Robert W. Scriven
182242 Concession 12 RR3
Ayton, ON, N0G 1C0

-and-

William L. Scriven
182208 Concession 12 RR3
Ayton, ON, N0 1C0

September 25, 2024

**SENT VIA E-MAIL** ***notice@westgrey.com***

West Grey Committee of Adjustment
c/o Mr. David Smith
Manager of Planning and Development
Municipality of West Grey
Municipal Office
402813 Grey Road 4
Durham, ON
N0G 1R0

Dear Members of the Committee of Adjustment.

**Re: 142239 Grey Road 9**
**B21.2024 and B22.2024 and ZA17.2024, Lots 26,27 and 28 Concession 10**
**("Subject Property")**

First off, I wish to thank the Committee of Adjustment "COA") for its careful consideration of this matter. Please accept this letter as a strenuous objection to the above noted Applications, in conjunction with the objection letter from our planner, Scott Patterson of Patterson Planning Consultants Inc.

*HISTORY OF THE PROPERTY*

Our family started farming in Normanby Township in 1971. Over time as a family, we have assembled the 300 acres directly North of the Subject Property. We had good neighbours in the Grien family, the previous owners of the Subject Property.

After Mrs. Edna Grein passed away, we were approached to purchase the Subject Property. The price was $4,000,000.00. Robert was able to secure financing in order to purchase the Subject Property, but it would require a

severance and the sale of the Easterly 100 acres, what is being called the 'Retained Lot". Our plan was to sell said 100 acres to a family friend, then we would rent it back, and retain ownership for the remaining 170 acres. When Robert approached the West Grey Planning department in pre-consultation to see if this single severance were feasible, he was told it was impossible. No exceptions were possible because it was in the aggregate resource area identified in the County Official Plan. Accordingly, we as a family respected that pre-consultation opinion and were thankful for it because it meant that we did not outlay a huge amount of capital only to not be able to implement a plan. We respected it.

As an aside, this resource aggregate area has impacted other development and plans we have had in the past. A vacant lot that our family owned, was part of a former gravel pit, and it was a perfect lot to sub-divide into two or three building lots. Again, we received the opinion from West Grey in pre-consultation that since it was in the aggregate resource area, severances were impossible. Finally, at the property beside where I live at Lot 27, Concession 11, we built a home with my father-in-law so he could move to the area. As severance was not possible, the construction of the home was only permitted through a by-law amendment allowing a second dwelling (for which I am thankful West Grey passed). Again, a severance was not allowed because the property was located within the aggregate resource area.

Furthermore, the Applicants also fail to advise this COA that they purchased the Subject Property knowing of the current situation ***and fully realizing that severances may not be available.*** Registered on title is a Shared Use Agreement not only outlining the correct legal descriptions, but acknowledging that they were purchasing the Subject Property in the hope that severances may be granted. Of particular interest is section 9 which reads:

> The Parties acknowledge that the Severance contemplated herein may never be granted for unforeseen reasons. The Parties intend for the above relationship to continue in the event the Severance is in fact not granted. Therefore this agreement shall run with the land and endure to the benefit of and be binding on the respective heirs, executors, administrators, successors in title and assigns of the Parties.....

Therefore, the Application is not needed. The Applicants purchased the property knowing the current situation and knowing that a severance(s) may not be allowed. They have gone so far as to allow for that contingency. Please see **Schedule A.**

*APPPLICANTS FAIL TO PROVIDE ECONOMIC JUSTIFICATION FOR SEVERED LOT 2, BEING 73 ACRES.*

Despite the promise (and requirement) of an economic justification study for the undersized lot, none has been provided at the time of drafting and submitting this letter. An economic justification is a crucial requirement in determining whether an undersized lot is viable and does not simply fragment agricultural land. We are not dealing with intensive agriculture, a green house, orchard or some other type of farm that lends itself to be on smaller acreage; that is, under 100-acres as called for in the PPS. As outlined in Mr. Patterson's report, if you remove the hazard lands that cannot be farmed, this undersized parcel is well under 50-acres.

Returning to the economic justification; I have run my own numbers. In short, without providing for the expenses of building and maintenance for buildings and equipment (which would be substantial for building a house, barn for 100 cows and an accessory building), nothing for labour and only focussing on bare minimum costs, the shortfall is approximately $104,430.50 a year. I attach my calculations and the sources for the information at **Schedule B**.

Therefore, the only conclusion to draw is that this Applications seek nothing more than to create a glorified estate lot. Put another way, if it was not the Applicants, but a non-farmer, who bought the Subject Property and wanted this severance to build a house, but provided no economic justification (or the justification that I have completed at Schedule "A"), would this COA and/or Council approve it? Definitely not.

We also have the slippery slope of future requests for on farm diversified uses. If the owners are going to be losing $98,150.50 per year, how do they make up the shortfall? By establishing a welding shop, or some other business. Therefore, you have simply removed agricultural land from being productive and profitable as a farm and making it nothing more then an industrial site.

*ISSUES RAISED IN THE LOFT PLANNING REPORT ("Loft Report")*

I defer entirely to Mr. Patterson in his objection letter and critique on the planning considerations. In my humble opinion, the fact that the aggregate resource area is not addressed is determinative of the matter and tells you everything you need to know about the quality and reliance that this COA should place in the Loft Report.

The only specific comment I will make on the Loft Report is in response to the assertion by Ms. Loft pertaining to hazard lands. Ms. Loft writes "a portion of the Subject Lands are designated hazards: however, these lands are not impacted

by the proposed consent. ***There are no negative impacts to natural heritage features anticipated".*** [1]

Nothing could be further from the truth.

It is insulting that Ms. Loft obfuscates in the following section that "and as noted above, SVCA has completed a site visit and reviewed the proposal finding that they can support the development proposal". Ms. Loft's reference above was pertaining to an entrance, nothing more. Be that as it may, within one year of owning the property, significant impact and damage to hazard lands and heritage features have been caused by the Applicants on the Subject Property.

No respect for the natural features has been observed. Attached hereto at **Schedule C** are a series of photos taken by the writer as well as the neighbours to the East of the Subject Property, Mandy and Blair Wright from our respective properties. With regard to the retained lot, it once had a significant spring fed trout creek, that now appears to be destroyed. In the Spring of 2024, because of the manner in which the work was completed, significant flooding and destruction occurred, not only on the Subject Property, but neighbouring properties. On top of the development and flooding, significant tree damage has occured at the hands of the Applicants. What is interesting is that two drainage outlets (that we know of) to Skunk Creek were placed as close as possible to our lot line when other available outlets existed. No discussion, no concern, and certainly no regard for natural or heritage features.

*CRITIQUE OF BEACON ENVIRONMENTAL AGRICULTURAL ASSESMENT*

I have one single point to make with regard to the response to the Agricultural Assessment. It is 42 pages of, with the greatest respect, complete nonsense.

The report goes to great lengths to discuss the Canadian Land Inventory, soil types, heat units, and the particulars of the Subject property. However, there is absolutely no justification, opinion, and most importantly **evidence** supporting what the Agricultural Assessment purports to confirm, that an undersized lot is supportable in the circumstances.

An easy example is with regard to traffic. The bald statement of "Due to the location and intensity of the existing farm operations and the location of the proposed lots, future farm traffic will likely not be affected". How can this statement be made? No traffic studies, no evidence, and no analysis is offered (remember that the Subject Property fronts onto a County Road). This type of reasoning is a hallmark within the report. Bald statements with no support or evidence.

---

[1] Loft Planning Report, Section 7.2, page 7.

The report also discusses the proposed operations as being consistent with the use in the area but offers no comparatives. This is a knowledgeable COA – how many 100 cow operations exist on 100 acres? How many on 72 acres? The answer is none.

As stated, our family has farmed in the area since 1971 and we were the only cow calf operation in the area of approximately 100 cows, peaking to 120 cows prior to the mad cow outbreak in 2003. We did so utilizing a land base of approximately 500 acres of owned and rented land.

These Applications propose three such operations on only 270 acres.[2] What the Applicants are trying to pull on this COA is astonishing - fragment farmland, without economic or planning justification.

Again, our family thanks this COA for its consideration of our concerns and asks only one thing – have the confidence to make the correct decision in denying these Applications.

Yours very truly,

Robert W. Scriven - and- William L. Scriven

*Enclosure*

[2] What is astonishing is that in the Loft Report, it cites the proposed Agricultural Operations for the "Consent Lot 1" and "Consent Lot 2" as only "horses for transportation purposes and possible small livestock for personal use", see page 8. Yet, in the Agricultural Report, there will be a total of 335 beef cows on the new lots. The Applicants do not even have their livestock numbers correct or consistent in their own reports.

# SCHEDULE A

**Land Titles Act**
**Application to register Notice of an unregistered estate, right, interest or equity**
**Section 71 of the Act**

To: The Land Registrar for the Land Titles Division of Grey (16) at Ayton

I, RYAN BAGNELL, am solicitor for Mervin Martin, Elvin Wideman Brubacher and Stuart Wideman Brubacher

I confirm that the applicants are the registered owners, and I confirm that this document effects an interest in that land.

The lands:

**PIN 37296-0103 LT** - PT LT 26-27 CON 10 NORMANBY AS IN GS36602 EXCEPT PT 2 EXPROP PL GS53524; WEST GREY registered in the name of **Mervin Martin, Elvin Wideman Brubacher and Stuart Wideman Brubacher**

**PIN 37296-0101 LT** - E 1/2 OF S 1/2 LT 27 CON 10 NORMANBY EXCEPT PT 6 EXPROP PL GS53524; WEST GREY registered in the name of **Mervin Martin, Elvin Wideman Brubacher and Stuart Wideman Brubacher**

**PIN 37296-0100 LT** - PT LT 28 CON 10 NORMANBY AS IN GS152255; WEST GREY registered in the name of **Mervin Martin, Elvin Wideman Brubacher and Stuart Wideman Brubacher**

and I hereby apply under Section 71 of the Land Titles Act for the entry of a Notice in the register for the said parcels.

I hereby authorize the Land Registrar to delete the entry of this Notice from the said parcel register without notice or application:

~~(a) on or after the date~~

~~(b) after ..... years from the date of registration of this Notice.~~

~~(c) upon the deletion of the following registered document(s):~~

~~(d) with the consent of the following party / parties:~~

This notice will be effective for an indeterminate time.

The address for service of the applicants is:

Mervin Martin – 4889 Line 80, Listowel ON N4W 3G9

Elvin Wideman Brubacher – 5068 Line 82, Listowel ON N4W 3G9

Stuart Wideman Brubacher – 7506 Perth Rd 121, Newton ON N0K

Dated December 6, 2023

Signature of the solicitor for the applicants

**SHARED USE AGREEMENT**

**THIS AGREEMENT** made this 6 day of December, 2023.

**B E T W E E N:**

**MERVIN MARTIN**
HEREINAFTER CALLED ('MERVIN')
OF THE FIRST PART

**- and -**

**STUART BRUBACHER**
HEREINAFTER CALLED ('STUART')
OF THE SECOND PART

**- and -**

**ELVIN BRUBACHER**
HEREINAFTER CALLED ('ELVIN')
OF THE THIRD PART

**WHEREAS** The Parties entered into an Agreement of Purchase and sale dated September 13, 2023 (the 'Agreement') for the purchase of the properties legally described as follows:

PT LT 26-27 CON 10 NORMANBY AS IN GS36602 EXCEPT PT 2 EXPROP PL GS53524; WEST GREY and municipally known as 142239 Grey Road 9, Ayton being all of PIN 37296-0103 LT;

E1/2 OF S1/2 LT 27 CON 10 NORMANBY EXCEPT PT 6 EXPROP PL GS53524; WEST GREY being all of PIN 37296-0101 LT, and

PT LT 28 CON 10 NORMANBY AS IN GS152255; WEST GREY being all of PIN 37296-0100 LT.

