

BY-LAW NUMBER 15-33

OF

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

A By-Law for the purpose of establishing an encroachment agreement between Walker Aggregates Inc. and the Township of Clearview

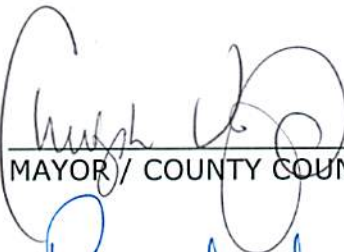
WHEREAS Section 8 of the Municipal act, R.S.O. 2001 provides that a municipality has the capacity, rights, power and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS it is deemed expedient to permit encroachment(s) at 9861 County Road 91, Lots 24 and 25, Concession 12 (former Township of Nottawasaga) in the Township of Clearview;

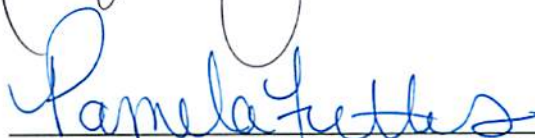
NOW THEREFORE BE IT ENACTED a By-Law of the Corporation of the Township of Clearview as follows:

1. That an encroachment agreement, attached hereto as Schedule "A" and forming part of this By-Law, be entered into with Walker Aggregates Inc.
2. That the Mayor/County Councillor and Director of Legislative Services/Clerk be authorized to execute the agreement on behalf of the Township of Clearview.

By-Law 15-33 read a first, second and third time and finally passed this 27th day of April, 2015.



MAYOR / COUNTY COUNCILLOR



DIRECTOR OF LEGISLATIVE SERVICES/CLERK



MEMORANDUM FOR THE DIRECTOR, FBI

Reference is made to the report of Special Agent [Name] dated [Date] at [Location] regarding [Subject].

The above information was obtained from [Source] and is being furnished to you for your information.

It is noted that [Subject] is currently residing at [Address] and is employed by [Company].

Very truly yours,
[Signature]

[Name]
[Title]

Enclosed for the Bureau are [Number] copies of the report mentioned above.

Very truly yours,
[Signature]



[Handwritten signature and initials]

THIS AGREEMENT made this 27th day of April, 2015

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

(Hereinafter called the "Township") of the First Part,

- AND -

WALKER AGGREGATES INC.

(Hereinafter called the "Owner") of the Second Part

WHEREAS Walker Aggregates Inc. is the owner of the lands situated on 9861 County Road 91, Lot 24 & 25, Concession 12, (former Nottawasaga Township), in the Township of Clearview, in the County of Simcoe, and;

WHEREAS a tunnel is required to extend from the existing quarry area situated on the south side of County Road 91 (9861), under County Road 91 to the proposed quarry on the north side of County Road 91, a tunnel or road cut created for the hauling of aggregate from Lot 25, Concession 12 to Lot 24, Concession 12; and

WHEREAS the Owners have made application to the Township for the right and licence to maintain said encroachment(s) 9861 County Road 91 to the proposed quarry on the north side of County Road 91, a tunnel or road cut from Lot 25 Concession 12 to Lot 24, Concession 12, the Owners shall remove the encroachment(s), abutting the Owners' property within six (6) months of receiving notice from the Township to do so;

NOW THEREFORE THIS AGREEMENT WITNESSETH that, in consideration of the mutual covenants and agreements hereinafter contained, together with other good and valuable consideration (the receipt of which is acknowledged), the Township and the Owners mutually covenant and agree as follows:

1. The Owners shall have the right and licence to keep the "Duntroon Quarry Service Tunnel" on (collectively referred to hereafter as the "Authorized Encroachment(s)") in their present location, as depicted in a sketch attached hereto and marked as Schedule "A", encroaching from the Owners' lands described as 9861 County Road 91 (to the proposed quarry), Lot 25, Concession 12 to Lot 24, Concession 12 (former Township Nottawasaga), in the Township of Clearview, in the County of Simcoe, PROVIDED THAT the Owners shall remove the Authorized Encroachment(s) within six (6) months of receiving notice from

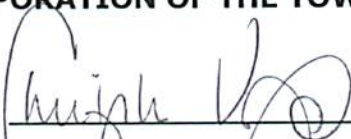
the Township to do so and PROVIDED THAT this right and licence shall apply only for so long as the Authorized Encroachment(s) on the property continue to stand.

