



DEVRY SMITH FRANK *LLP*  
Lawyers & Mediators

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416.446.3330

January 17, 2019

Our File No.: NICFA850

By Courier and  
By E-mail: [ross.lashbrook@ontario.ca](mailto:ross.lashbrook@ontario.ca)

Ministry of Municipal Affairs & Housing  
Municipal Services Office  
Central Ontario  
777 Bay Street, 13<sup>th</sup> Floor  
Toronto, ON M5G 2E5

Attention: Ross Lashbrook, Manager Community Planning and Development

Dear Mr. Lashbrook:

**Re: Notice of Decision**  
**County of Simcoe Official Plan Amendment No. 2 ("OPA 2")**  
**File No.: 43-OP-169096**  
**Appellant: Nicholyn Farms Inc.**

We represent Nicholyn Farms Inc. and we have been instructed to file an appeal of the decision to approve Simcoe County Official Plan Amendment No. 2 ("OPA 2"). We attended the Public Meeting on May 9, 2017 and advised County Council of our client's concerns and objections.

**Nicholyn Farms Inc.**

Our client is a third generation family owned and operated farm with a large retail operation, which sells locally produced farm products including vegetables, produce, meats, dairy products and bakery products. Our client has partnered with 95 local producers and sells a wide variety of their farm products. The business employs approximately 20 full-time employees and has sales well in excess of \$3 million per year. The Nicholyn Farms operation is a critical component of the local Agri-Food Network as defined in the Growth Plan.

My client's farm, residence and retail of business are all located on lands immediately adjacent to the County forest in which the Waste Management facility is proposed, and which is authorized by OPA 2.

### **Simcoe County Environmental Resource Recovery Centre**

Official Plan Amendment No. 2 permits the construction of the Environmental Resource Recovery Centre which in fact is a large industrial garbage processing facility, which will collect, separate, process and transfer garbage and waste materials, and also include an organic processing facility.

Official Plan Amendment No. 2 proposes that this heavy industrial facility will be located on a 4.5 hectare site within a Significant Woodland that is currently designated as Greenlands in the County Official Plan and is within the Natural Heritage System of the 2017 Growth Plan.

### **Growth Plan for the Greater Horseshoe 2017**

The Growth Plan section 2.1 provides a number of statements indicating that employment (i.e. Industrial) growth should be directed to complete communities (i.e. Settlement Areas). It goes on to state that this is to protect agricultural lands, water resources and natural areas. OPA 2 proposes to locate this major industrial facility in a County forest which is a Significant Woodland, is designated Greenlands, and is within the Provincial Natural Heritage System.

Section 2.1 of the Growth Plan goes on to state that it is important to ensure an adequate supply of land within Employment Areas for both traditional industries and for the service sector and knowledge based industries that warrants such locations. It states that it is critical that we understand the importance of regionally significant Employment Areas.

OPA 2 totally ignores the existing designated Employment Areas within the County, and proposes that this large industrial facility be located in a rural area and within a Significant Woodland, and therefore OPA 2 does not comply with policy 2.1 of the Growth Plan.

Section 2.2.1 of the Growth Plan states that growth for both Residential and Employment will be directed to Settlement Areas that are serviced by municipal water and waste water systems. OPA 2 proposes that this large industrial complex be located in a rural area which is without municipal water or waste water service, and therefore, OPA 2 does not comply with section 2.2.1 of the Growth Plan.

Section 2.2.5 of the Growth Plan provides for the making of more efficient use of existing employment areas and under utilized employment lands.

OPA 2 totally ignores the existing Employment Areas within the County, and relies on a totally inadequate site selection process to locate this heavy industrial use within a Significant Woodland on lands designated as Greenlands and within the Provincial Natural Heritage System.

Section 4 of the Growth Plan recognizes the importance of preserving lands within the Natural Heritage System and protecting the Agricultural System, which includes the Agri-Food Network, including services and assets important to the viability of the agri-food sector. Locating a large garbage and waste industrial processing plant, adjacent to an important agricultural products retail outlet, which is vital to the local agricultural economy is clearly contrary to the policies of section 4 of the Growth Plan.

In addition, locating this large industrial facility within a Significant Woodland that is within the Natural Heritage System and ignoring more obvious locations on employment lands is clearly contrary to the policies of the Growth Plan.

### **Section 6 of the Growth Plan “Simcoe Sub-Area”**

The Simcoe Sub-Area is comprised of the County of Simcoe and the separate Cities of Barrie and Orillia. The policies of this section of the plan direct growth both residential and employment to employment lands and urban communities where development can be most effectively serviced.

Section 6.4 of the Growth Plan identifies strategic settlement employment areas within the Simcoe Sub-Area.

In addition, the City of Barrie which is located in the Simcoe Sub-Area has large tracks of vacant employment lands as a result of the recent annexation. These employment lands and areas were virtually ignored by the County of Simcoe in its site selection process, and as a result, Official Plan Amendment No. 2 clearly fails to comply with the many policies in the Growth Plan encouraging employment uses to locate on serviced employment lands within a Settlement Area.

