

NO: **L001**

COUNCIL DATE: **June 13, 2016**

REGULAR COUNCIL – LAND USE

TO: **Mayor & Council**

DATE: **June 9, 2016**

FROM: **General Manager, Engineering**

FILE: **4520-80 (19474-01600)**

SUBJECT: **Application to Remove and Deposit Soil at 19474 - 16 Avenue**

RECOMMENDATION

The Engineering Department recommends that Council:

1. Receive this report as information;
2. The permit application not be supported; and
3. The permit application be referred back to the applicant given the concerns as documented in this report.

INTENT

The purpose of this report is to advise Council about an application to extract gravel and deposit soil at 19474 - 16 Avenue and to seek approval to advance the application to a Public Hearing.

BACKGROUND

Soil extraction and deposition on lands within the City is regulated under the *Surrey Soil Conservation and Protection By-law, 2007, No. 16389* (the “Soil Bylaw”) and City Policy No. M-27, Soil Permit Applications Policy (the “Soil Policy”). Soil extraction is also regulated by the Ministry of Energy, Mines and Petroleum Resources, through the *Mines Act*.

An application has been received from B&B Contracting (2012) Ltd., with consent from the registered property owners, to remove approximately 68,000 cubic metres and deposit 140,000 cubic metres of soil from 19474 - 16 Avenue (the “Property”). A portion of the Property was the site of a soil extraction many years ago. The proposed extraction is to complete the removal of remaining gravel on the Property, and the proposed filling is intended to return the entire Property to a state similar to its pre-extraction.

The location and general characteristics of the Property are illustrated on the aerial photograph that is attached as Appendix “I” to this report. The Property is currently zoned A-1 and is not within the Agricultural Land Reserve.

The Property along with 19356 - 16 Avenue, 1417 - 194 Street and 19438 - 16 Avenue initially formed Development Application No. 7915-0227-00. The location of these properties is illustrated on the aerial photograph that is attached as Appendix “I” to this report.

Development Application No. 7915-0227-00 is seeking to rezone the properties from A-1 to IL and amend the OCP from Agricultural to Industrial for large vehicle storage and accessory buildings. The properties that are part of the application are within the boundary of the South Campbell Heights Local Area Plan. The South Campbell Heights Local Area Plan includes lands that are outside of the agricultural land reserve and south of the existing Campbell Heights Business Park near the Township of Langley border. The lands are identified as a “Special Study Area” in both the Metro Vancouver Regional Growth Strategy and the Surrey Official Community Plan.

The Soil Policy states that:

No permit application will be considered in relation to any lot for which there is an active rezoning application until the related rezoning by-law has received third reading from Council.

In order for the permit application to be in accordance with the Soil Policy, the Property was deleted from Development Application No. 7915-0227-00 on March 16, 2016. As the Property has been removed from the Development Application, the permit application is now in accordance with the Soil Policy and staff are able to consider the soil extraction and deposition permit.

Section 6 of the Soil Bylaw relates to soil extraction operations involving more than 1,000 cubic metres of soil removal. It states:

The City Council may, in consideration of an application, or through its initiative, designate, by by-law, lots within the City as soil removal areas for significant extraction operations from which soil may be removed; provided however that a by-law shall not be adopted until:

a. the City Council has held a public hearing thereon, and the provisions of Division 4 of Part 26 of the Local Government Act, R.S.B.C. 1996, c. 323, as amended, have been applied to the public hearing requires that, prior to designating any land(s) within Surrey for soil removal, City Council must hold a public hearing.

Section 13 of the Soil Bylaw requires the permit holder to submit to the City a royalty fee of \$0.57 per cubic metre of soil extracted. The funds are intended to cover repair costs for roads, drainage, and other City infrastructure that may be impacted by the soil removal and deposit operation in the general vicinity.

At present, the royalty fee of \$0.57 per cubic metre of soil extracted is applicable; however, the City for a number of years has sought to increase this fee to \$1.10 per cubic metre of soil extracted as the current royalty does not adequately cover repair costs for roads, drainage, and other City infrastructure that may be impacted by the soil removal and deposit operation in the general vicinity.