2. The Owners shall have the right to perform normal repairs, maintenance and upkeep of the Authorized Encroachment(s).
3. No extension or enlargement of the Authorized Encroachment(s) shall be permitted without the express written consent of the Township of Clearview.
4. In the event that the Authorized Encroachment(s) are removed or demolished, singularly or collectively, any reconstruction shall be in accordance with the Township's Zoning By-law and other applicable laws, by-laws, regulations and policies in force and effect at the time of reconstruction.
5. Other than the right and licence referred to in Paragraph 1 hereof, the Owners shall not, pursuant to this agreement acquire any easement or other rights in and to those portions of Concession (former Nottawasaga Township) onto which the Authorized Encroachment(s) encroach.
6. In the event the existing water and sewer service to the subject property has to be repaired or replaced by the Township, the Township shall be responsible for the repair or replacement of said water or sewer service to within a reasonable distance from the Authorized Encroachment(s) (so that the encroachment(s) will not be damaged by the work done by the Township) and the Owners shall be responsible for the continuation of the repair or replacement work from that point.
7. The Owners shall notify the Township in writing of any change of ownership of any part or all of the lands more particularly described in Clause 1 hereof.
8. The Owners hereby release the Township from any and all liability and obligation for any and all loss, damage or injury, including death to persons, which happens as a result of or arises out of the Township granting this licence to the Owners.
9. The Owners hereby covenant and agree to indemnify and save harmless the Township from any and all liability, costs, causes of action and damage whatsoever arising out of the Township granting this licence to the Owners.
10. The Owners shall make no claim against the Township in respect of damage to said encroachment(s), arising from snow removal, road maintenance, or other such similar activities of the Township's employees or contractors on said street.

11. This Agreement shall endure to the benefit of and be binding upon the parties hereto, their heirs, executors, successors and assigns, respectively, as owners from time to time of all or any part of the lands more particularly described in Schedule "A" and Schedule "B" attached hereto.
12. It is the Owners' responsibility to store this document and ensure that it is brought to the attention of all mortgagees and future purchasers.
13. This Agreement may be registered on title to the lands affected, at the sole expense of the Owners.
14. The Owners each acknowledge that he or she:
 - a. Has received independent legal advice or has freely waived his or her right to obtain such advice;
 - b. Has read this Encroachment Agreement in its entirety and has full knowledge of the contents;
 - c. Understands his or her respective rights and obligations under this Agreement, the nature of this Agreement and the consequences of this Agreement;
 - d. Acknowledges that the terms of this Agreement are fair and reasonable;
 - e. Is entering into this Agreement without any undue influence, fraud, or coercion whatsoever, and
 - f. Is signing this Agreement voluntarily.

IN WITNESS WHEREOF The Corporation of The Township of Clearview and the Owners hereunto set and affix their respective hands, seal and corporate seal under the hands of their proper officers duly authorized in that behalf.

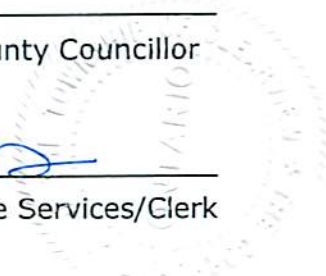
THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

per: 

Christopher Vanderkruys, Mayor/County Councillor

per: 

Pamela Fettes, Legislative Services/Clerk




We have authority to bind the Corporation

**SIGNED, SEALED AND DELIVERED)
IN THE PRESENCE OF:)**

Witness Signature

Witness - PLEASE PRINT HERE


Name of Owner

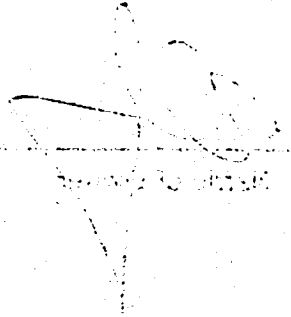
are valid until the expiration of the period of validity of the certificate of registration of the company in the State of New York. The certificate of registration of the company in the State of New York is a public record and is available for inspection by any person at any time.