### **Provincial Policy Statement 2014 (“PPS”)**

The Provincial Policy is to be read in its entirety and all relevant policies are to be applied to each of the situation. In following this guideline and reading the PPS in its entirety, it is very clear that at large industrial facilities are encouraged to locate on fully serviced employment lands within the Settlement Areas. There are no policies which promote or encourage the location of heavy industrial facilities such as a garbage separating plant in rural areas, that are Significant Woodland and which are designated as Greenlands, and located within the Natural Heritage System. While such uses might technically be permitted in such areas, it is certainly not encouraged especially when alternative designated employment lands are available and the site selection process clearly favoured Simcoe County forest lands. The site selection process identified a short list of seven possible sites, six of which were Simcoe County forest lands.

The Provincial Policy Statement has a specific definition for Waste Management Systems which would include the type of facility proposed by OPA 2. In addition, the PPS defines Waste Management System as a major facility. The PPS contains general and specific policies for Waste Management Systems and Major Facilities.

Section 1.1.3 of the PPS provides that it is in the interest of all communities to use this land and resources wisely, to promote efficient development patterns, protect resources, promote green spaces, ensure effective use of Infrastructure and public service facilities and minimize unnecessary public expenditures. Locating large industrial processing plant in a rural County forest is clearly not consistent with this policy.

Section 1.2.6.1 of the PPS provide policies for major facilities and sensitive land uses that should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate adverse affects from odour, noise and other contaminants, minimize risk to

public health and safety and to ensure the long-term viability of Major Facility. The locating of a major industrial garbage processing facility, adjacent to residence and important agricultural produce store is not consistent with this policy.

Section 1.3.2.1 of the PPS provides that planning authority shall plan for, protect and preserve employment areas for current and future uses and ensure that the necessary Infrastructures provided to support current and projected needs. It makes no sense to protect employment lands if public authorities such as the County of Simcoe are simply going to ignore designated employment lands and locate a major industrial processing facility on rural lands that have no water or waste water services, and are designated as Greenlands within the Natural Heritage System. OPA 2 is clearly not consistent with the section 1.3.2.1 of the PPS.

Section 1.6.10.1 of the PPS provides that Waste Management Systems shall be located and designed in accordance with the provincial legislation and standards. It would appear that all provincial legislation and standards, including the PPS, encourage large industrial facility to locate on serviced employment lands within settlement areas. There appears to be no policies in the PPS which encouraged the locating of large industrial processing facilities and un-serviced rural lands, especially lands which are designated Greenlands and are within the Natural Heritage System. As a result, OPA 2 is clearly not consistent with this policy of the PPS.

Section 2.1.2 of the PPS provides that the diversity and connectivity of natural features should be maintained. In this case, the decision to locate this large industrial facility in a Significant Woodland is not consistent with the PPS, especially when other employment designated sites are available.

Section 2.1.5 of the PPS provides that no development and site alteration shall be permitted in Significant Woodland, unless it has been demonstrated that there is no negative impact on the natural features or their ecological functions.

The County of Simcoe in support of OPA 2 commissioned a Scoped Environmental Impact Study that underestimated the negative impact that this 4.5 hectare industrial facility would have on this Significant Woodland, which is designated as Greenlands in the County Official Plan and is within the Natural Heritage System. In addition, the Scoped Environmental Impact Study appears to have totally ignored the impact of the 600 metre long truck access road which could be three lanes wide, plus a hydro corridor, drainage ditch and gas line. This road is designed to carry heavy truck traffic and cuts through the very centre of this Significant Woodland. It is our position that the County has not and cannot meet the requirements of the natural heritage provisions of the PPS which require that there be no negative impacts on the features or functions of this natural heritage feature.

## **Conclusion**

In conclusion, as a respectful submission that Official Plan Amendment No. 2 does not comply with a Growth Plan for the Greater Horseshoe 2017, and is not consistent with the Provincial Policy Statement 2014.

DEVRY SMITH FRANK LLPPage 5

We enclose our cheque in the amount of \$300.00 payable to the Minister of Finance and request that this appeal be forwarded to the Local Planning Appeal Tribunal.

Yours truly,

DEVRY SMITH FRANK *LLP*



David S. White, Q.C.

DSW/jrg

Encl.

c.c. County Clerk, County of Simcoe  
Attn: John Daly, County Clerk  
By E-mail: John.Daly@simcoe.ca

c.c. Nicholyn Farms  
By E-mail: lynda@nicholyn.com



655 Bay Street, Suite 1500  
 Toronto ON M5G 1E5  
 Telephone: 416-212-6349  
 Toll Free: 1-866-448-2248  
 Website: [www.elto.on.ca](http://www.elto.on.ca)

<b>Receipt Number</b> (LPAT Office Use Only)
<b>LPAT Case Number</b> (LPAT Office Use Only)
<b>Date Stamp</b> Appeal Received by Municipality/Approval Authority