The property at 19438 - 16 Avenue, which is currently part of Development Application No. 7915-0227-00, has an active permit to extract gravel and deposit soil. At the Council Regular Council meeting of February 28, 2011, Council received and supported the recommendations of Corporate Report R032; 2011 entitled *Application to Remove and Deposit Soil at 19438 - 16 Avenue - Surrey Soil Removal Area Designation By-law, 2010, No. 17214*. Following various permitting requirements, a soil extraction and deposition permit was subsequently issued on October 29, 2013.

As of May 2016, the extraction and deposition at 19438 - 16 Avenue is approximately 40 to 50% complete. The total permitted extraction and corresponding deposition at 19438 - 16 Avenue is approximately 179,000 cubic metres and the operator is currently permitted to operate until October 2018. Based on current extraction and deposition rates, staff believe that the site will be completed before their permit expires.

DISCUSSION

The applicant has advised that the Property is currently under-utilized due to the steeply sloping topography that was left after the historical gravel extraction activities on the site. Staff are satisfied that continued extracting and subsequent filling of the Property is appropriate in relation to supporting the lot for the proposed future agricultural opportunities. If the permit is allowed, the applicant will be required to reclaim the site for agricultural purposes.

The proposed soil extracting is confined to the northern portion of the Property. The proposed soil deposition is over the northern half of the Property. The Property is bounded to the north by 16 Avenue, and is bounded to the south, east and west by other similarly zoned properties.

The Property is approximately 5.98 hectares (14.77 acres) in area. The footprint of the proposed soil extraction area is approximately 1.5 hectares (3.7 acres) in area and is outlined in yellow on the aerial photo attached as Appendix "I" to this report. The footprint of the proposed soil deposition area is approximately 3.5 hectares (8.6 acres) in area and is outlined in blue on the aerial photo attached as Appendix "I" to this report.

In accordance with the Soil Policy, the applicant held a public information meeting on February 3, 2015 at the Semiahmoo Fish and Game Club. Approximately 30 interested residents attended the open house. City staff were present to hear comments from the public regarding the proposal. Most attendees were not opposed to the fill operation. Areas of potential concern were related to increased truck traffic, road safety, impact to local wells and to a lesser degree noise and dust.

While the applicant that held the public information meeting in 2015 is the same applicant that is seeking to advance on the application at this time, the ownership of the property has changed. Although the ownership has changed, the scope of the permit application is the same as it was at the time of the public information meeting in 2015. This change in ownership contributed to the delay in advancing this application shortly after the public information meeting in 2015.

Staff have reviewed the application and have determined that it satisfies the requirements of the Soil Bylaw and the Soil Policy, and that it may be possible to implement mitigation measures to address anticipated impacts of the operation on the neighbouring properties and those identified during the public information meeting. A summary of the staff analysis of the application is documented in Appendix "II".

Based on the Soil Bylaw, the next step in the consideration process in relation to the subject application is a Public Hearing. Subject to Council determining that it is appropriate for the application to proceed to Public Hearing and following the Public Hearing, staff would prepare and forward to Council for consideration a Corporate Report that documents the concerns that are raised at the Public Hearing and other concerns about which staff are aware and that recommends conditions that should be attached to the soil deposit permit if Council views the issuance of such a permit as being appropriate.

After the Public Hearing, if Council sees merit in advancing the application, the required Bylaw related to the extraction portion of the applicant could then be given Third Reading. After Third Reading, the Bylaw would be forwarded to the Ministry of Energy, Mines and Petroleum Resources for that Department's consideration of approval.

Once the City receives approval from the Ministry of Energy and Mines, the Bylaw would be brought forward to Council for final consideration.

Considerations

Staff have reviewed the application and have determined that it satisfies the requirements of the Soil Bylaw and the Soil Policy; however, staff do have a number of concerns with the proposed application as they relate to the Soil Policy, community impacts and cost recovery.

Soil Policy

The Soil Policy stipulates that no permit application will be considered in relation to any lot for which there is an active rezoning application until the related rezoning bylaw has received Third Reading from Council. The Soil Policy does not consider the scenario when a lot is removed from an active rezoning application and a permit application is subsequently received. Furthermore, the Soil Policy does not consider the scenario that following the removal of a lot from an active rezoning application, the receipt of a permit application and the subsequent issuance of a permit, an amendment is made to return the lot to an active rezoning application. This lack of consideration for these scenarios is a gap with the current Soil Policy.