THIS DOCUMENT IS THE PROPERTY OF THE STATE OF NEW YORK



[Faint, illegible text and signatures]

THE STATE OF NEW YORK



STATE OF NEW YORK

DEPARTMENT OF STATE

ALBANY, NEW YORK

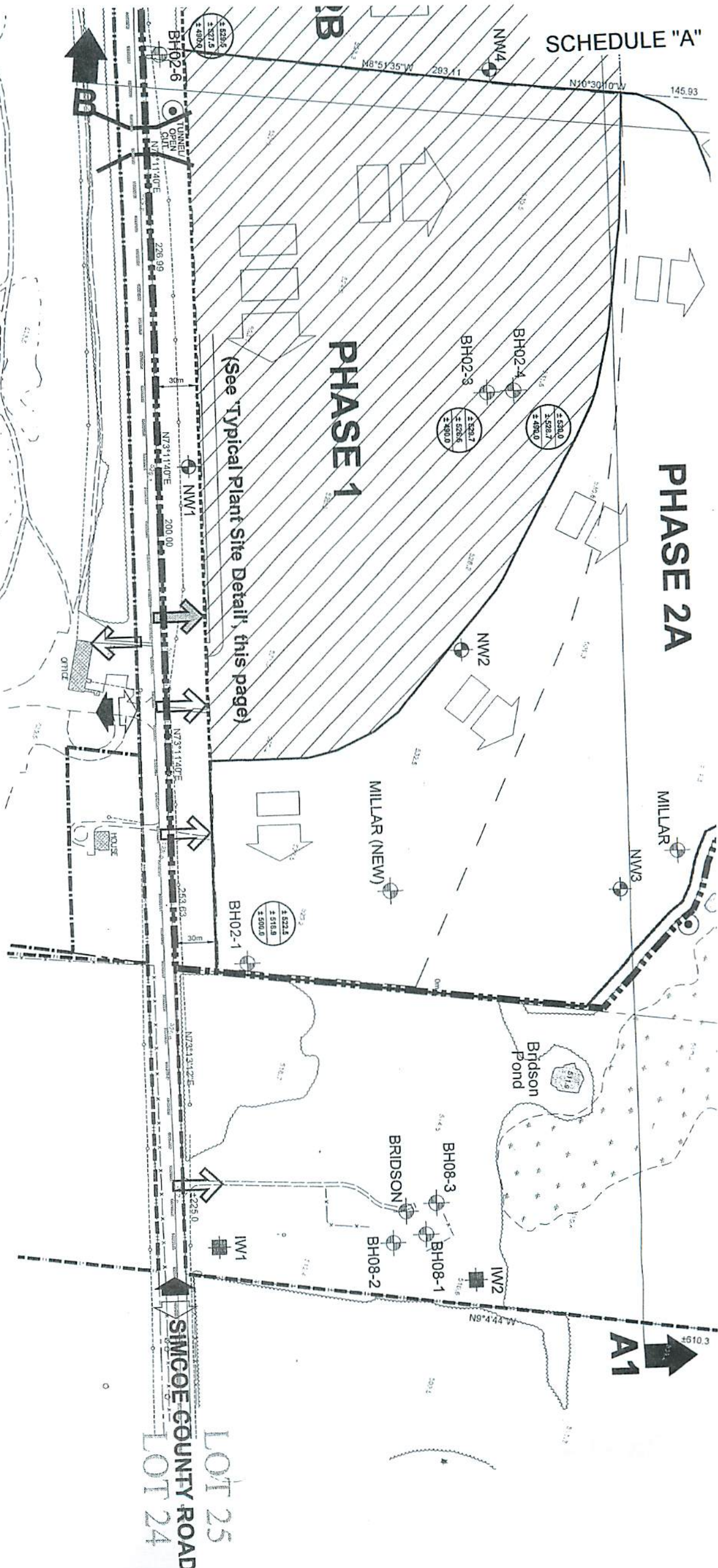
SCHEDULE "A"