**AND WHEREAS** it is the intent of the Parties to sever the Property into the three (3) original PINs, or so close as is practically possible (the 'Severance') and to transfer the severed and retained parcels as set out on Schedule A attached hereto, as follows:

| | |
|---|---|
| MERVIN | Property 1 |
| STUART | Property 2 |
| ELVIN | Property 3 |

**AND WHEREAS** The Parties acknowledge that the Severance will not be completed by the date of closing as contemplated in the Agreement;

**AND WHEREAS** the Parties wish, by this Agreement, to set out the terms and conditions for which they will operate the Property until such time as the Severance is granted and the lots transferred as per the above;

**IN CONSIDERATION** of the premises and the sum of $1.00 dollar paid by the Parties, the Parties agree as follows:

1. Notwithstanding the title registration of the deed, and until the Severance is granted, the Parties will each own the beneficial interest in the Properties opposite their name below:

| | |
|---|---|
| MERVIN | Property 1 |
| STUART | Property 2 |
| ELVIN | Property 3 |

For greater certainty, that in consideration of the mutual terms and conditions herein contained, the Parties hereto agree as follows:

1. Mervin is holding Property 2 in Trust for Stuart.
   Mervin is holding Property 3 in Trust for Elvin.

   Stuart is holding Property 1 in Trust for Mervin.
   Stuart is holding Property 3 in trust for Elvin.

   Elvin is holding Property 1 in Trust for Mervin.
   Elvin is holding Property 2 in Trust for Stuart.

2. Mervin is responsible for all expenses for Property 1 and indemnifies Stuart and Elvin from all claims as they relate to Property 1.

   Stuart is responsible for all expenses for Property 2 and indemnifies Mervin and Elvin from all claims as they relate to Property 2.

   Elvin is responsible for all expenses for Property 3 and indemnifies Stuart and Mervin from all claims as they relate to Property 3.

3. Stuart and Elvin will not convey and will act on any direction from Mervin as it relates to Property 1.

   Mervin and Elvin will not convey and will act on any direction from Stuart as it relates to Property 2.

   Mervin and Stuart will not convey and will act on any direction from Elvin as it relates to Property 3.

2. The percentage of the purchase price and closing costs that is to be attributed to each Property is as follows:

| | |
|---|---|
| Property 1 | 46.25% |
| Property 2 | 18.75% |
| Property 3 | 35.00% |

3. Each Party has contributed to the purchase price and closing costs in an amount equal to their percentage of ownership as set out above and each Party holds legal title as tenants in common in the same percentage. The Parties confirm that no mortgage is being registered on the Property.

4. The Parties acknowledge that the real property taxes for the subject Property are comprised of two tax bills: one for CON 10 PT LOT 28 ('Tax Bill 1') and one for CON 10 PT LOT 26 PT LOT 27 ('Tax Bill 2'). The Parties agree that Elvin will be responsible for any and all taxes, or other debentures appearing on the tax bill, as they relate to Tax Bill 1. Mervin and Stuart agree to split the cost of any and all taxes or other debentures as they relate to Tax Bill 2 at the following percentages:

| | |
|---|---|
| MERVIN | 71.15% |
| STUART | 28.85% |

5. Should one of the Parties default on any of the following, they will indemnify and save harmless the Parties of the other two parts from any and all claims or demands whatsoever:

a. That Parties portion of the property taxes;
b. Any public liability that occurred on one Parties Property;
c. Any encumbrance that arises on the Property, either by operation of the *Construction Act*, R.S.O. 1990, c. C.30, or other;
d. Any other act or omission that is capable of forming a lien on the Property.

6. If one Party requires access to the others Parties Property for the purposes of carrying out any work, whether required by governmental authority or otherwise, that Party will consent to granting such access on reasonable terms, including time and duration. If any one Party causes damage to the other Party's Property then that Party will restore the lands as close to their original condition as possible and compensate any Party for any loss incurred by that said Party.

7. If one of the Parties wishes to sell their interest in the Property, then the following procedure shall be followed:

a. The Parties will ascertain the then current fair market value of the Property. For greater certainty a letter of opinion from a qualified realtor will be sufficient for these purposes;
b. The Parties will agree as to an allocation of the fair market value as between the Properties. If the Parties cannot agree to a reasonable allocation they will use the dispute resolution mechanism of this Agreement contained in s.8 below;
c. Upon ascertation of the fair market value and allocation between Properties, the Party wishing to sell shall offer their interest first to the other Parties at the said Fair Market Value in equal proportion to their then current ownership interest;
d. The Parties receiving the said offer shall have fifteen (15) business days to confirm their intention to proceed with the purchase. For greater certainty if one (1) Party does not wish to proceed with the Purchase, the other Party may proceed to purchase the entirety of the departing Party's interest;
e. Should both Parties refuse to purchase the departing Party's interest, the departing Party shall be at liberty to attempt to sell their ownership interest to a third party, and the Parties of the other two Parts agree to cooperate in executing all documents necessary to facilitate same;
f. If the departing Party cannot find a third party purchaser, the relationship between the Parties shall continue and this Agreement shall continue in full force and effect.

8. All disputes and questions whatsoever which shall arise between any of the Parties in connection with this Agreement, or the construction or application thereof or any section or thing contained in this Agreement or as to any act, deed or omission or any party or as to any other matter in any way relating to this Agreement, shall be resolved by mediation, if possible, using the best efforts of the parties of the First, Second and Third Parts hereto. Such mediation shall be conducted by a single mediator.

The mediator shall be appointed by agreement between the Parties or, in default of such agreement, such mediator shall be appointed by a Judge of the Superior Court upon the application of any of the Parties.

The procedure to be followed shall be agreed to by the Parties or, in default of such agreement, determined by the mediator.

Should the parties be unable to settle their disputes through mediation, nothing in this Agreement shall be interpreted to prevent either Party from pursuing the resolution of such a dispute through the use of arbitration or litigation.

9. The Parties acknowledge that the Severance contemplated herein may never be granted for unforeseen reasons. The Parties intend for the above relationship to continue in the event the Severance is in fact not granted. Therefore this agreement shall

run with the land and enure to the benefit of and be binding on the respective heirs, executors, administrators, successors in title, and assigns of the Parties. Further, upon the granting of the Severance and the issuance of the Certificate of Official the Parties agree to cooperate in executing any and all documents, and taking all steps necessary, to give effect to the transfer of ownership as set out above.

10. The Parties acknowledge that Notice of this agreement shall be registered on title to the Property.

**IN WITNESS WHEREOF** the parties have executed this agreement the day, month and year first written above.

**Signed, sealed and delivered**
in the presence of:

DATE: December 1, 2023

WITNESS

MERVIN MARTIN

DATE: December 1, 2023

WITNESS

STUART BRUBACHER

DATE: December 1, 2023

WITNESS

ELVIN BRUBACHER

Robert W. Scriven
182242 Concession 12 RR3
Ayton, ON, N0G 1C0

-and-

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September 27, 2024

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Robert W. Scriven - and- William L. Scriven

*Enclosure*

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The following calculations are premised on the Applicant's own assertions of 100 beef cows. Based on their minimum distance setback calculations, they should only have 50 cows, because those cows will calve and hence provide the 100 "cows of all types". This minimum distance setback does not provide for finished cattle, so I am assuming it is going to be a cow calf operation. If we take our calculations at 100 cows and sell calves at an aggressive (hence favorable) weaning weight for calves, the loss per year still amounts to $104, 430.50

| | |
|---|---|
| 1. Land | The entire parcel was purchased for $4,000,000.00. With the smallest of the severed lots being approximately 72 acres, that works out to be a Pro rata share of $14,680.00 equals a purchase price of approximately $1,070,000.00. At 5.44% (extremely favorable in this context, but assuming favorable terms given leveraging of equity which is common in farm families) results in interest only of $58,208.00 per year. This does not include financing of Land Transfer Tax of approximately $24,020.83. |
| 2. Cow Purchase | I took the last four years of bred cow prices to come to a conservative estimate of $3,500.00 per bred cow. Currently it is much higher, but again, to use the most favorable numbers possible I use $3,500.00. A herd of 100 cows is going to require three bulls at $6,000.00 each. Collectively, the capital investment for 100 cow herd is $368,000.00. Amortize it over ten years, interest free, results in $36,800.00 per year. |
| 3. Feed Costs | The stated intention of the Applicants is to simply grow corn year over year. While it is open to feed straight corn sileage to cows, any self respecting farmer will tell you that is not advisable for bred cows, so I simply used a hay and mineral based diet to come up with an annual feed cost. Again, the feed costs are conservative at 30 pounds of hay per cow per day and hay at $85.00 per bale for a 900-pound bale. In recent years I have been |

| | |
|---|---|
| | marketing good quality hay at $100.00 per bale. Again, everything we have done in these calculations is to be favorable to the Applicants and not "cook the books". The above calculations have been drawn utilizing the Beef Farmer of Ontario excel spreadsheet, attached. Feed cost is $126,860.00 other costs total $8,015.00. |
| 4. Revenue | In terms of revenue, I have utilized the average price of steers and heifers for the last eight years from the Beef Farmers of Ontario website from steers at 650lbs and heifers at 550lbs. I have provided a very low mortality rate and extremely high pregnancy rate. Again, being as favorable as possible to the Applicants.<br><br>This creates a gross revenue of $116,452.50<br><br>Since they are purchasing hay, they have their entire corn crop to market. Based on an aggressive yield of 175 bushels per acre and the average four-year price of corn from Grain Farmers on Ontario that revenue is $56,907.00 based on 45 acres. Why 45? If they are going to only use the land for corn, you are going to have 100 cows and calves in a yard all year round. Animal welfare considerations aside, you are going to need at least 10 acres for that yard, building site, etc.<br><br>All that being said, remember that $56,907.00 is gross before you buy the seed, fertilizer, combine, etc, etc. I know for financing purposes banks provide the upmost profit per acre at $200.00 per acre. Thus crop revenue is $9,000.00<br><br>Accordingly, the arithmetic is as follows:<br><br>Revenue: Cattle - $116,452.50<br>Corn - $9,000.00<br><br>Expenses: Interest- $58,208.00<br>Feed & Other - $134,875.00 |

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| | Cow purchase - $36,800.00<br><br>Annual Loss: $104, 430.50 |

Schedule 'B'

# SCHEDULE B

The following calculations are premised on the Applicant's own assertions of 100 beef cows. Based on their minimum distance setback calculations, they should only have 50 cows, because those cows will calve and hence provide the 100 "cows of all types". This minimum distance setback does not provide for finished cattle, so I am assuming it is going to be a cow calf operation. If we take our calculations at 100 cows and sell calves at an aggressive (hence favorable) weaning weight for calves, the loss per year still amounts to $104, 430.50