The *Surrey Tree Protection Bylaw, 2006 No. 16100*, requires that the lot where any tree is to be cut to support agricultural use is not subject to a development application for a period of five years. Specifically, the *Surrey Tree Protection Bylaw* states that where a tree that is proposed to be removed:

"...on a lot within the Agricultural Land Reserve, which is zoned to permit agricultural use and the application is accompanied by a sworn declaration of the owner declaring that the tree is to be cut or removed to permit agricultural use, that the agricultural use cannot be located elsewhere on the lot so as to accommodate the tree, and that the owner agrees in writing that no application for subdivision, rezoning, or development of that lot will be accepted by the City for a period of five (5) years commencing on the date of issuance of the tree cutting permit".

Staff believe there is merit in reviewing and potentially revising the Soil Policy to address the gap identified. Potential revisions to the Soil Policy could include a requirement that as part of any significant soil removal or deposition application that some form of rezoning moratorium is established similar to that included in the *Surrey Tree Protection Bylaw*. Such a requirement could include the owner agreeing in writing that no application for rezoning of their lot will be accepted by the City for a period of five years commencing on the date of issuance of the soil permit.

Community Impacts

Staff are unsure if the cumulative impacts from dust, noise, traffic and impacts to City infrastructure in having two sites operating next to one another for a number of years is in the best interests of the City.

Cost Recovery

The royalty fee of \$0.57 per cubic metre of soil extracted is applicable; however, the City for a number of years has sought to increase this fee to \$1.10 per cubic metre of soil extracted as the current royalty will not adequately cover repair costs for roads, drainage, and other City infrastructure that may be impacted by the proposed soil removal and deposit operation on the Property. Staff will be following up with the Province in the coming weeks in an effort to obtain the required approval for the increase in royalty.

As a result of these concerns, staff recommended that the permit application not be supported and that the permit application be referred back to the applicant. Alternatively, should Council see the merits of the application, staff recommend that Council authorize staff to work with the applicant to resolve the concerns as documented in this report.

SUSTAINABILITY CONSIDERATIONS

There are both local and regional sustainability considerations related to this application. The effects of the application as they relate to the City's Sustainability Charter are listed below:

Negative Impacts

- EC12: Surrey's Agricultural Land Base: The application will result in the temporary loss of agricultural lands; and
- EN12: Enhancement and Protection of Natural Areas, Fish Habitat and Wildlife Habitat: The application will result in the loss of 66 trees.

Positive Impacts

- EN9: Sustainable Land Use Planning and Development Practices: The application will assist in delivering the highest economic use of land.

CONCLUSION

The Engineering Department recommends that Council:

- Receive this report as information;
- The permit application not be supported; and
- The permit application be referred back to the applicant given the concerns as documented in this report.