**To file an appeal, select one or more below \***

- Appeal of Planning Act matters** for Official Plans and amendments, Zoning By-Laws and amendments and Plans of Subdivision, Interim Control By-laws, Site Plans, Minor Variances, Consents and Severances, proceed to Section 1A
- Second appeal of a Planning Act matter** for Official Plans and amendments, Zoning By-Laws and amendments, proceed to Section 1B. NOTE: Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017*, allows appeals to the Tribunal of some *Planning Act* matters previously determined by LPAT.
- Appeals of other matters**, including Development Charges, *Education Act*, *Aggregate Resources Act*, *Municipal Act* and Ontario Heritage, proceed to Section 1C

**1 A. Appeal Type (Please check all applicable boxes) \***

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input checked="" type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
	<input type="checkbox"/> Approval Authority failed to make a decision on the plan within 210 days, or within 300 days if Approval Authority extended the appeal up to 90 days	17(40)
	<input type="checkbox"/> Council failed to adopt the requested amendment within 210 days	22(7)
	<input type="checkbox"/> Council refuses to adopt the requested amendment	
<b>Zoning By-law or Zoning By-law Amendment</b>	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 150 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision within 210 days where the application is associated with an Official Plan Amendment	
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
<b>Interim Control Zoning By-law</b>	<input type="checkbox"/> Appeal the passing of an Interim Control By-law within 60 days (Minister only)	38(4)
	<input type="checkbox"/> Appeal the passing of an extension of an Interim Control By-law within 60 days	38(4.1)

Subject of Appeal	Type of Appeal	Reference (Section)
Site Plan	<input type="checkbox"/> Application for a site plan – council failed to make a decision within 30 days	41(12)
	<input type="checkbox"/> Appeal requirements imposed by the municipality or upper tier municipality	41(12.01)
Minor Variance	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	53(14)
Plan of Subdivision	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 180 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved a plan of subdivision	
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did not approve a plan of subdivision	
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	51(39)
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	51(43)
<input type="checkbox"/> Appeal changed conditions	51(48)	

**1 B. Appeal Type (Please check all applicable boxes) Only for appeal(s) of a new decision or non-decision by municipality or Approval Authority following a previous LPAT Decision (i.e., second appeal).**

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Planning Act Matters</b>		
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal of a <b>decision</b> by Approval Authority on an OP or OPA (exempt from approval by Minister or Approval Authority) following a LPAT decision	17(24) and 17(49.6)
	<input type="checkbox"/> Appeal of a <b>decision</b> by Council or Approval Authority on an OP or OPA following a LPAT decision	17(36) and 17(49.6)
	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	22(7) and 22(11.0.12)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	34(11) and 34(26.5)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
	<input type="checkbox"/> Appeal of a <b>decision</b> by Council following a LPAT decision	34(19) and 34(26.5)

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Development Charges Act Matters</b>		
<b>Development Charge By-law</b>	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
<b>Development Charge Complaint</b>	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
<b>Front-ending Agreement</b>	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<b>Education Act Matters</b>		
<b>Education Development Charge By-law</b>	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
<b>Education Development Charge Complaint</b>	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
<b>Aggregate Resources Act Matters</b>		
<b>Aggregate Removal Licence</b>	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
<input type="checkbox"/> Revocation of licence	20(4)	
<b>Municipal Act Matters</b>		
<b>Ward Boundary By-law</b>	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
<b>Ontario Heritage Act Matters</b>		



Schedule 3 Subject of Appeal	Committee of the Whole Item CCW 2019-058 Type of Appeal	9 of 27 Reference (Section)
<b>Heritage Conservation District</b>	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)

**Other Act Matters**

Subject of Appeal	Act/Legislation Name	Section Number

**2. Location Information**

Address and/or Legal Description of property subject to the appeal \*  
**3088 HORSESHOE VALLEY ROAD WEST**

Municipality \*  
**PHELPSTON, TOWNSHIP OF SPRINGWATER**

Upper Tier (Example: county, district, region)  
**SIMCOE COUNTY**

**3. Appellant/Objector Information**

**Note:** You must notify the LPAT of any change of address or telephone number in writing. Please quote your LPAT Case/File Number(s) after they have been assigned.

Last Name	First Name
-----------	------------

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)  
**NICHOLYN FARMS INC.**

Email Address

Daytime Telephone Number * 705-733-6302	ext.      Alternate Telephone Number
--	--------------------------------------

**Mailing Address**

Unit Number	Street Number * 3088	Street Name * Horseshoe Valley Road West	PO Box
City/Town * Phelpston	Province * ON	Country * CANADA	Postal Code * L0L 2K0

**4. Representative Information**

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

Last Name WHITE	First Name DAVID
--------------------	---------------------

Company Name  
**DEVRY SMITH FRANK LLP**

Professional Title  
**LAWYER**

Email Address  
**david.white@devrylaw.ca**

Daytime Telephone Number 416-446-3330	ext.      Alternate Telephone Number 416-446-5811
--	--

Unit Number 100	Street Number 95	Street Name BARBER GREENE ROAD	PO Box
City/Town TORONTO		Province ON	Country CANADA
			Postal Code M3C 3E9