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| 1. Land | The entire parcel was purchased for $4,000,000.00. With the retained lot being approximately 72 acres, that works out to be a Pro rata share of $14,680.00 equals a purchase price of approximately $1,070,000.00. At 5.44% (extremely favorable in this context, but assuming favorable terms given leveraging of equity which is common in farm families) results in interest only of $58,208.00 per year. This does not include financing of Land Transfer Tax of approximately $24,020.83. |
| 2. Cow Purchase | I took the last four years of bred cow prices to come to a conservative estimate of $3,500.00 per bred cow. Currently it is much higher, but again, to use the most favorable numbers possible I use $3,500.00. A herd of 100 cows is going to require three bulls at $6,000.00 each. Collectively, the capital investment for 100 cow herd is $368,000.00. Amortize it over ten years, interest free, results in $36,800.00 per year. |
| 3. Feed Costs | The stated intention of the Applicants is to simply grow corn year over year. While it is open to feed straight corn sileage to cows, and self respecting farmer will tell you that is not advisable for bred cows, so I simply used a hay and mineral based diet to come up with an annual feed cost. Again, the feed costs are conservative at 30 pounds of hay per cow per day and hay at $85.00 per bale for a 900-pound bale. In recent years I have been marketing good quality hay at $100.00 per bale. Again, everything I have done in these |

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| | calculations is to be favorable to the Applicants and not "cook the books". The above calculations have been drawn utilizing the Beef Farmer of Ontario excel spreadsheet, attached. Feed cost is $126,860.00 other costs total $8,015.00. |
| 4. Revenue | In terms of revenue, I have utilized the average price of steers and heifers for the last eight years from the Beef Farmers of Ontario website from steers at 650lbs and heifers at 550lbs. I have provided a very low mortality rate and extremely high pregnancy rate. Again, being as favorable as possible to Applicants.<br><br>This creates a gross revenue of $116,452.50<br><br>Since they are purchasing hay, they have their entire corn crop to market. Based on an aggressive yield of 175 bushels per acre and the average four-year price of corn from Grain Farmers on Ontario that revenue is $56,907.00 based on 45 acres. Why 45? If they are going to only use the land for corn, you are going to have 100 cows and calves in a yard all year round. Animal welfare considerations aside, you are going to need at least 10 acres for that yard, building site, etc.<br><br>All that being said, remember that $56,907.00 is gross before you buy the seed, fertilizer, combine, etc, etc. I know for financing purposes banks provide the upmost profit per acre at $200.00 per acre. Thus crop revenue is $9,000.00<br><br>Accordingly, the arithmetic is as follows:<br><br>Revenue: Cattle - $116,452.50<br>Corn - $9,000.00<br><br>Expenses: Interest- $58,208.00<br>Feed & Other - $134,875.00<br>Cow purchase - $36,800.00 |

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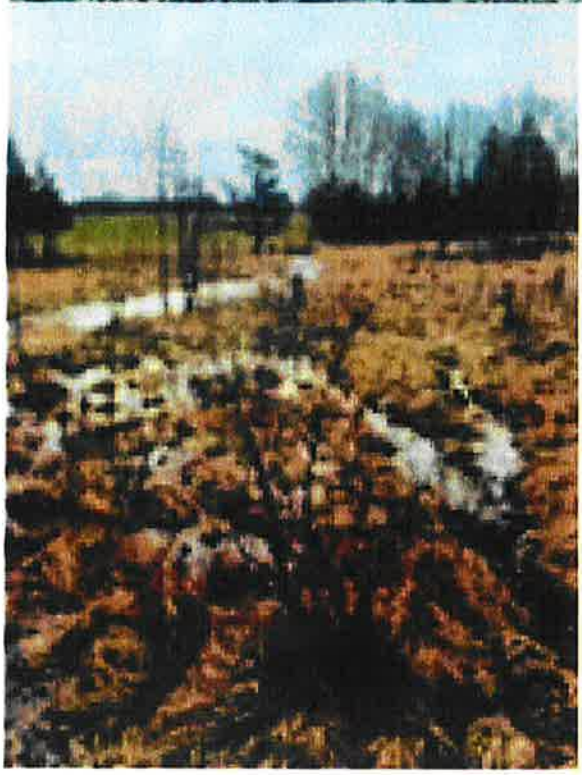
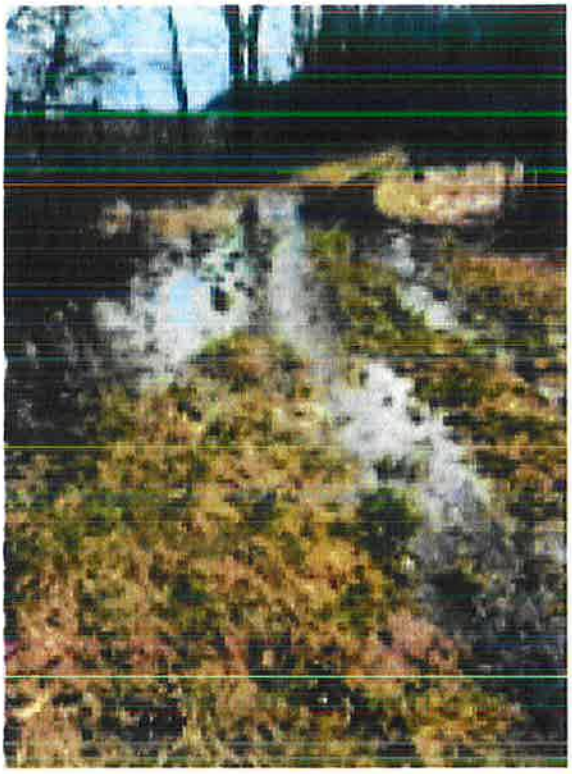
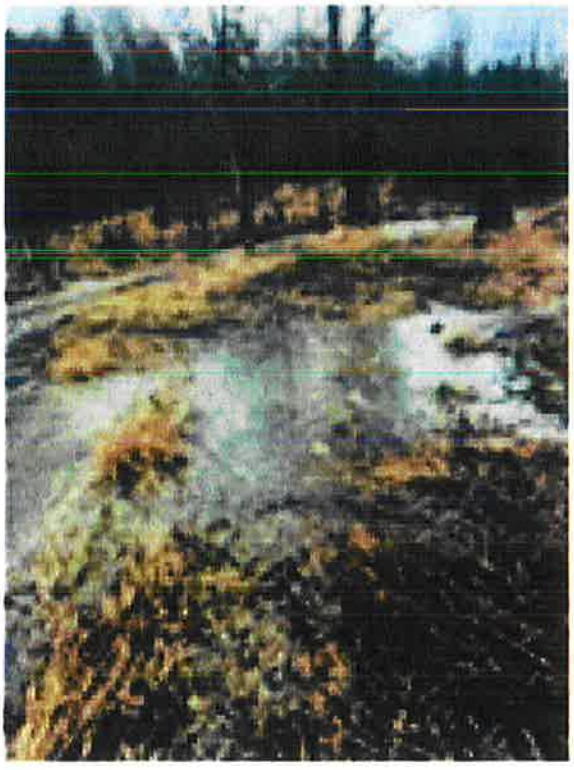
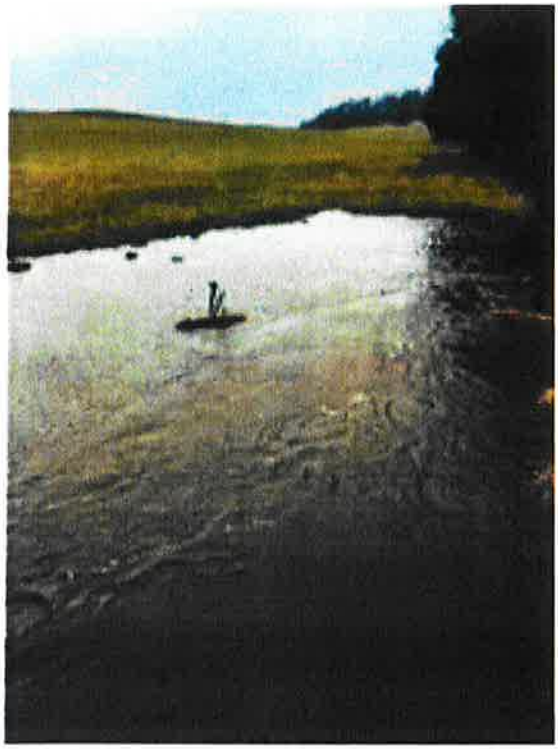
| | Annual Loss: $104, 430.50 |