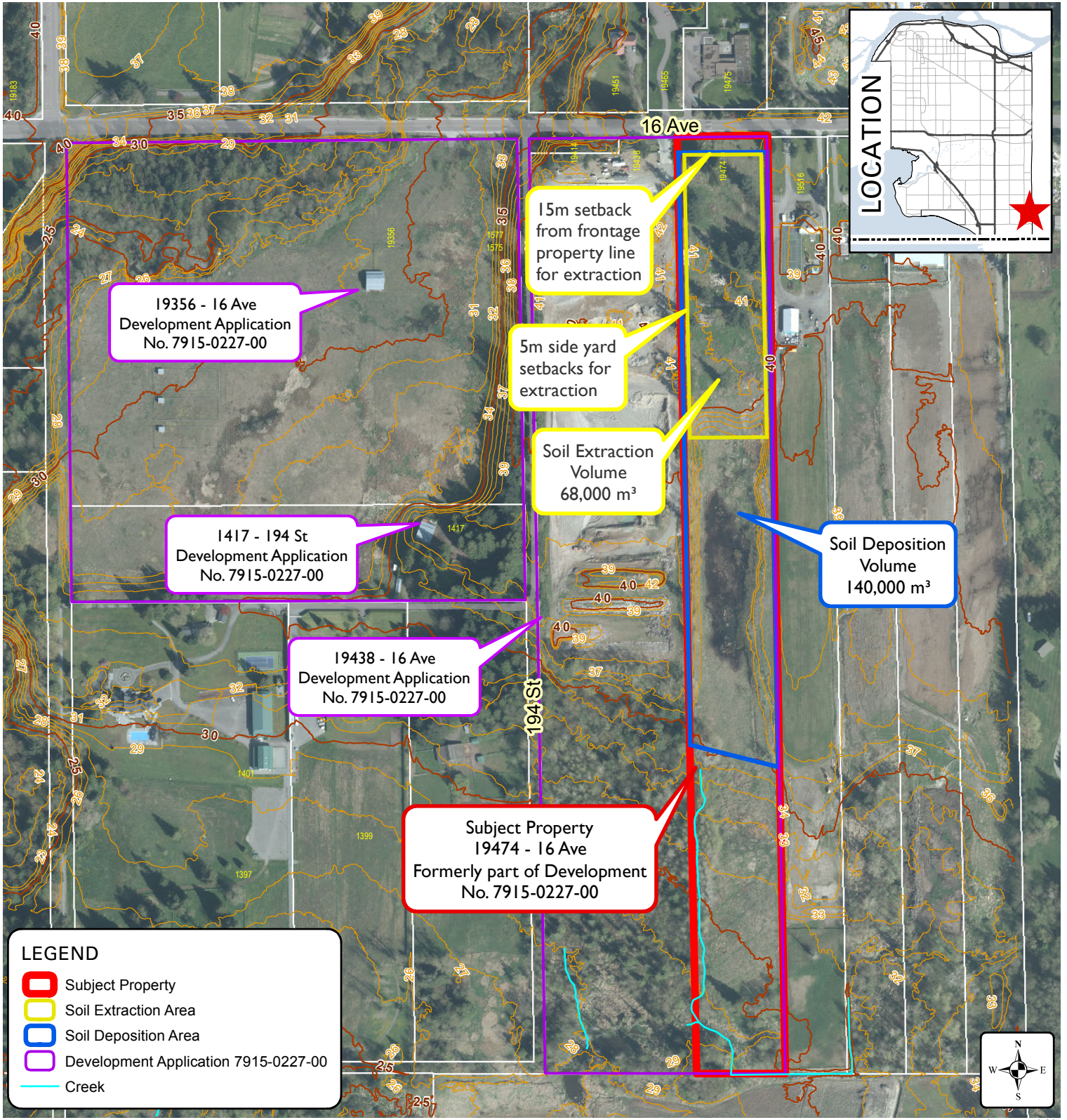
Fraser Smith, P.Eng., MBA
General Manager, Engineering

JA/CAB/LGT/clr

Appendix "I" - Aerial Photograph of Site

Appendix "II" - Summary of the Analysis of the Application to Extract and Deposit Soil on the Property at 19474 - 16 Avenue

AERIAL PHOTOGRAPH OF SITE



Produced by GIS Section: 08-Jun-2016, JJR

Aerial Photo: April 5, 2015

Scale: 1:4,500



SUBJECT PROPERTY
19474 - 16 Avenue

ENGINEERING
DEPARTMENT

The data provided is compiled from various sources and IS NOT warranted as to its accuracy or sufficiency by the City of Surrey.
This information is provided for information and convenience purposes only.
Lot sizes, Legal descriptions and encumbrances must be confirmed at the Land Title Office.

Source: G:\MAPPING\GIS\Maps\CorporateReps\Utility\JJR_19474_16Ave LandFill-AP_v4.mxd

Summary of the Analysis of the Application to Extract and Deposit Soil on the Property at 19474 - 16 Avenue

Applicant and Property Information

Agent: Name: Rajan Dhaliwal
 B&B Contracting Ltd.
 Address: 3077 - 188 Street
 Surrey, B.C.
 V3Z 9V5
 Tel: (604) 861 3200

 Name: Jason York
 B&B Contracting Ltd.
 Address: 3077 - 188 Street
 Surrey, B.C.
 V3Z 9V5
 Tel: (604) 970 3682

Property involved in the Application

Civic Address: 19474 - 16 Avenue
Owner: CH 1 Holdings Ltd., Inc. No. BC1024384
 19342 - 72 Avenue
 Surrey, B.C.
 V4N 1N3

Director Information:
Sukhdev Grewal

PID: 010-911-693
 East 247 Feet Lot "B" Section 10 Township 7
 New Westminster District Plan 3461

Project Scope

B&B Contracting (2012) Ltd. is proposing to extract approximately 68,000 m³ of soil from the site at 19474 - 16 Avenue, as the site contains high quality pit run gravel, which is a valued construction material.