**Note:** If you are representing the appellant and are **not licensed under the Law Society Act**, please confirm that you have written authorization, as required by the LPAT's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

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

## 5. Subject Information

Municipal Reference Number(s) \*  
43-OP-169096

For appeals of Official Plans, Official Plan Amendments, Zoning Bylaws and Zoning By-law Amendments, please see information on the LPAT website [<http://elto.gov.on.ca/tribunals/lpat/lpat-process/>] detailing the requirement to set out the nature of your appeal and the reasons for your appeal based on requirement A or, for some appeal types, both A and B:

A: If you are appealing a **decision** of a Council or Approval Authority, outline which part of the decision is: \*

- Inconsistent with the Provincial Policy Statement, issued under subsection 3(1) of the *Planning Act*
- Fails to conform with or conflicts with a provincial plan
- Fails to conform with an applicable Official Plan

Please explain: \*

PLEASE SEE COVER LETTER.

And

B: If you are appealing a **non-decision or decision to refuse** of a Council for Subsection 22(7) or 34(11), outline how your application brings the Official Plan [22(7)] or Zoning By-Law [34(11)] into:

- consistency with the provincial policy statement, issued under subsection 3(1) of the *Planning Act*
- conformity with a provincial plan
- conformity with the upper-tier municipality's Official Plan or an applicable Official Plan

Please explain:

## For all other appeal types

Outline the nature of the appeal and the reasons for the appeal

## Oral/written submissions to council

If applicable, did you make your opinions regarding this matter known to council?

- Oral submissions at a public meeting of council
- Written submissions to council

**Planning Act matters only**

**Applicable only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/ were passed on or after July 1, 2016. (Bill 73)**

Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?

Yes  No

**6. Related Matters**

Are there other appeals not yet filed with the Municipality?

Yes  No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

Yes  No ▼

if yes, please provide LPAT Case Number(s) and/or Municipal File Number(s)

**7. Case Information**

For *Planning Act* appeals selected in Section 1A for Subsections 17(24), 17(36), 17(40), 22(7), 34(11), 34(19), and 51(34):

Detail the nature and/or expertise of witnesses you will have available should the Tribunal Member require oral evidence at the proceeding. (For example: land use planner, architect, engineer, etc.)

LAND USE PLANNER

**For all other appeal types :**

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

**8. Required Fee**

Total Fee Submitted \* \$ 300

Payment Method \* ►  Certified cheque  Money Order  Lawyer's general or trust account cheque

**9. Declaration**

I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative DAVID S. WHITE, Q.C.	Signature of Appellant/Representative 	Date (yyyy/mm/dd) 2019/01/17
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Personal information or documentation requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990 c. P. 13 and the *Local Planning Appeal Tribunal Act*. After an appeal is filed, all information relating to this appeal may become available to the public.

**DEVRY SMITH FRANK LLP**  
**LAWYERS & MEDIATORS**  
95 BARBER GREENE ROAD, SUITE 100  
TORONTO, ONTARIO M3C 3E9

**ROYAL BANK OF CANADA**  
SHOPS AT DON MILLS BRANCH  
1090 DON MILLS RD.  
TORONTO, ON M3C 3R6



130363

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\*\*\*Three hundred and 00/100 dollars \*\*\*\*

2019/1/17

\$300.00

PAY  
TO THE  
ORDER OF

Minister of Finance

DEVRY SMITH FRANK LLP - GENERAL ACCOUNT

PER

AUTHORIZED SIGNATURE

NICFA850

⑈ 130363 ⑈ ⑆06142⑆003⑆

105⑆627⑆1⑆

SECURITY FEATURES INCLUDED - VÉRIFIER LES CARACTÉRISTIQUES DE SÉCURITÉ - VOIR À L'ENDOS  
S1073

Eric W.D. Boate  
Direct Line: (705) 481-0236  
Email: eboate@mccagueborlack.com

January 17, 2019

**VIA COURIER**

**Ministry of Municipal Affairs and Housing**  
**Municipal Services Office – Central Ontario**  
777 Bay St., 13<sup>th</sup> Floor  
Toronto, ON M5G 2E5

**Attn: Ross Lashbrook, Manager**  
**Community Planning & Development**

Dear Mr. Lashbrook:

**Re: Edward Krajcir re County of Simcoe**  
**Our File No.: 5318.0001**

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We are the lawyers for Mr. Edward Krajcir and Mrs. Scarlett Graham-Krajcir, in the matter of the Amendment to the County of Simcoe Official Plan, Subsection 17(34) and 21 of the Planning Act, File No.: 43-OP-169096. In this regard, we enclose herewith the following:

We ask that you kindly attend to the filing of the attached Appellant Form (A1) with the Minister of Municipal Affairs and Housing, on our behalf.

We have enclosed a copy of this letter, which we would ask be returned to us upon completion of our request, stamped accordingly by your office with the date of filing for our records.

We thank you in advance for your assistance in this matter.