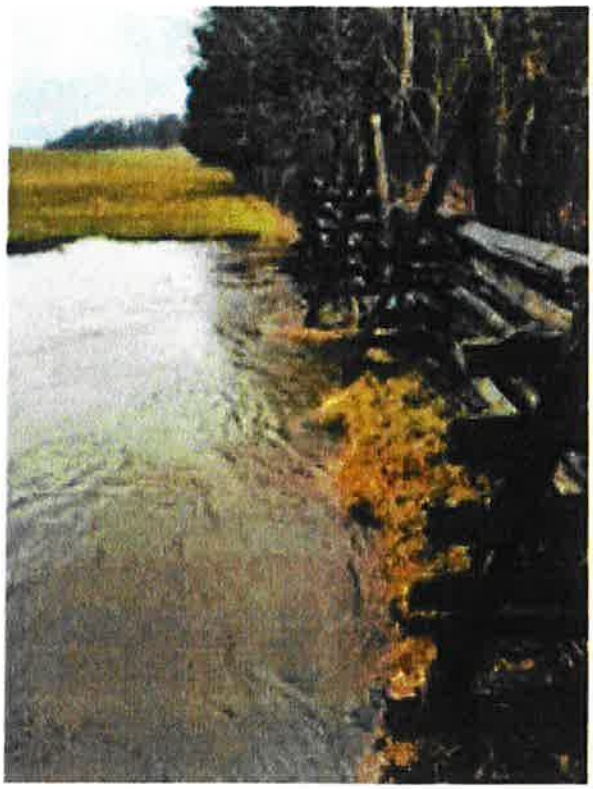
# SCHEDULE C

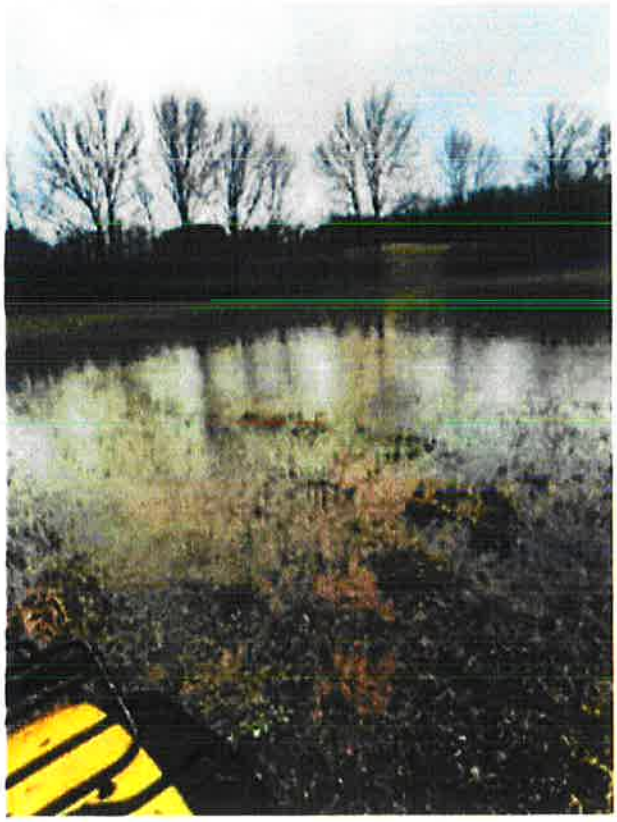


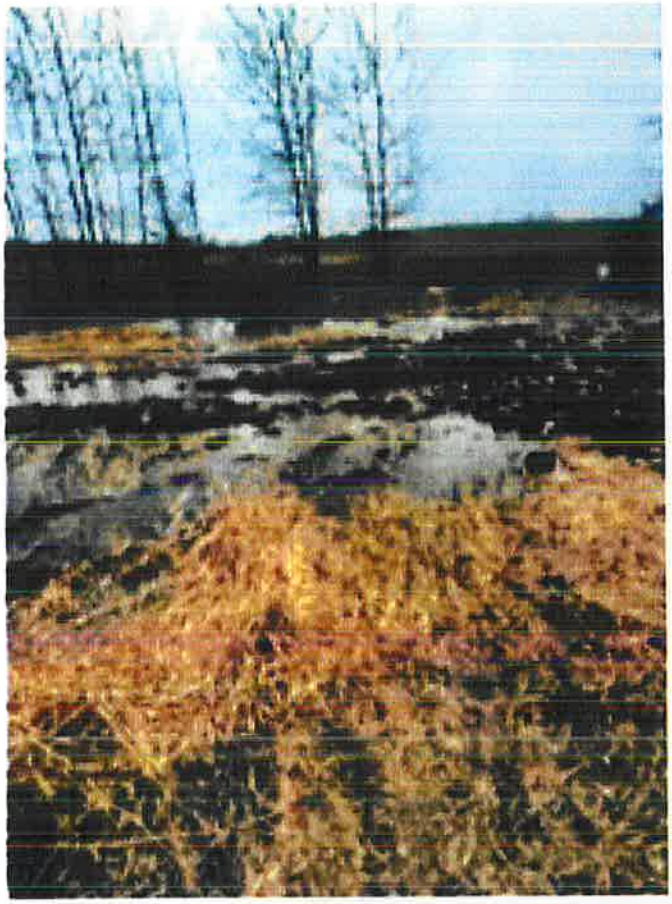


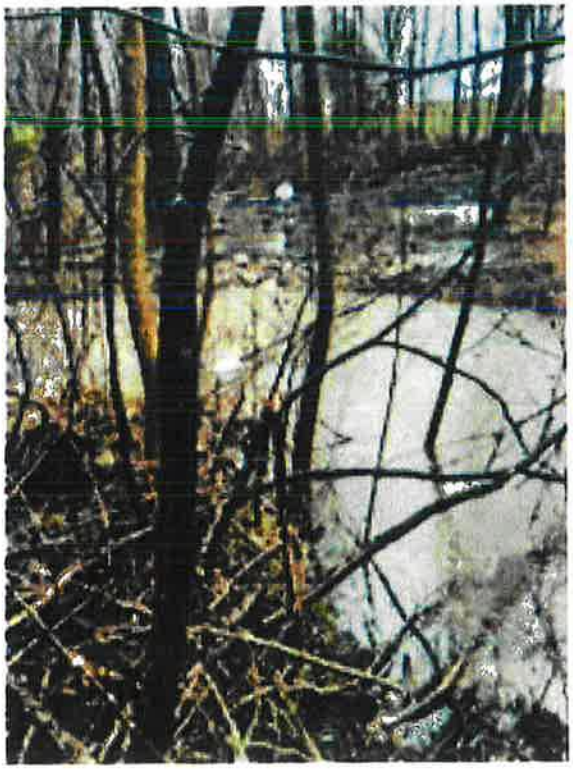


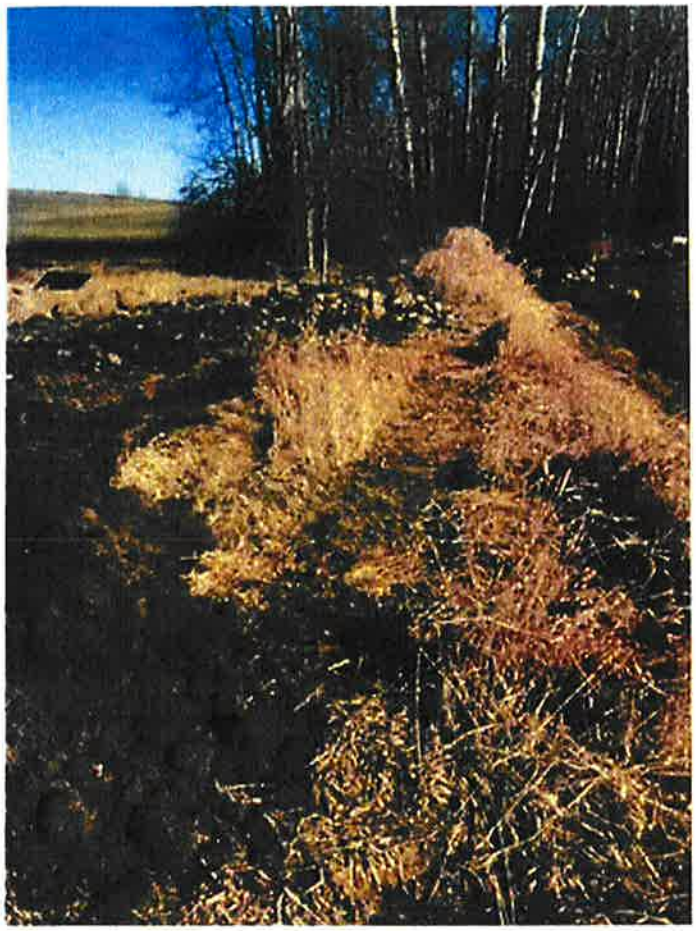


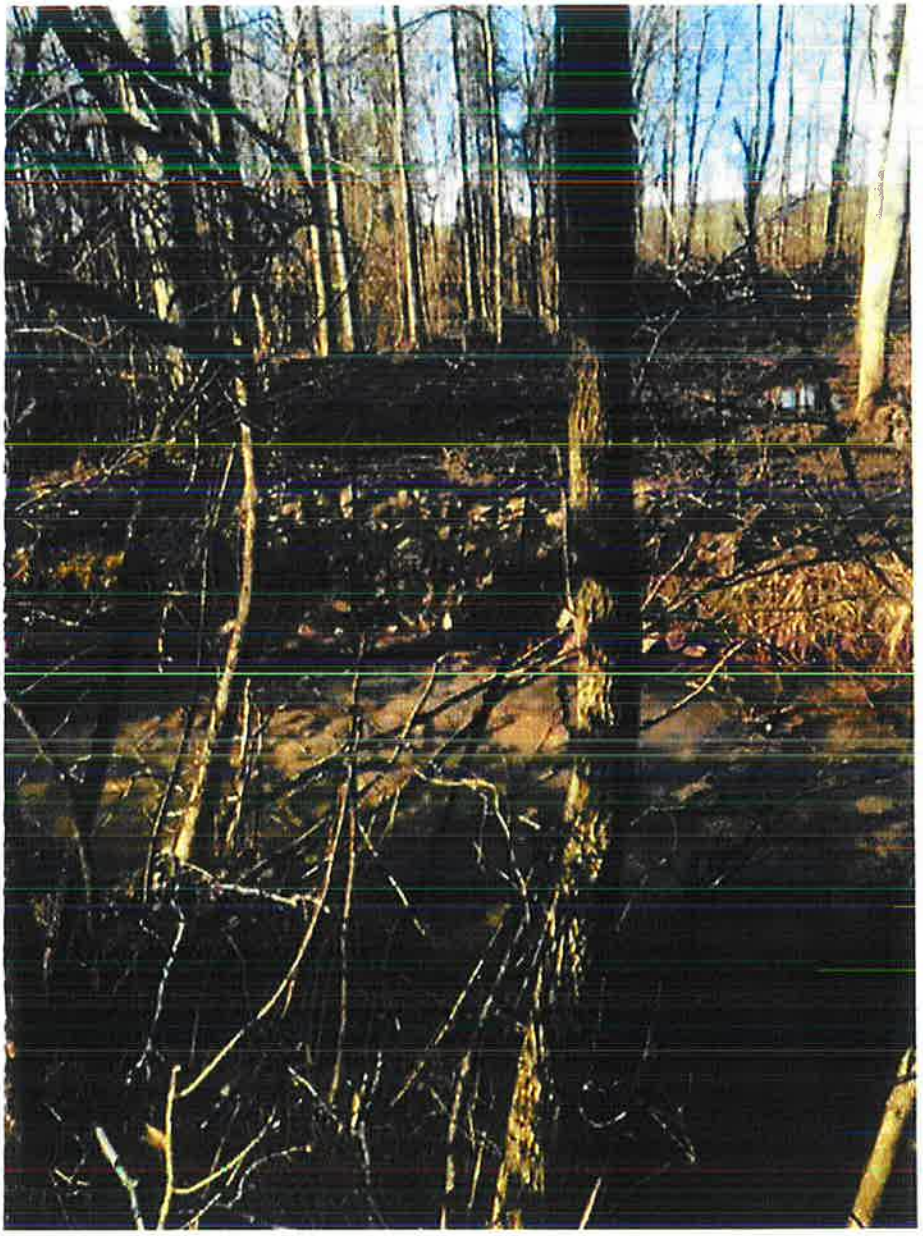


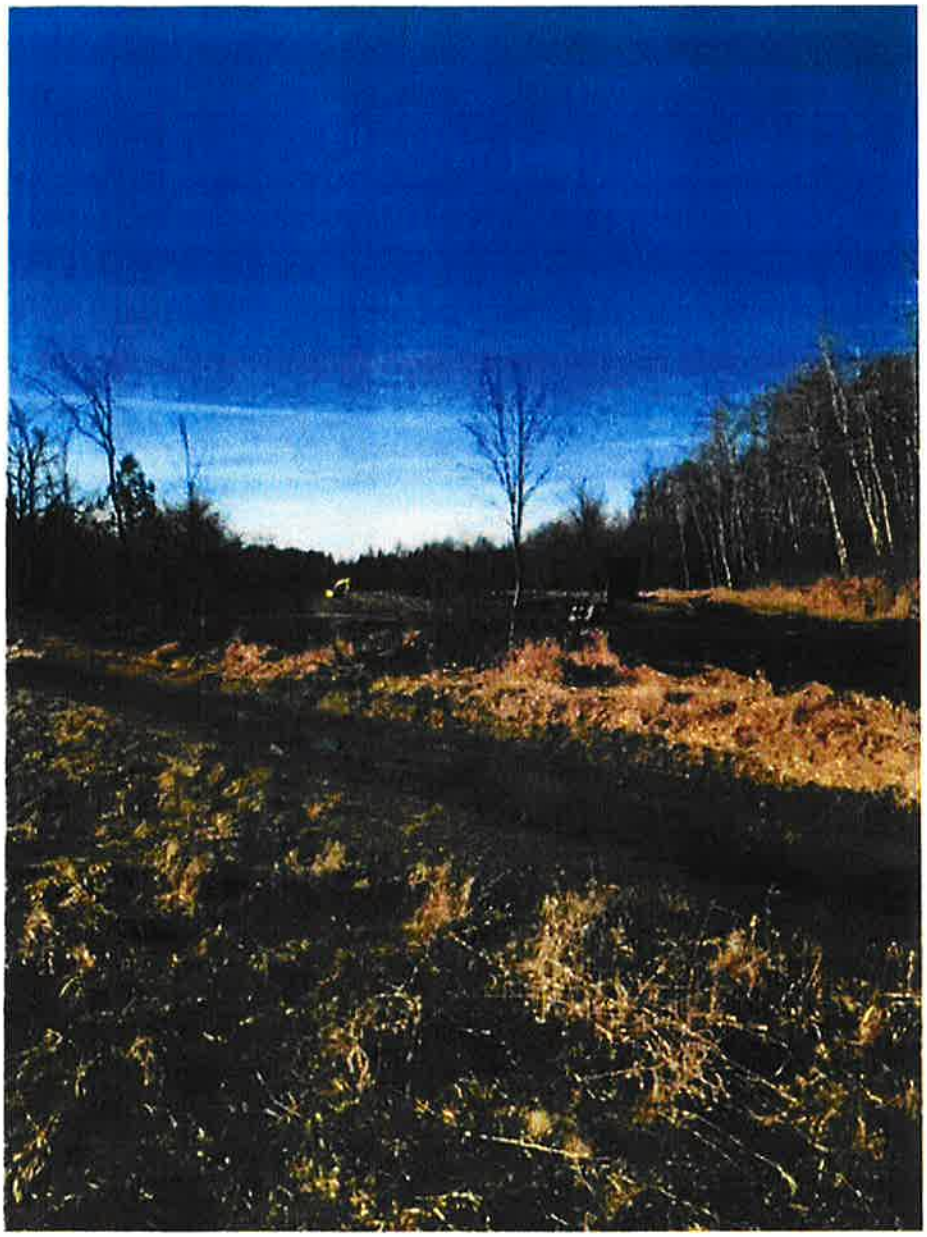


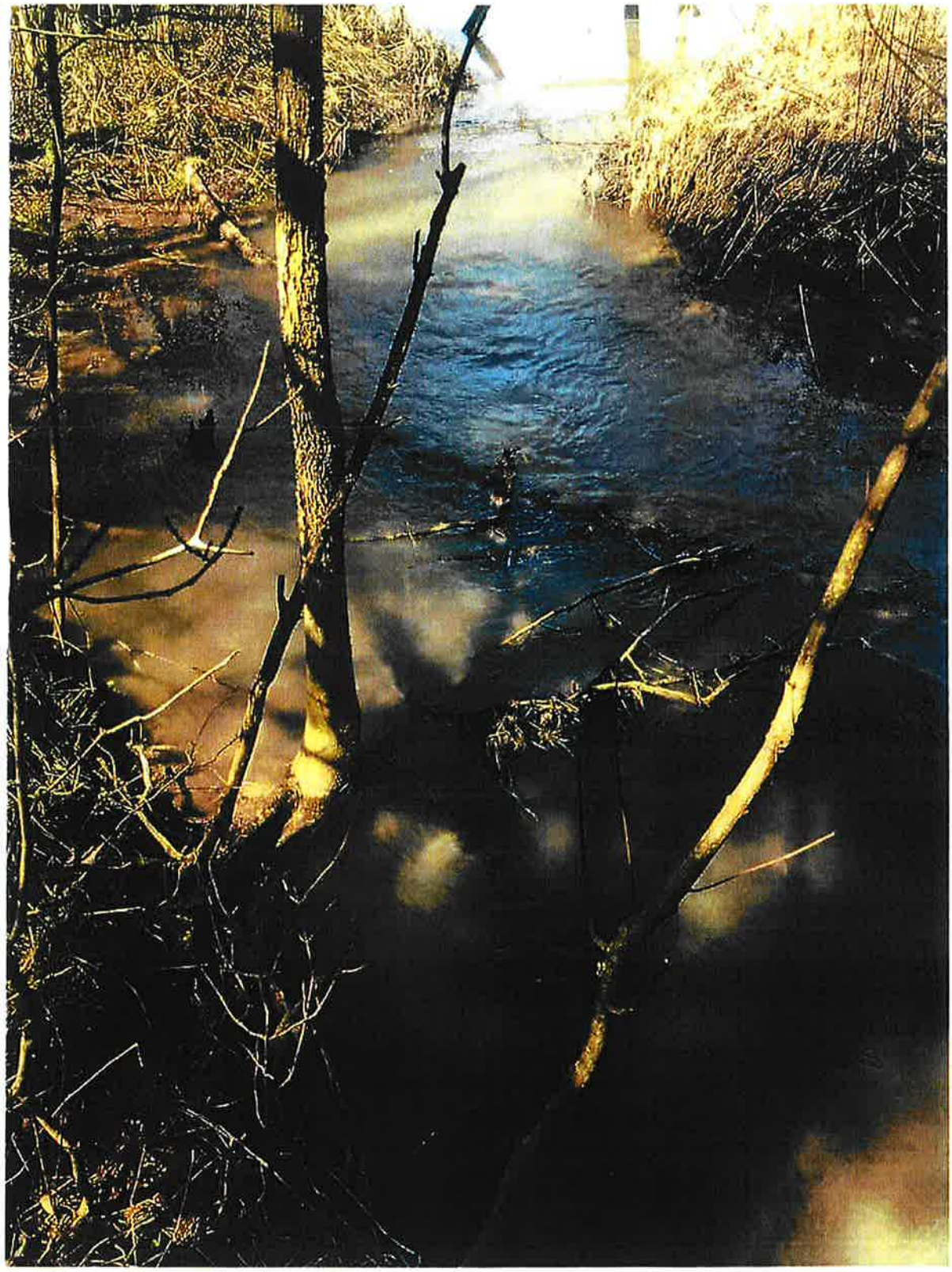


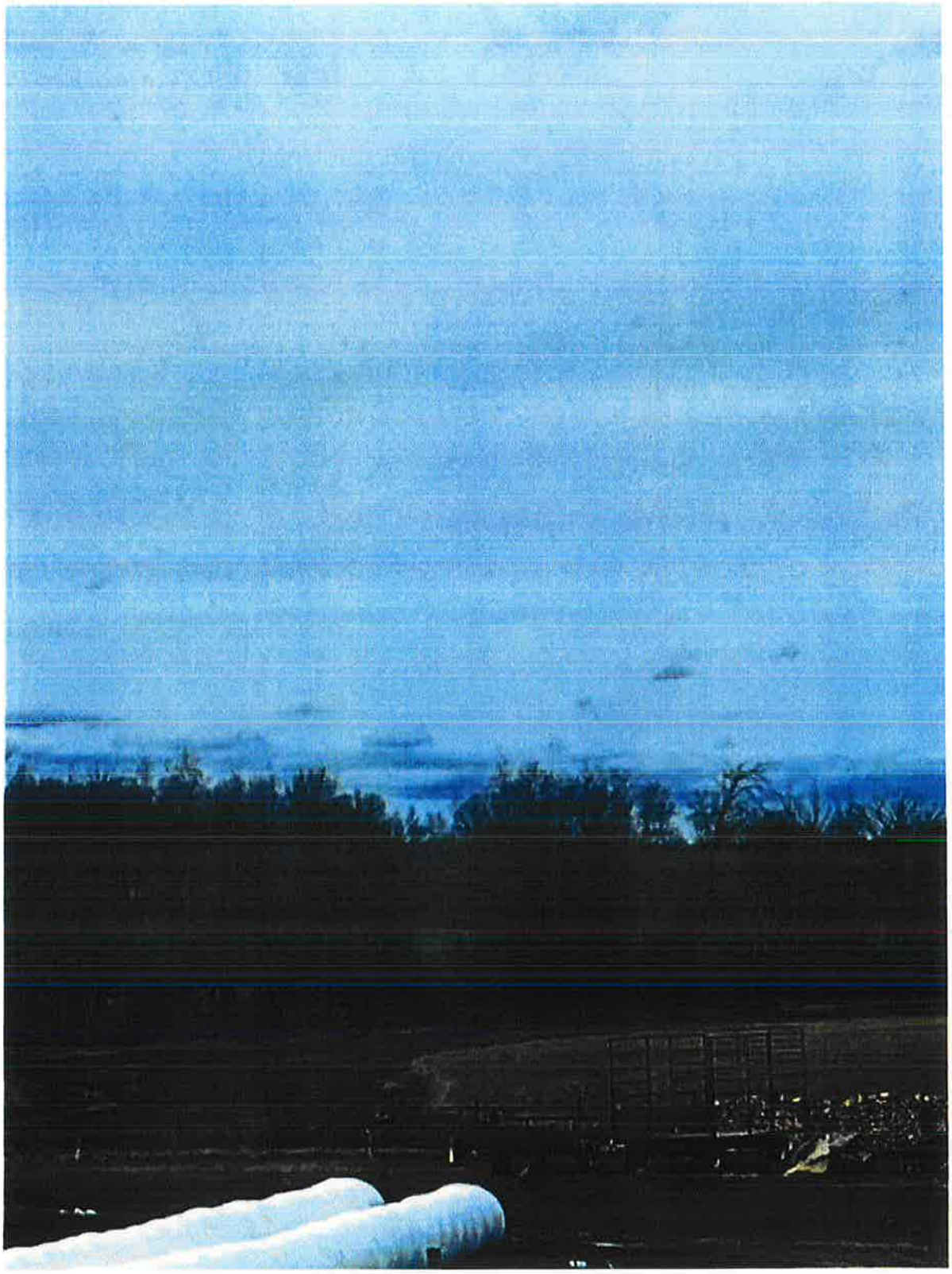












PATTERSON
PLANNING CONSULTANTS

***Our File: 212***

September 27, 2024

Mr. David Smith
Manager of Planning and Development
Municipality of West Grey
Municipal Office
402813 Grey Road 4
Durham, ON
N0G 1R0

Via email – notice@westgrey.com

Dear Mr. Smith:

**Re: 142239 Grey Road 9**
**B21.2024 and B22.2024 and ZA17.2024**

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Patterson Planning Consultants Inc. is pleased to represent Robert Scriven and William Scriven, owners of 300ac of land directly north of the property subject to these applications. On behalf of Robert Scriven and William Scriven please accept this letter of objection as it pertains to Consent applications B21.2024 and B22.2024 (and by default Zoning By-Law Amendment application ZA17.2024)