The applicant is proposing to replace extracted soil (as well as previously extracted gravel) soon after extraction with imported soil and a suitable cap of topsoil that will allow the site to be returned to agricultural use. The entire project is expected to be completed in 5 years.

Land Use

The Property is currently zoned General Agricultural (A-1) and is not within the Agricultural Land Reserve. The A-1 Zoning is intended to accommodate agricultural uses on lots of a minimum size of 2 hectares (5 acres) and to protect agricultural land from the intrusion of uses not compatible with farm operations.

The Property is located within the Campbell Heights Special Study Area.

The adjacent property to the west is an active soil extraction and deposition site. At the Council Regular Council meeting of February 28, 2011, Council received and supported the recommendations of Corporate Report R032; 2011 entitled *Application to Remove and Deposit Soil at 19438 - 16 Avenue - Surrey Soil Removal Area Designation By-law, 2010, No. 17214*. Following various permitting requirements, a soil extraction and deposition permit was subsequently issued on October 29, 2013.

As of May 2016, the extraction and deposition of the site is approximately 40 to 50% complete. The total permitted extraction is approximately 179,000 cubic metres at this adjacent site. The site is currently permitted to operate until October 2018. Based on current extraction and deposition progress, staff believe that the site will be completed before this time.

The four adjacent properties to the east have been subject to extraction and deposition operations in the past. Only 19534 - 16 Avenue has a small amount of topsoil reclamation work to be completed.

Consultant Information

The applicant has submitted the following information:

- Engineered Drawings, prepared by Hub Engineering Inc.,
Lot Grading Plan (Fill Plan)
Profile and Cross Sections
Erosion and Sediment Control Notes
Erosion and Sediment Control Plan
- Hydrogeological Investigation Report, prepared by Active Earth Engineering Ltd.
- Agrology Report, prepared by C&F Land Resource Consultants Ltd. (Brian French P.Ag.).
- Traffic Management Plan, prepared by Valley Traffic Systems.
- Tree Evaluation Report, prepared by Mike Fadum and Associates Ltd.

All engineered drawings and reports are signed and sealed by a certified professional, registered in British Columbia.

Drainage Assessment

Surface water features near the site consist of the Little Campbell River, 250 metres to the west of the site and a tributary of the Little Campbell near the south property line.

The Property varies in elevation. The northern half ranges from 42 metres down to 34 metres geodetic (above average sea level) where reclamation will tie into existing grade. The land is naturally graded to the south and overland stormwater flow would drain to a tributary creek of the Little Campbell River system, although most precipitation typically infiltrates in this area.

Staff are continuing to work with the applicant's team to determine the stormwater management requirements for the site.

Erosion and Sediment Control

The applicant has submitted plans outlining the proposed staging of site erosion and sediment control. An ESC permit is required, which will include site monitoring for the duration of the project. Site monitoring is to be continued until the land revegetates after the completion of the filling operation and the ESC measures have been removed.

Hydrogeological Investigation

The applicant's consultant, Active Earth Engineering Ltd. (AE), has completed a hydrogeological investigation of the area. The report includes a groundwater monitoring and management plan, an aggregate extraction plan and a spill management plan for the proposed soil extraction and deposition operation.

The report has identified that underlying the site are two provincially recognized sand and gravel aquifers. One is deep and the other is shallow. The deep aquifer is less vulnerable and better protected from contamination. The shallow aquifer is highly vulnerable to surface contamination due to the very permeable glacial outwash soil deposits. Both aquifers contribute to local drinking and irrigation water. The Brookwood Aquifer is the shallow aquifer (less than 10 metres below existing grade) and it is unconfined (not sealed by an overlying clay or silt layer). According to the Water Protection and Sustainability Department of the Ministry of Environment, the Brookwood Aquifer is a Class 1A aquifer with high demand and moderate production. Given the sensitivity of the site's underlying aquifer and the heavy water demand in this area, it will be crucial that the contractor follow the provided consultant's plans and recommendations (especially in regard to fueling of machinery, etc.) and not excavate deeper than the prescribed 1 metre above high groundwater levels. It will also be crucial that the on-site recharge of the aquifer is maintained as discussed below.