Yours very truly,  
**McCague Borlack LLP**



Eric W.D. Boate  
EB/co

Enclosures

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**McCague Borlack LLP**

59 Collier Street, Barrie, Ontario L4M 1G7

Tel: (705) 481-0240 Fax: (705) 481-2062

*A member of CANADIAN LITIGATION COUNSEL, a nationwide affiliation of independent law firms*

## SCHEDULE A

- The site selection process is not consistent with the *Planning Act* requirements on natural heritage as outlined in the Provincial Policy Statement (PPS 2014). The diversity and connectivity of natural features, and the long-term ecological function and biodiversity of natural heritage systems should be maintained, restored and, where possible, improved, according to the PPS policies;
- The decision is not consistent with the PPS, and does not conform to Simcoe or the Township's Official Plans with respect to natural heritage features and functions: Simcoe has not demonstrated there will be no negative impacts on "significant woodlands", "significant wildlife habitat" or the "habitat of endangered species and threatened species";
- The site selection process did not adequately consider the requirements of the PPS resulting in the identified short-listed sites, and ultimately the preferred site, with limited consideration for natural heritage impacts;
- Simcoe's application to co-locate the OPF and MMF contradicts earlier staff recommendations to separately locate the two facilities without explanation;
- It is unusual for a municipality to propose the construction of substantial infrastructure within a natural heritage feature;
- The Scoped Environmental Impact Study ("EIS") prepared by GHD Ltd. does not acknowledge the presence of Significant Wildlife Habitat ("SWH"). However, based on the information provided in the EIS, the subject property meets criteria for several SWH categories. This lack of acknowledgement appears to be based on misinterpretation of the data, and of provincial policy natural heritage guidance;
- The proposed location of the facility within the center of the site will result in the loss of approximately 18 hectares of "interior forest" habitat upon which many SWH species depend;
- The EIS did not adequately demonstrate the absence of Species of Risk, including species designated threatened and endangered under the *Endangered Species Act, 2007* (e.g. Jefferson Salamander). As a result, the claim that no impacts are anticipated on these species or their habitats is unfounded;

- The EIS inexplicably downplays the implications of the Significant Woodland designation of the site, and the impacts on ecological features and functions of the woodlands as a result of the proposed development;
- The EIS fails to acknowledge that the proposed use will result in an increase in invasive, predatory and 'pest' species, which will lead to negative impacts on local flora and fauna populations in the remaining woodlands;
- The EIS fails to adequately address the direct and indirect impacts associated with the internal road network and traffic volumes; and
- The EIS fails to adequately consider the impacts on PPS-defined adjacent lands, as well as the cumulative effects of the proposal, given the likely future expansion of the facility.
- Changes in runoff patterns as a result of development may impact wetlands on site and associated Significant Wildlife Habitat. Additional work (including monitoring) is recommended to assess overland flow patterns to wetlands on the site to clarify the hydrological characteristics of the wetlands, for inclusion in the EIS.
- The decision fails to consider Stantec Consulting Ltd.'s June 2010 report, "Solid Waster Management Strategy, County of Simcoe", specifically in relation to the size of the facility.
- The decision fails to consider the deleterious effect the facility and surrounding infrastructure will have on local agricultural operations, notably Edward Krajcir's horse farm;
- The facility will have a deleterious effect on many of the surrounding homes, notably Edward Krajcir's;
- The ERRC is an industrial facility, which belongs in an industrial location with an industrial designation. It is a class two industrial use. It has not basis for being in a natural heritage area.



**Environment and Land Tribunals Ontario  
Local Planning Appeal Tribunal**

655 Bay Street, Suite 1500  
Toronto ON M5G 1E5

Telephone: 416-212-6349

Toll Free: 1-866-448-2248

Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

<b>Receipt Number (LPAT Office Use Only)</b>
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- Appeals of other matters, including Development Charges, Education Act, Aggregate Resources Act, Municipal Act and Ontario Heritage, proceed to Section 1C

**1 A. Appeal Type (Please check all applicable boxes) \***

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<input checked="" type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input checked="" type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
	<input type="checkbox"/> Approval Authority failed to make a decision on the plan within 210 days, or within 300 days if Approval Authority extended the appeal up to 90 days	17(40)
	<input type="checkbox"/> Council failed to adopt the requested amendment within 210 days	22(7)
	<input type="checkbox"/> Council refuses to adopt the requested amendment	
<b>Zoning By-law or Zoning By-law Amendment</b>	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 150 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision within 210 days where the application is associated with an Official Plan Amendment	
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
<b>Interim Control Zoning By-law</b>	<input type="checkbox"/> Appeal the passing of an Interim Control By-law within 60 days (Minister only)	38(4)
	<input type="checkbox"/> Appeal the passing of an extension of an Interim Control By-law within 60 days	38(4.1)



Subject of Appeal	Type of Appeal	Reference (Section)
Site Plan	<input type="checkbox"/> Application for a site plan – council failed to make a decision within 30 days	41(12)
	<input type="checkbox"/> Appeal requirements imposed by the municipality or upper tier municipality	41(12.01)
Minor Variance	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	53(14)
Plan of Subdivision	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 180 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved a plan of subdivision	
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did not approve a plan of subdivision	
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	51(39)
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	51(43)
	<input type="checkbox"/> Appeal changed conditions	51(48)

1 B. Appeal Type (Please check all applicable boxes) Only for appeal(s) of a new decision or non-decision by municipality or Approval Authority following a previous LPAT Decision (i.e., second appeal).

