engaged by the Owner pursuant to paragraph 3, shall provide the following to the Township:
  - a. All construction records and testing results;
  - b. As constructed drawings;
  - c. A Certification letter stating the works have been completed in accordance with the approved plans and specifications;
  - d. A letter from the Owner to the Township undertaking to maintain the Haul Route at its expense for a period of two years from the date of the letter. For greater certainty, such maintenance shall include all necessary repairs to the Haul Route but shall not include salting, sanding and/or snow ploughing which responsibilities shall be borne by the Township.
7. Within 30 days of receipt of the items noted above, the Township shall pay the Owner \$50,000.
8. Upon the expiry of the 2 year period following the date of the letter described in paragraph 7 d), the Township shall be responsible for the maintenance of the Haul Route.

IN WITNESS WHEREOF the Parties hereto have executed this agreement by the hands of their duly authorized signing officers in that regard.

**Township of Woolwich**  
**Mayor:**

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**Clerk:**

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**Kuntz Topsoil, Sand & Gravel Ltd.**

Per:

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(I have the authority to bind the corporation)