It is our understanding that Consent and Zoning By-law Amendment applications have been filed with the Municipality of West Grey for the lands at 142239 Grey Road 9 to facilitate the creation of two (2) new lots from the subject lands. The effect of the Consent applications would be to create:

| | Retained Lands | Severed Lot 1 | Severed Lot 2 |
|---|---|---|---|
| Lot Area | 40.7ha | 39.6ha | 29.5ha |
| Lot Frontage | 400m | 389m | 198m |

The effect of Zoning By-Law Amendment ZA17.2024 is to apply site specific regulations for reduced lot area to the severed lands.

The subject lands are designated "Hazard Lands" and "Agriculture" in the County of Grey Official Plan as per Schedule 'A' Map 3 as per the image below.

6095 Line 66 Monkton, ON N0K 1P0 scott@lpplan.com P: 519-577-9817

Figure 1 - Grey County Official Plan Designation - "Hazard Lands" & "Agriculture" (Source: Grey County GIS)

Further the lands are identified on Schedule 'B', Map 3 as having High Potential as an Aggregate Resource Area.


Figure 2 - Grey County Official Plan Designation - Mineral Aggregate Resource High Potential (Source: Grey County GIS)

The subject lands are currently zoned "A1" and "NE" as per the Municipality of West Grey Zoning By-law 37-2006.


Figure 3 – Municipality of West Grey Zoning (Source: Grey County GIS)

My client hereby objects to all of the applications that have been submitted for the subject lands for the following reasons.