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Planning Act Matters</b>		
Official Plan or Official Plan Amendment Official Plan or Official Plan Amendment	<input checked="" type="checkbox"/> Appeal of a <b>decision</b> by Approval Authority on an OP or OPA (exempt from approval by Minister or Approval Authority) following a LPAT decision	17(24) and 17(49.6)
	<input checked="" type="checkbox"/> Appeal of a <b>decision</b> by Council or Approval Authority on an OP or OPA following a LPAT decision	17(36) and 17(49.6)
	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	22(7) and 22(11.0.12)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	34(11) and 34(26.5)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
	<input type="checkbox"/> Appeal of a <b>decision</b> by Council following a LPAT decision	34(19) and 34(26.5)

**1 C. Other Appeal Types (Please check all applicable boxes)**

<b>Subject of Appeal</b>	<b>Type of Appeal</b>	<b>Reference (Section)</b>
<b><i>Development Charges Act Matters</i></b>		
<b>Development Charge By-law</b>	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
<b>Development Charge Complaint</b>	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
<b>Front-ending Agreement</b>	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<b><i>Education Act Matters</i></b>		
<b>Education Development Charge By-law</b>	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
<b>Education Development Charge Complaint</b>	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
<b><i>Aggregate Resources Act Matters</i></b>		
<b>Aggregate Removal Licence</b>	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
<input type="checkbox"/> Revocation of licence	20(4)	
<b><i>Municipal Act Matters</i></b>		
<b>Ward Boundary By-law</b>	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
<b><i>Ontario Heritage Act Matters</i></b>		

Subject of Appeal	Type of Appeal	Reference (Section)
Heritage Conservation District	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)
Other Act Matters		
Subject of Appeal	Act/Legislation Name	Section Number

## 2. Location Information

Address and/or Legal Description of property subject to the appeal \*  
 Lot 2, Concession 1 in the Township of Springwater (2976 Horseshoe Valley Road West)

Municipality \*  
 Township of Springwater

Upper Tier (Example: county, district, region)  
 Simcoe

## 3. Appellant/Objector Information

**Note:** You must notify the LPAT of any change of address or telephone number in writing. Please quote your LPAT Case/File Number(s) after they have been assigned.

Last Name \*  
 Krajcir

First Name \*  
 Edward

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

Email Address  
 ed.roseredfarm@gmail.com

Daytime Telephone Number \*  
 705-715-6999

ext.

Alternate Telephone Number

### Mailing Address

Unit Number

Street Number \*  
 1286

Street Name \*  
 Rainbow Valley Road East

PO Box

City/Town \*  
 Phelpston

Province \*  
 Ontario

Country \*  
 Canada

Postal Code \*  
 L0L 2K0

## 4. Representative Information

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

Last Name  
 Boate

First Name  
 Eric

Company Name  
 McCague Borlack LLP

Professional Title  
 Lawyer

Email Address  
 eboate@mccagueborlack.com

Daytime Telephone Number  
 705-481-0236

ext.

Alternate Telephone Number

**Mailing Address**

Unit Number	Street Number 59	Street Name Collier Street	PO Box
City/Town Barrie	Province Ontario	Country Canada	Postal Code L4M 7H1

**Note:** If you are representing the appellant and are **not licensed under the Law Society Act**, please confirm that you have written authorization, as required by the LPAT's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

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

**5. Subject Information**

Municipal Reference Number(s) \*  
43-OP-169096

For appeals of Official Plans, Official Plan Amendments, Zoning Bylaws and Zoning By-law Amendments, please see information on the LPAT website [<http://elto.gov.on.ca/tribunals/lpat/lpat-process/>] detailing the requirement to set out the nature of your appeal and the reasons for your appeal based on requirement A or, for some appeal types, both A and B:

A: If you are appealing a **decision** of a Council or Approval Authority, outline which part of the decision is: \*

- Inconsistent with the Provincial Policy Statement, issued under subsection 3(1) of the *Planning Act*
- Fails to conform with or conflicts with a provincial plan
- Fails to conform with an applicable Official Plan

Please explain: \*  
See Schedule A

**And**

B: If you are appealing a **non-decision or decision to refuse** of a Council for Subsection 22(7) or 34(11), outline how your application brings the Official Plan [22(7)] or Zoning By-Law [34(11)] into:

- consistency with the provincial policy statement, issued under subsection 3(1) of the *Planning Act*
- conformity with a provincial plan
- conformity with the upper-tier municipality's Official Plan or an applicable Official Plan

Please explain:

**For all other appeal types**

Outline the nature of the appeal and the reasons for the appeal

**Oral/written submissions to council**

If applicable, did you make your opinions regarding this matter known to council?