The sketch of the Authorized Encroachment(s), prepared and provided by the Owners, for lands described as 9861 County Road 91, Lot 24 and 25, Concession 12, (former Nottawasaga Township) in the Township of Clearview, in the County of Simcoe, has been deposited on file in the Clerks Department at 217 Gideon Street Stayner, ON L0M 1S0.

SCHEDULE "A"

PHASE 2A

PHASE 1



(See Typical Plant Site Detail, this page)

WALKER AGGREGATES INC.
LICENCE NO. 3514

CONCESSION XI

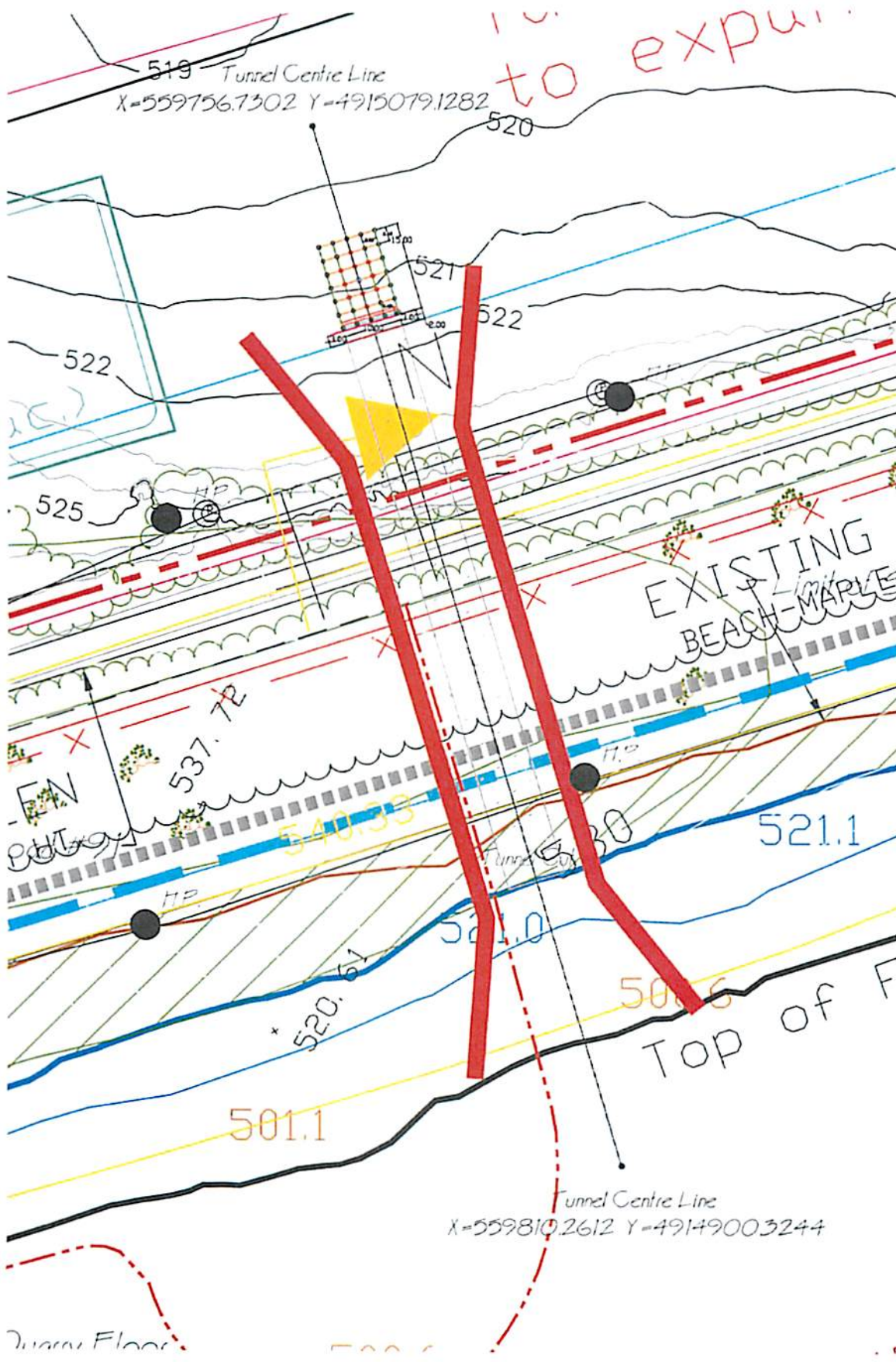
Final Approved Plan

Date: Sept. 4, 2014

Signature: *[Handwritten Signature]*

Ministry of Natural Resources
Midhurst District Office

LOT 25
LOT 24





April 15, 2015

Via: Email – ssage@clearview.ca

Steve Sage
CAO
Township of Clearview
217 Gideon Street
P.O. Box 200
Stayner ON L0M 1S0

Dear Mr. Sage:

Re: **Duntroon Quarry Tunnel**
Project No.: MCG100440.0000

As requested, we have reviewed the drawings for the proposed Duntroon Quarry Tunnel. This included Drawing Numbers 1 – 7, under Project Number 1417171 and prepared by Golder Associates. The proposed tunnel is to extend from the existing quarry area situated on the south side of County Road 91, under County Road 91 to the proposed quarry on the north side of County Road 91.

Also included in the package reviewed was the Development Permit issued by the Niagara Escarpment Commission related to the construction and interim use of a tunnel or road cut created for the hauling of aggregate from Lot 25 Concession 12, Township of Clearview to Lot 24 Concession 12, Township of Clearview.