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| *Planning Act*, Section 51(24) | • A review of Section 51 (24) of the *Planning Act* has not been included in the materials presented by the proponent or in the staff report provided in support of this application.<br>• I am of the opinion that the applications would fail to meet the criteria as established via:<br>i. 51(24) (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;<br>ii. 51(24) (d) the suitability of the lands for the purpose for which it is to be subdivided;<br>iii. 51(24) (f) the dimension and shapes of the proposed lots<br>iv. 51(24) (h) conservation of natural resources and flood control |
| County of Grey Official Plan Policy 5.2.2 3)<br><br>"*In the Agricultural land use type, newly created farm lots should generally be 40 hectares (100 acres) in size, in order to reduce the breakup of* | • The policy indicates that newly created farm lots "should" be generally 40ha in size.<br>• Policy 9.1 5) indicates that where the word "should" is used it is "*to be interpreted as a desired outcome or a suggested outcome* |

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| *farmland. New lot creation shall be in accordance with section 5.2.3 of the Plan."* | *and there should be good reasons for not applying the desired/suggested policy"*<br>• The conflicts with the Hazard Lands policies and Agricultural policies do not reflect a good reason for deviating from the desired policy goal. |
| County of Grey Official Plan Policy 5.2.3 1)<br><br>*"A consent for one new lot may be permitted provided the original farm parcel is a minimum of 40 hectares. The options for consent would be:"* (emphasis added) | • The noted policy specifically speaks to the creation of "one new lot" being permitted. The applicant has filed applications for the creation of two lots which is contrary to this policy<br>• The application(s) therefore fail to meet criteria 51(24) (c) of the *Planning Act* requiring the application to conform to the Official Plan. |
| County of Grey Official Plan Policy 5.2.3 1) a)<br><br>"*One lot severed to create a farm parcel of generally 40 hectares in size, provided both the severed and retained lots are 40 hectares in size and are both intended to be used for agricultural uses. Where a severance is proposed to create a farm lot smaller than 40 hectares, an official plan amendment will not be required, but an Agricultural Report is required by a qualified individual, (which may include an agrologist, agronomist, or a professional agricultural business degree) that addresses the following criteria:*<br><br>*1) Agriculture shall be the proposed use of both the severed and retained lots, "* | • Again, the policy basis is that only 1 lot would be permitted to be severed.<br>• The application(s) therefore fail to meet criteria 51(24) (c) of the *Planning Act* requiring the application to conform to the Official Plan. |
| County of Grey Official Plan Policy 5.2.3 1) a) 2)<br><br>*"A farm business plan is required, demonstrating the viability of the severed and retained uses for the farm operations proposed"* (emphasis added) | • The Agricultural Report submitted with the applications indicates a farm business plan will be submitted under separate cover.<br>• The Planning Justification Report speaks very briefly to this requirement<br>• A farm business plan has not been made available to the public<br>• The staff report indicates that the County has not received nor reviewed a Farm Business Plan. As this is a requirement of the County Official Plan, County staff should be reviewing such a report as per their obligations to ensure Official Plan conformity and policy implementation is followed.<br>• The Township staff report suggests that a farm business plan was submitted however it is not part of the formal record and **IS** a requirement.<br>• Policy 5.2.3 1) a) 2) requires a farm business plan to be submitted.<br>• "Farm Business Plan" is a defined term in the Official Plan meaning *"a written record of objectives for the proposed farm business and how to obtain them. It describes, at a minimum, a product or* |

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| | *service, customers, competition, management and financial arrangements. A farm business plan typically includes a: business strategy, marketing plan, production plan, human resources plan, financial plan, and considers social responsibility.*"<br>• If a Farm Business Plan was submitted it would need to meet the criteria established via the definition.<br>• Please confirm that the required Farm Business Plan has been submitted and that it satisfies the above noted criteria.<br>• Neither the Loft report nor the Beacon report would satisfy these criteria.<br>• Specifically the Beacon report indicates it will be provided by others. |
| County of Grey Official Plan Policy 5.2.3 1) 6)<br><br>"*Demonstration that both the severed and retained lots remain sufficiently large to permit a change; in the agricultural product produced, an adjustment in the scale of operation, or diversification; and,"* | • Severed Lot 2 is noted as having a lot area of 29.5ha. This lot area is attributable to the entire parcel and includes all of the lands noted as having a "Hazard Lands" designation which is further reflected in the "NE" zoning. The resulting usable area of the property is significantly diminished.<br>• In effect, when the hazard lands are removed from the overall lot area the subject lands are not reflective of a usable farm and instead would act as a building lot which is discouraged by the Provincial Policy Statement, 2020 (and the Provincial Planning Statement, 2024) |
| County of Grey Official Plan Policy 7.2<br><br>*"New development shall generally be directed away from Hazard lands. The policies of this section of the Plan work together with MNRF Natural Hazards Technical Guidelines, as well as conservation authority regulations, and policies"* | • Development is defined in the Official Plan as including the creation of a new lot.<br>• The proposal as presented results in new lot lines bisecting areas which have been identified as "Hazard Lands" on Schedule 'A' Map 3.<br>• Development is to be directed away from such lands.<br>• The proposal is in direct conflict with the intent of this policy. |
| Policy 5.2.2 6)<br><br>"*Development shall not conflict with Section 5.6 – Aggregate Resource Area and Mineral Resource Extraction land use types"* | • As noted, the subject lands are identified as an area having high potential for aggregate resources<br>• Development includes lot creation which would be in conflict with Section 5.6 |
| County of Grey Official Plan Policy 5.2.2 8)<br><br>"***Non-farm sized lot creation is not permitted*** *within an area identified as Aggregate Resource Area on Appendix B to this Plan"* (emphasis added) | • Each of the proposed lots is impacted by the Aggregate Resource Area identified on Appendix 'B' as shown on Figure 2 above.<br>• "Farm Sized" is a defined term in the Official Plan<br><br>*"FARM SIZED means the following minimum lot sizes in the countryside land use types;*<br>*• Agricultural = 40 hectares,*<br>*• Special agricultural = an agriculturally productive area of 10 hectares or greater,* |

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| | *or*<br>*• Rural = 20 hectares"*<br><br>• The policy is very clear that lot creation which results in a parcel fabric of lots less than 40ha in the Agricultural area is not permitted.<br>• The applications would be in conflict with this requirement.<br>• Policy 5.6.2 1) states "*The Aggregate Resource Area land use type on Schedule B act as overlays on top of other land use types shown on Schedule A to the Plan. Where the Aggregate Resource Area overlaps an Agricultural, Special Agricultural, Rural, or Hazard Lands land use type, the policies and permitted use of the underlying land use types shall apply until such time as the site is licensed for sand, gravel, or bedrock extraction*"<br>• **Policy 5.6.2 1) makes it clear that until the subject lands are licensed for sand, gravel, or bedrock extraction the underlying policy basis of the Agricultural designation will apply. As such, Policy 5.2.2 8) clearly notes that Non-Farm sized lot creation is not permitted and this is directly applicable to the subject lands.** |
| County of Grey Official Plan Policy 9.12 1) g)<br><br>"*The size of any parcel of land created must be appropriate for the proposed use, and in no case, will any parcel be created which does not conform to the minimum provisions of the zoning by-law*" (emphasis added) | • The minimum Lot area prescribed by Section 8.2 of the Zoning By-law is 40ha<br>• A concurrent Zoning By-law amendment has been submitted which seeks to significantly reduce the lot area of one of the two severed lots. This proposal to seek reductions in the lot area directly conflicts with Policy 9.12 1) g) |
| County of Grey Official Plan Policy 9.1 2) c)<br><br>*"An amendment to this Plan is required under the following circumstances:*<br>*a) A major boundary change of a land use type where no physical feature exists;*<br>*b) A change to the range of uses permitted by a land use type to include a use not currently listed;*<br>*c) A change to any policy or objective statement contained in this Plan."* (emphasis added) | • As noted above there are multiple instances where conformity to the Official Plan is not achieved.<br>• As such, an Official Plan amendment, as per 9.1 2) c) would be required.<br>• An Official Plan amendment has not been submitted, and given the conflicts with multiple policy directives should not be supported even if an OPA were to be filed. |

The materials submitted in support of the applications do not speak to the impacts of the "Hazard Lands" on the site, the Aggregate Resource Area policies or the resulting breakup of farmland that result from the proposals. In fact, the Loft Planning Justification report makes no reference to the Aggregate Resource Area mapping at all.

The Provincial Policy Statement, 2020 seeks to maintain the viability of farmland and the opportunities to parcelize farmland are limited as a result. In my experience agricultural severances are possible, subject to meeting the criteria established by any given municipality. Deviations from the minimum lot area requirements are not often supported as it results in a fragmentation of farmland. In this instance, both

the County and Municipality have recognized 40ha as an appropriate lot area for an agricultural property. The Official Plan does contemplate an opportunity for a reduction, however reducing a property size by the magnitude proposed (40ha reduced to 29.5ha) would appear to be an excessive reduction. Especially considering that the resulting lot is heavily impacted by hazard lands that are not readily available for agriculture uses.

**Regardless of the concerns regarding the property sizes from an agricultural and hazard lands perspective, Policy 5.2.2 8) clearly states that lot creation that does not meet the "Farm Sized" definition of 40ha for properties that have high potential for aggregate resources is not permitted**. None of the materials submitted in support of the application speak to this prohibitive policy or address the aggregate mapping. On its own, this policy would not permit the severances proposed.

The staff report incorrectly states the following:

*"Section 5.6.2(8) Aggregate Resource Area states: Non-farm sized lot creation of lots less than 20 hectares in size will not be permitted in Aggregate Resource Areas. All of the proposed agricultural lots would be over the minimum of 20 hectares required."*

This policy has no bearing on the applications before the Committee of Adjustment as Policy 5.6.2 1) clearly states the following:

*"The Aggregate Resource Area land use type on Schedule B act as overlays on top of other land use types shown on Schedule A to the Plan. Where the Aggregate Resource Area overlaps an Agricultural, Special Agricultural, Rural, or Hazard Lands land use type, the policies and permitted use of the underlying land use types shall apply **until such time** as the site is licensed for sand, gravel, or bedrock extraction."* (emphasis added)

Policy 5.6.2 8) is not relevant to the lands until such time as the lands are licensed for sand, gravel or bedrock extraction. Only at that time can severances be considered for lots that are less than 40ha in size. The staff report suggests that Policy 5.6.2 8) is applicable to the subject lands when it is not and utilizing this policy basis to support the applications is an incorrect interpretation of this policy. The staff report makes no mention of Policy 5.2.2 8) (nor does the Loft Planning Justification Report) and its ramifications on these proposals.

Lastly, the "usable" part of the subject lands are zoned "A1" as per Figure 3 provided above. Section 8.1 of Zoning By-Law 37-2006 identifies the permitted uses within the "A1" zone and "a detached dwelling" is permitted. Section 8.3 of the By-Law confirms that for lots created by consent which have a lesser lot area and/ or frontage than required will still be allowed the permitted uses of Section 8.1. I can find no reference in the By-Law to restrict "a detached dwelling" to only be permitted in conjunction with a farming operation. The County Official Plan allows for contemplation of a reduced lot area only when an Agricultural Report and Farm Business Plan have been submitted to support the reduced lot area. However once the lot is created, there is no mechanism or requirement for the Farm Business Plan to be enacted, a barn to be constructed or for the suggested beef operation to advance. Should the Consent process be completed, the proponent would be eligible to seek a permit to construct only a house on each of the properties as that would be permitted by the Zoning. If a Farm Business Plan has not been submitted meeting the required criteria, this causes further concern that the underlying intent of these applications is a circuitous way of creating residential building lots, or lots that may ultimately be used for other purposes. The Official Plan policies contemplate reduced lot areas for farm operations - hence the requirement for a Farm Business Plan - not for residential building lots.