- Oral submissions at a public meeting of council
- Written submissions to council

**Planning Act matters only**

**Applicable only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/ were passed on or after July 1, 2016. (Bill 73)**

Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?

Yes  No

**6. Related Matters**

Are there other appeals not yet filed with the Municipality?

Yes  No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

Yes  No

if yes, please provide LPAT Case Number(s) and/or Municipal File Number(s)

**7. Case Information**

For *Planning Act* appeals selected in Section 1A for Subsections 17(24), 17(36), 17(40), 22(7), 34(11), 34(19), and 51(34):

Detail the nature and/or expertise of witnesses you will have available should the Tribunal Member require oral evidence at the proceeding. (For example: land use planner, architect, engineer, etc.)

Jennifer Lawrence - Land Use Planner

Jim Dougan - Ecological Consultant

Tim Lotimer - Hydrogeologist

**For all other appeal types :**

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

**8. Required Fee**

Total Fee Submitted \* \$ 300

Payment Method \*  Certified cheque  Money Order  Lawyer's general or trust account cheque

**9. Declaration**

I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Eric W.D. Boate		2019/01/18

Personal information or documentation requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990 c. P. 13 and the *Local Planning Appeal Tribunal Act*. After an appeal is filed, all information relating to this appeal may become available to the public.

TOTAL

300.00

**MCCAGUE BORLACK LLP**  
**BARRISTERS & SOLICITORS**  
 SUITE 2700, P.O. BOX 136  
 THE EXCHANGE TOWER, 130 KING STREET WEST  
 TORONTO, ON M5X 1C7  
 Tel: (416) 860-0001

**TD CANADA TRUST**  
 55 KING ST. W.  
 TORONTO, ON M5K 1A2



January 18, 2019  
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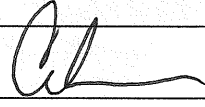
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PAY  
 TO THE  
 ORDER OF

Minister of Finance

McCAGUE BORLACK LLP  
 GENERAL ACCOUNT

PER \_\_\_\_\_  
  
 PER \_\_\_\_\_

⑈ 121824 ⑈ ⑆ 19922004 ⑆ 06200303328 ⑈

January 19, 2019

Mr. Ross Lashbrook, Manager  
Community Planning and Development  
Ministry of Municipal Affairs and Housing  
Municipal Services Office – Central Ontario  
777 Bay Street, 13<sup>th</sup> Floor  
Toronto, ON M5G 2E5

RECEIVED  
MUNICIPAL SERVICES OFFICE  
CENTRAL REGION

JAN 22 2019

MINISTRY OF  
MUNICIPAL AFFAIRS  
AND HOUSING

Dear Mr. Lashbrook:

**Re Notice of Appeal - File No.: 43-OP-169096  
2976 Horseshoe Valley Road – Township of Springwater  
Amendment 2 County of Simcoe Official Plan**

The Friends of Simcoe Forest Inc. (FSF) are in receipt of the Ministry's Notice of Decision related to the County of Simcoe Official Plan Amendment 2. FSF is a not-for-profit incorporated organization whose goal is to inform and unite all people interested in conservation of the County's forests. Our organization has been actively involved in reviewing and commenting on the County's site selection process and Official Plan Amendment (OPA) process related to the proposed Environment and Resource Recovery Centre (ERRC). Enclosed are letters that have been submitted to the County and Province throughout this process documenting the concerns that we have with respect to the decision-making process in relation to Provincial, County and Local planning policies. I have also enclosed the transcripts from the ERRC public meeting that was held on May 9, 2017. I attended that meeting and spoke on behalf of FSF in opposition to the proposed amendment.

The County is proposing to remove at least 5 ha of woodland within the Township of Springwater to accommodate the construction of an Environment and Resource Recovery Centre. This woodland is within the Growth Plan Natural Heritage System (NHS) and is designated as Greenlands in the County Official Plan (OP). The removal of at least 5 ha of woodland will result in negative impacts to at least two Key Natural Heritage Features within the Growth Plan NHS (significant woodland and significant wildlife habitat).

### ***Provincial Policy Statement***

It is FSF's position that the approval of the County's OPA is not consistent with Provincial Policy Statement (PPS) **Policies 2.1.1, 2.1.2, 2.1.5(b)(d), and 2.1.7** in that the approval of the amendment will:

- not protect natural features and areas for the long term (contrary to **PPS 2.1.1**);
- not maintain, restore or improve the diversity and connectivity of natural features and the long-term ecological function and biodiversity of natural heritage systems (contrary to **PPS 2.1.2**);
- permit development and site alteration within a significant woodland and significant wildlife habitat without demonstrating no negative impacts on the natural features or their ecological functions [contrary to **PPS 2.1.5(b) and (d)**]; and,
- potentially permit development and site alteration within the habitat of endangered species (contrary to **PPS 2.1.7**).

The County's use of the term 'no net effects' throughout their planning documents, when referring to the impacts to the above Provincially significant features, is not consistent with, nor in conformance with, the Provincial test of 'no negative impact'.