It is noted that the bottom of the proposed tunnel is approximately 31 m below the road elevation at the tunnel location. The tunnel is approximately 7 m in height resulting in the top of tunnel being approximately 24 m below the existing road elevation.

It is noted that drainage ditches are provided within the tunnel. Although it is not clear where those ditches will outlet to (likely the existing quarry floor), there is certainly no consequence of the drainage ditches to the road allowance above.

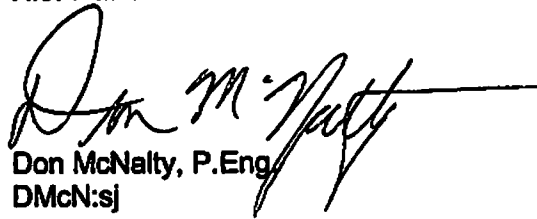
The overall geometry of the tunnel is reasonable and also has no consequence to the existing road above the tunnel. The tunnel extends from the existing limit of quarry excavation on the south end to beyond the proposed limit of quarry excavation on the north end. A remediation plan has been included which provides details as to the placement of concrete plugs at either end of the tunnel along with compacted crushed rock through the entire length of the tunnel to fill the tunnel void.

Based on our review of the Drawings submitted in conjunction with the Development Permit for the Niagara Escarpment Commission, we have no concerns for the proposed installation.

If you have any questions, please do not hesitate to contact us.

Yours truly,

R.J. Burnside & Associates Limited

A handwritten signature in black ink, appearing to read "Don McNalty", with a long horizontal line extending to the right from the end of the signature.

Don McNalty, P.Eng.
DMcN:sj

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