This letter has raised significant concerns with the applications and justification submitted by the applicant. At a minimum, the justification provided by the proponent is insufficient to support what is being proposed and does not meet the submission requirements for a complete application for the Committee's consideration. A more fulsome review of the County Official Plan polices by the proponent, the County and Township staff would identify the concerns I have noted above.

The staff report does not speak to these items in detail and as such the Committee has not been fully informed of the policy basis which directly impacts this type of proposal.

**Quite simply though, Policy 5.2.2 8) of the Agricultural policies does not permit lot creation for parcels less than 40ha in size when the lands have high potential as an Aggregate Resource Area. This policy is applicable to the lands and, in and of itself, results in immediate refusal of the applications as conformity with the Official Plan is not achieved.**

On this basis, my client objects to the proposed Consents and we would ask the West Grey Committee of Adjustment to refuse the Consent applications and West Grey Council to refuse the Zoning By-Law Amendment.

Should you have any questions or concerns please do not hesitate to reach out to me.

Yours truly,
**Patterson Planning Consultants Inc.**

Scott Patterson

**Scott J. Patterson, BA, CPT, MCIP, RPP**
**Principal**

cc. Scott Taylor, Director of Planning for the County of Grey
Derek McMurdie, Planner for the County of Grey
Bob Scriven
William Scriven

**Appendix 'A'**

**Policy 5.2.2 8) of the County Official Plan as written:**

8) *Non-farm sized* lot creation is not permitted within an area identified as *Aggregate Resource Area* on Appendix B to this Plan.

**Policy 5.6.2 1) of the County Official Plan as written:**

**5.6.2 Aggregate Resources Area Policies**

1) The Aggregate Resource Area *land use type* on Schedule B act as overlays on top of other *land use types* shown on Schedule A to the Plan. Where the *Aggregate Resource Area* overlaps an Agricultural, *Special Agricultural*, Rural, or *Hazard Lands land use type*, the policies and permitted use of the underlying *land use types* shall apply until such time as the site is licensed for sand, gravel, or bedrock extraction.

**Policy 5.2.3 of the County Official Plan as written:**

**5.2.3 Consent Policies**

Lot creation in the *Agricultural land use type* is generally discouraged and may only be permitted for *agricultural uses*, *agricultural-related uses*, *surplus farmhouse* severances, *infrastructure*, and conservation lots in accordance with section 5.2.3 of this Plan.

1) A consent for one new lot may be permitted provided the original farm parcel is a minimum of 40 hectares. The options for consent would be:

   a) One lot severed to create a farm parcel of generally 40 hectares in size, provided both the severed and retained lots are 40 hectares in size and are both intended to be used for *agricultural uses*. Where a severance is proposed to create a farm lot smaller than 40 hectares, an official plan amendment will not be required, but an Agricultural Report is required by a *qualified individual*, (which may include an agrologist, agronomist, or a professional agricultural business degree) that addresses the following criteria:

      1) Agriculture shall be the proposed use of both the severed and retained lots,
      2) A *farm business plan* is required, demonstrating the viability of the severed and retained uses for the farm operations proposed,
      3) Demonstration that both the severed and retained lots will be economically viable and flexible to respond to economic change. The applicant shall provide information necessary to evaluate the viability of the new farming operations on the parcels of land. Information pertaining to the scale and nature of the operation, projected revenue, expenses, financing, soil quality, water quality and quantity, and any other viability

## David Smith

**From:** Scott Patterson <scott@lpplan.com>
**Sent:** January 24, 2025 5:17 PM
**To:** David Smith
**Cc:** Bob Scriven
**Subject:** B21.2024 - Martin/Brubacher
**Attachments:** West Grey Committee of Adjustment- Notice of Hearing Feb. 4, 2025 .pdf

Good afternoon Mr. Smith

Robert Scriven has forwarded the attached Notice of Hearing regarding Consent application B21.2024 for the lands at 142239 Grey Road 9 for Martin / Brubacher.

As you are aware, we attended the Committee of Adjustment meeting held on October 1st, 2024 where this application (together with B22.2024) was originally presented to the Committee of Adjustment.

In advance of the meeting on February 4, 2025 I am hoping you can respond to the following questions:

1. The Notice references this application as B21.2024. Application B21.2024 is an application already in process with the Municipality. The Notice does not reference that this is an amendment to the existing application which I assume it is. Please confirm?
2. What is the status of B22.2024? Has it been withdrawn?
3. The proposed new lot via application via this version of B21.2024 is 38.6ha. As noted in our correspondence dated September 27, 2024, the lands are subject to a "Mineral Aggregate Resource High Potential" overlay as per Schedule 'B', Map 3 of the Grey County Official Plan. As such, the lands are subject to Policy 5.2.2 8) which states "*Non-farm sized lot creation is not permitted within an area identified as Aggregate Resource Area on Appendix 'B' to this Plan*". "Non-farm" is a defined term in the Official Plan that for agricultural lots requires the size to be 40ha. The overlay extends into / over the severed and retained parcel. As such the proposal would appear to once again not conform to the Official Plan. As per Section 51(24) (c) of the *Planning Act* a Consent shall conform to the Official Plan. It appears conformity is not occurring. Are the proponents seeking an Official Plan Amendment? Should the Official Plan Amendment not precede the Consent so that conformity can be achieved and Provisional Consent granted?
4. The applicable "A1" zoning for these lands requires a minimum lot area of 40ha. The applicants have an active Zoning By-law Amendment application (ZA17.2024) before the Municipality. Is the ZBLA being amended to seek a reduction in lot area and permit 38.6ha? As per above, said ZBLA to seek a lot area of 38.6ha would not be in conformity to the Official Plan. Should Provisional Consent be granted is the intent to include the rezoning as a condition?

I look forward to your response on these items.

With thanks

Scott

Robert W. Scriven
182242 Concession 12 RR3
Ayton, ON, N0G 1C0

-and-

William L. Scriven
182208 Concession 12 RR3
Ayton, ON, N0 1C0

January 31, 2025

**SENT VIA E-MAIL** ***notice@westrey.com***

West Grey Committee of Adjustment
c/o Mr. David Smith, Manager of Planning and Development
Municipality of West Grey Municipal Office
402813 Grey Road 4
Durham, ON N0G 1R0

Dear Members of the Committee of Adjustment.

**Re: 142239 Grey Road 9**
**B21.2024 and B22.2024 and ZA17.2024, Lots 26,27 and 28 Concession 10**
**("Subject Property")**

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Please accept this letter as confirmation that the undersigned continue to oppose the proposed severance, now repackaged and styled as "Application B21.2024".

**Virtually nothing has changed.**

First, the Applicants continue to advance the proposition of an undersized lot in an Aggregate Resource area is permitted.

**It is not.**

The Aggregate Resource provisions are clear. **40 ha is 40 ha.** In my 12 years of practicing agricultural and farm related matters, I have never seen an undersized lot approved in an aggregate resource area. In fact, I personally (as outlined last time I was before the Committee of Adjustment) have been turned down twice. However, I will leave our Planner, Scott Patterson to opine more on the planning issues.

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Second, have the confidence to deny this Application. The decision lies with you, not staff. Agriculture is important. Taxbase is important. But this farm will continue to be farmed, in its present state, as it has for generations without these severances. Do not worry about offending staff. With regard to Mr. Smith, please see the attached appendix to this letter with my concerns on how this matter has been navigated. This is not a personal attack, but outlines to me that for whatever reason, it appears that Mr. Smith has become an advocate for the Applicants and wishes to provide to them with a severance the same severance which was denied to me and another neighbour only 18 – 20 months ago.

Finally, this Committee of Adjustment must make a decision. Does it promote consistency and fairness, adhering to the planning principals which govern us all, or does it bend, and for real no apparent reason, allow the application because the West Grey Planner is recommending it? That sets a dangerous precedent – particularly in the area of aggregate extraction. I fear that this decision will be used against the Committee of Adjustment by someone else in the future wanting flexibility when it comes to aggregate extraction.

In conclusion, the Applicants bought the property, knowing that it already had two severances, and even signed a legal document in the event that the severance(s) were not granted. The Applicants knew that any severance was a long shot, but have tried three different applications. Further, there has been no justification for an undersized lot in the aggregate resource area – it is simply not permitted.

Our family sincerely appreciates your consideration to this matter, we cannot begin to express how important it is to us. One humble request – I have a short Court commitment that I cannot move at 1pm tomorrow. I am hoping that discussion of this matter can be put to the end of the agenda, so to allow me to attend, either in person or via zoom. If I cannot attend, then my father and Scott Patterson have my full support and can act as my proxy.

Yours very truly,

Robert W. Scriven - and- William L. Scriven

*Enclosure*

# Appendix

1) On January 10, 2025, I inquired from Mr. Smith via email about the status of these applications. On January 14, 2025 he responded indicating that we would receive notice. The next day, the notice was in my mailbox. Why could he not just tell me that the applications were back, the nature of them and the return date? I attach the e-mail thread.

2) Mr. Smith erroneously makes the assumption in his recent staff report that "**It is the understanding on the Manager of Planning and Development that the Scriven objection pertained primarily to application B22.2024 and not to B21.2024, the subject of this Planning Report.**" I am a lot of things, but being unclear is not one of them. Dad and I (together with Mr. Patterson) were clear that the entire application being put to the COA in October was being challenged. Even if I was unclear, Mr. Smith did not check with us about our position before putting this in his report.

3) On January 27, 2025, Mr. Smith advised Mr. Patterson that the other application, B22. 2024 had been withdrawn, yet in the staff report, it states **A separate report and recommendation on consent file B22.2024 will be provided to the COA".** What is going on here? If this application fails, then are applicants bringing forward a third attempt (which they have ready), as opposed to addressing the issues now before the COA? Moreover, in these responses, Mr. Smith simply states that the undersized lot is "considered farm size" – on what basis? I attach the e-mail thread.

4) It is noted that an Addendum Planning Justification letter by Loft Planning was submitted for B21, B22 and ZA17.2024. This addendum has not been made available to the public and is not included in the agenda package.

5) All consent applications are to be reviewed based on the criteria of Section 51 (24) of the *Planning Act*. There is no mention at all of this in the staff report. A thorough analysis would speak to these criteria.

PATTERSON
PLANNING CONSULTANTS

***Our File: 212***

February 3, 2025

Mr. David Smith
Manager of Planning and Development
Municipality of West Grey
Municipal Office
402813 Grey Road 4
Durham, ON
N0G 1R0

Via email – notice@westgrey.com

Dear Mr. Smith:

**Re: 142239 Grey Road 9**
**B21.2024 (and ZA17.2024)**

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Patterson Planning Consultants Inc. is pleased to represent Robert Scriven and William Scriven, owners of 300ac of land directly north of the property subject to these applications. On behalf of Robert Scriven and William Scriven please accept this letter of objection as it pertains to Consent application B21.2024 (and by default Zoning By-Law Amendment application ZA17.2024)

It is our understanding that the Applicant originally filed two Consent applications (B21.2024 and B22.2024) and a concurrent Zoning By-law Amendment (ZA17.2024). The Consent applications advanced to a West Grey Committee of Adjustment ("WGCoA") meeting on October 1, 2024. The applications were deferred at this meeting to allow West Grey staff (and the applicant) additional time to consider the comments and concerns raised through our letter dated September 27, 2024 and our delegations.