The Hydrogeological Investigation Report lists known nearby water wells. Within a 250 metre radius, 25 water wells were identified, all of which were on the east side of the Little Campbell River and 16 of which are located in the same Brookwood Aquifer. All data and historical records were referenced from the British Columbia Water Resources Atlas (BCWRA) and field tests.

The hydrogeological investigation has recommended a monitoring plan which includes sampling and analysis of 2 of the 6 onsite groundwater monitoring wells (piezometers) within the project area, as well as an adjacent private well in December and September. Previous monitoring of the 6 on-site wells determined the site's high groundwater level, which enabled AE to establish the limit of the excavation.

The Ministry of Energy, Mines and Petroleum Resources will be working with Ministry of Environment as part of their approval process to ensure that the proposed soil extraction and deposition operation will not negatively impact groundwater or wells in the area.

Staff have reviewed the groundwater monitoring and management plan and have concluded that the plan contains appropriate actions to mitigate any impact to groundwater in the area.

Agrology Assessment

An agrologist report has been prepared by C&F Land Resource Consultants Ltd. The report identifies that the future use (post extraction / reclamation) is for farm uses. The intent is to replace soil in the upper strata of the site with similar soils as extracted to achieve similar drainage. The lower strata non-native soil deposited may cause greater subsurface water retention which could enhance the agricultural use on the property. To achieve optimum agricultural production, the consultant suggests stockpiling and reapplying any suitable topsoil onsite and capping the reclaimed area with a total of 0.6 metre granular and a minimum of 0.3 metre topsoil. These recommendations will be included as conditions of the City's Soil Permit.

Traffic Management

A traffic management plan has been undertaken. The plan indicates that all vehicles will ingress and egress from 16 Avenue. A deceleration lane will be required to ease traffic flow and safety concerns and the trucks will be required to proceed left in and left out.

- Total volume (extracted) = 68,000 cubic metres
- Total volume (deposited) = 140,000 cubic metres
- Total volume (extracted and deposited) = 208,000 cubic metres
- Project duration = 3 years
- Annual volume = 70,000 cubic metres per year
- Monthly volume = 5,833 cubic metres per month
- Daily volumes (based on 22 working days per month) = 265 cubic metres per day, which translates to:
 - 44 Tandem dump trucks per day;
 - 26 Truck and pony trailers per day; or
 - 13 semi-trailer dump trucks per day.

Tree Assessment

Currently, the site consists of mature predominantly Douglas Fir trees mostly located near the north, east and west property lines and there is a large intact forested area in the south portion, approximately 40% of the length of the Property. The applicant is proposing to remove 66 trees within range of impact of the extraction area. Several trees along the north and west property lines will remain as a buffer to help isolate the operation from adjoining lots and 16 Avenue. The applicant is to ensure that trees to be retained are watered sufficiently through the extraction and reclamation process so as to ensure their long term survival. Trees to be retained will be protected by tree protection barriers for the duration of the project, similar to development projects and a chain-link fence will be required to isolate the intact forested area to the south from construction equipment.

Gravel Extraction Royalties

The Soil Bylaw requires the permit holder to submit to the City a royalty fee of \$0.57 per cubic metre of soil extracted. The funds are intended to cover repair costs for roads, drainage, and other City infrastructure that may be impacted by the soil removal and deposit operation in the general vicinity. Royalty fees will be submitted to the City on a monthly basis as the monthly survey is completed and a volume determined as per the Soil Removal Designation Bylaw prepared for this extraction. The total amount of royalties collected will be approximately \$48,450 (based on the estimated extraction volume).

In addition to royalties, the permit holder is responsible to repair and remediate any damage to City property immediately fronting or adjacent to the site resulting from the operation.

At present, the royalty fee of \$0.57 per cubic metre of soil extracted is applicable; however, the City for a number of years has sought to increase this fee to \$1.10 per cubic metre of soil extracted as the current royalty does not adequately cover repair costs for roads, drainage, and other City infrastructure that may be impacted by the soil removal and deposit operation in the general vicinity. Staff will be following up with the Province in the coming weeks in an effort to obtain the required approval for the increase in royalty.