An amended B21.2024 application has been scheduled to advance to a WGCoA meeting to be held on February 4, 2025. A public notice reflecting the February 4th meeting date has been issued however the notice is limited in that it does not indicate the application has been amended from the original submission.

| | Retained Lands (Lot Area) | Severed Lot (Lot Area) |
|---|---|---|
| Original B21.2024 | 40.7ha | 39.6ha |
| Amended B21.2024 | 71.6ha | 38.6ha** |

*** The sketch associated with each application appears to reflect the same parcel to be severed. There is no indication of why there is a discrepancy of 1ha in area for the Severed Lot.*

We have had a chance to review the West Grey staff report which has been prepared in support of B21.2024.

We are in agreement with the staff report on the factual items regarding the land use designation and the zoning applicable to the subject lands.

We differ on many of the remaining items in the staff report, primarily on the interpretation and implementation of policy, and offer the following comments.

| | |
|---|---|
| The staff report states on Page 3 that "*It is the understanding of the Manager of Planning and Development that the Scriven objection pertained primarily to application B22.2024 and not to B21.2024, the subject of this Planning Report.*" | • This is an incorrect assumption and was not verified with myself or my client's.<br>• Our September 27, 2024 correspondence clearly noted an objection to all of the applications submitted for these lands. |
| As noted in our correspondence of September 27, 2024 a review of Section 51(24) has not been completed. Section 51(24) is the applicable test of the *Planning Act* for such applications. | • A review of Section 51 (24) of the *Planning Act* has not been included in the materials presented in the staff report and I remain of the opinion that the applications would fail to meet the criteria as established via:<br>i. 51(24) (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;<br>• See Appendix 'A' |
| Application B22.2024 Status | • Page 4 of the staff report notes "*A separate report and recommendation on consent file B22.2024 will be provided to the COA*"<br>• A separate report is not part of the current agenda package.<br>• On January 27, 2025, Mr. Smith confirmed via email that application B22.2024 was withdrawn by the applicant. |
| Provision of Loft Planning Materials | • The staff report notes that an Addendum Planning Justification letter was submitted by Loft Planning in support of all of the noted applications. (dated November 19th, 2024)<br>• This material has not been made available to the public on the West Grey website nor included in the WGCoA agenda package. |
| Agency Comments | • Our correspondence of September 27th, 2024 noted many concerns with the County of Grey Official Plan as it applies to this application.<br>• Commenting agency comments are not included in the WGCofA package or on the website.<br>• A direct response from the County would be typical as it is their Official Plan to interpret and ensure is being followed. |
| Grey County Official Plan Analysis | • Page 7 of the staff report provides a review of the County Official Plan policies as they apply to this application<br>• We again opine that incorrect policies are being applied to support this application and have received no contrary opinions.<br>• Policy 5.2.3 1(a) as noted in the staff report does speak to new agricultural lots being generally 40ha in size.<br>• BUT there is no discussion in the staff report of Policy 5.2.2 8) which states that "**8) Non-farm sized lot creation is not permitted within an area identified as** |

| | |
|---|---|
| | **Aggregate Resource Area on Appendix B to this Plan"** (emphasis added)<br>• Staff is in agreement that the aggregate resource area overlay is applicable to these lands.<br>• I continue to be of the opinion that lot creation for "generally" 40ha is permitted for lands that are not subject to the Aggregate Resources overlay mapping.<br>• As soon as lands are subject to the aggregate identification, this more stringent policy is triggered and the Consent application before the WGCoA does not conform.<br>• There is no discussion of this policy in the staff report or its implications on this application or why it should be disregarded. |
| Aggregate Resource Area – Minimum Lot Size Requirement | • As per our past correspondence, any reference to these policies to support this application is incorrect.<br>• Policy 5.6.2 (8) clearly states:<br>**1) The Aggregate Resource Area land use type on Schedule B act as overlays on top of other land use types shown on Schedule A to the Plan. Where the Aggregate Resource Area overlaps an Agricultural, Special Agricultural, Rural, or Hazard Lands land use type, the policies and permitted use of the underlying land use types shall apply until such time as the site is licensed for sand, gravel, or bedrock extraction.** (emphasis added)<br>• The subject lands have not been licensed and these policies are therefore not applicable and cannot be used to justify a reduced lot area.<br>• The policies of Section 5.2 "*Agricultural Land Use Type*" are currently applicable and those policies and again contain policy 5.2.2 8) which speaks to Non-farm sized lot creation not being permitted.<br>• I am of the opinion that policy 5.2.2 8) overrules the Consent policies of section 5.2.3 and definitely overrides any policies contained in Section 5.6.2 (which are not applicable.) |
| Other policies and regulations. | • As part of our September 27, 2024 correspondence we had identified numerous other concerns with policies of the Official Plan such as Policy 9.12 1)g) which states ""***The size of any parcel of land created must be appropriate for the proposed use, and in no case, will any parcel be created which does not conform to the minimum provisions of the zoning by-law"*** (emphasis added) |

| | |
|---|---|
| | • And Policy 9.1 2) c) which states: ***"An amendment to this Plan is required under the following circumstances:***<br>**a) A major boundary change of a land use type where no physical feature exists;**<br>**b) A change to the range of uses permitted by a land use type to include a use not currently listed;**<br>**c) A change to any policy or objective statement contained in this Plan."** (emphasis added) |

The Scriven's continue to object to any application for these lands on the basis that conformity to the Official Plan has not been achieved. Utilizing incorrect policies to evaluate this application has resulted in an interpretation that 38.6ha is equivalent to a requirement for a minimum lot area of 40ha. The two amounts are not equal and the policy basis indicates that there is no opportunity for a general interpretation that is carried in some other policies. The duty of Council and staff in framing / authoring policy and zoning is to express its meaning with certainty. Residents should not be left to guess whether or not a policy is applicable. The County is able to use specific words to give meaning to their policies. The County has clearly done so in other policies allowing for some flexibility in determining appropriate agricultural lot sizing by including the term "generally" as follows:

***5.2.2 1) ) In the Agricultural land use type, newly created farm lots should generally be 40 hectares (100 acres) in size, in order to reduce the breakup of farmland. New lot creation shall be in accordance with section 5.2.3 of the Plan*** (emphasis added)

Whereas;

5.2.2 8) is definitive in its wording:

***5.2.2 8) Non-farm sized lot creation is not permitted within an area identified as Aggregate Resource Area on Appendix B to this Plan.*** (emphasis added)

We suggest that for this application to proceed:

1. A Grey County Official Plan amendment should be obtained prior to the adjudication of Consent application B21.2024. The granting of a County Official Plan amendment to provide a special policy to the lands reflecting a reduced lot area would alleviate concerns with the various policies noted above. It would also ensure the criteria of Section 51(24) of the *Planning Act* were satisfied. In the absence of an Official Plan amendment preceding application B21.2024 the application does not meet the prescribed test of 51(24) or the policies of the Official Plan.

OR

2. The Applicant should have withdrawn ZA17.2024 and submitted a concurrent Minor Variance application. The test for a Minor Variance is not full conformity, but rather the "*general intent and purpose of the by-law and of the official plan*". A justification could be tabled that the creation of a 38.6ha parcel meets the general intent and purpose of the by-law and official plan for this application.

Ideally my client's would request the WGCoA to refuse the application(s) in their entirety as this would reflect a previous opinion provided by West Grey staff on the potential to further divide these lands. As I was not party to those discussions I cannot confirm the veracity of this position, however it is shared by multiple neighbors. I can however provide an opinion that the application as being advanced to the WGCoA on February 4, 2025 is flawed and should not be approved in its current format.

Should you have any questions or concerns please do not hesitate to reach out to me.

Yours truly,
**Patterson Planning Consultants Inc.**

Scott Patterson

**Scott J. Patterson, BA, CPT, MCIP, RPP**
**Principal**

cc. Bob Scriven
William Scriven

## Appendix 'A'

Section 51(24) of the *Planning Act* states the following and is applicable when reviewing Consents:

***Criteria***

*(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,*

*(a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;*

*(b) whether the proposed subdivision is premature or in the public interest;*

*(c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;*

*(d) the suitability of the land for the purposes for which it is to be subdivided;*

*(d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;*

*(e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;*

*(f) the dimensions and shapes of the proposed lots;*

*(g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;*

*(h) conservation of natural resources and flood control;*

*(i) the adequacy of utilities and municipal services;*

*(j) the adequacy of school sites;*

*(k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;*

*(l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and*

*(m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).*

Robert W. Scriven
182242 Concession 12 RR3
Ayton, ON, N0G 1C0

-and-

William L. Scriven
182208 Concession 12 RR3
Ayton, ON, N0 1C0

February 10, 2025

**SENT VIA E-MAIL** notice@westrey.com, mayor@westgrey.com, deputymayor@westgrey.com, sfoerster@westgrey.com, dhutchinson@westgrey.com, joycenuhn@westgrey.com, gshea@westgrey.com, dtownsend@westgrey.com,

West Grey Committee of Adjustment
c/o Mr. David Smith, Manager of Planning and Development
Municipality of West Grey Municipal Office
402813 Grey Road 4
Durham, ON N0G 1R0

Dear Members of the Committee of Adjustment.

**Re: 142239 Grey Road 9**
**B21.2024 and B22.2024 and ZA17.2024, Lots 26,27 and 28 Concession 10**
**("Subject Property")**

My father and I feel compelled to write this correspondence in the wake of the February 4, 2025, Committee of Adjustment meeting. ("February Meeting")

First, we require an explanation as to why our materials were not submitted to the Committee of Adjustment in advance of the February meeting. We have learned that they were received in advance of the meeting, but we have not learned why they were not circulated.

I would note at this juncture that at no time during the February Meeting did Mr. Smith speak up to say that he did not receive the materials or that he would take steps to check his e-mail, print off copies for the Committee of Adjustment, etc. He was fine to leave it.

Instead, Planner Smith decided it was his role, as Municipal Planner, assisting this Committee, to raise his voice, and speak in the most unprofessional and

patronizing manner to us. This, all in response to the simple point that the County's position had not been circulated, which in this case seemed to be crucial to the point Planner Smith was trying to make. We would note at this juncture that Mr. Patterson had asked for the County letter/ position from Planner Smith back on January 28, 2025 and did not get the courtesy of a response.

I do not know why Planner Smith became angered at me, raised his voice, and took such personal offence to my submissions. I will be the first to say if I was out of line whatsoever, I sincerely apologize. However, I thoughts the presentation by my father and I (as well as Mr. Patterson), was measured to the point.

The result is an expense to us and embarrassment to Mr. Patterson. My father and I have retained him to provide a planning opinion, and I think Mr. Patterson has been more than fair in providing his views. The February Meeting was a waste of time and money.

Finally, the Committee of Adjustment can add conditions, move lot lines, etc., but we all know that in practice that is rarely done, as it can impact substantive property rights and simply cause more problems down the road. Given that we have a short time frame before March 4, 2025, I assure you that even if the Applicants artificially create properties that meet the 40-hectare requirement under the aggregate resource policy, I am nearly certain such amateurish and ad hoc suggestions and remedies would not be accepted by Land Titles. Do not take this as legal advice, you can avail yourselves to your own lawyer(s) but I would not suggest taking it from Ms. Loft. Think of it another way, if moving lot lines was such an easy fix, why wouldn't Ms. Loft, Planner Smith, the Applicants, or Mr. Patterson suggest that already?

Regardless, my father and I will maintain our objection because as it has been repeated several times, we have been turned down for severances, any severances on this property and others within the aggregate resource overlay.

Yours very truly,

Robert W. Scriven - and- William L. Scriven