### **Growth Plan**

It is further FSF's position that the approval of the County's OPA is not consistent with Growth Plan policies **2.2.1.2(d)**, **2.2.1.3(d)**, **4.2.2.2**, **4.2.2.3(a)** and **4.2.3.1**.

As noted above, the property is within the Natural Heritage System of the Growth Plan. Policy 4.2.2.2 of the Plan states:

*4.2.2.2 Municipalities will incorporate the Natural Heritage System as an overlay in official plans, and will apply appropriate policies to maintain, restore, or enhance the diversity and connectivity of the system and the long-term ecological or hydrologic functions of the features and areas as set out in the policies in this subsection and the policies in subsections 4.2.3 and 4.2.4.*

**Policy 4.2.2.3(a)** requires that new development or site alteration within the Natural Heritage System demonstrate that:

- i) there are no negative impacts on key natural heritage features or key hydrologic features or their functions.*

FSF retained ecological and environmental planning firms to review the site selection reports as well as the Environmental Impact Study (EIS) submitted in support of the County OPA. Through their review of the EIS they have advised that it is their professional opinion that the County has not demonstrated that there will be no negative impact on significant woodlands, significant wildlife habitat and potentially habitat of endangered/threatened species. As such, the County has not demonstrated that the application is consistent with **Policy 4.2.2.3(a)** of the Growth Plan.

**Policy 2.2.1.2(d)** requires that development be directed to settlement areas, except where the policies of the Plan permit otherwise. The site of the ERRC is outside of the Settlement Area boundary and entirely within the Natural Heritage System of the Growth Plan. **Policy 4.2.3.1** of the Growth Plan outlines exceptions whereby development or site alteration could be considered outside of settlement areas within the Natural Heritage System and states the following:

*4.2.3.1 Outside of settlement areas, development or site alteration is not permitted in key natural heritage features that are part of the Natural Heritage System or in key hydrologic features, except for:*

- (c) activities that create or maintain infrastructure authorized under an environmental assessment process.*



By the County's own admission in their background documents, neither the site selection process nor the planning process was undertaken as an Environmental Assessment. As such, the exception policy provided in **4.2.3.1(c)** cannot apply to this application and, as a result, the approval of this amendment is not consistent with the Growth Plan.

Growth Plan policy **2.2.1.3(d)** requires that upper and single tier municipalities undertake integrated planning to manage forecasted growth to the horizon of the Plan which will:

*(d) support the environmental and agricultural protection and conservation objectives of this Plan.*

As outlined above, the proposed removal of at least 5ha of significant woodland and significant wildlife habitat does not support the environmental protection and conservation objectives of the Growth Plan as outlined in policies 4.2.2 and 4.2.3 of the Plan.

### **County of Simcoe Official Plan**

In addition to the above, the decision is also contrary to County OP policies related to development within their Greenlands designation. **Section 3.3.6** of the County OP (2016) states the following:

***3.3.6** Where feasible, and subject to local municipal policies and bylaws, infrastructure and passive recreational uses may be located in any designation of this Plan, subject to Sections 3.8 and 4.2, and the requirements of the Niagara Escarpment Plan, Oak Ridges Moraine Conservation Plan, Greenbelt Plan and Lake Simcoe Protection Plan where applicable, and applicable provincial and federal policy and legislation. Where applicable, only such uses permitted in the Greenlands designation (see Section 3.8) are those which have successfully completed any required provincial and/or federal environmental assessment process or proceedings under the Drainage Act.*

Based on the requirements of Section 3.3.6, any proposal for infrastructure must be assessed against the requirements of Sections 3.8 and 4.2 of the Official Plan and must be consistent with the requirements of applicable provincial and federal policy and legislation. As noted above, the proposal is not consistent with Growth Plan policy and, as such, does not meet the test established in County OP policy 3.3.6.

Further, **Section 3.8.15** of the County OP outlines the permitted uses within the Greenlands designation outside of settlement areas as:

- i. Agricultural uses;*
- ii. Agricultural-related uses;*
- iii. On-farm diversified uses;*
- iv. Forestry on public lands or in County forests in accordance with an approved management plan and sustainable forest practices;*
- v. Forestry on private lands as permitted by the County's Forest Conservation Bylaw or by a local municipality's tree bylaw under the Municipal Act, 2001;*
- vi. Mineral aggregate operations, if approved through a local Official Plan amendment;*
- vii. Outdoor passive recreational use; and,*

- viii. *Subject to demonstrating that the lands are not within a prime agricultural area, residential dwelling units on lots which were approved prior to the approve date of this policy (May 9, 2016).*

Infrastructure is not among the permitted uses in the Greenlands designation however, **Section 3.8.19** speaks to infrastructure. Specifically, it states:

**3.8.19** *Infrastructure authorized under an environmental assessment process may be permitted within the Greenlands designation or on adjacent lands. Infrastructure not subject to the environmental assessment process, may be permitted within the Greenlands designation or on adjacent lands in accordance with Section 3.3.15.*

Given that the ERRC was not subject to the environmental assessment process, the requirements of **Section 3.3.15** (Natural Heritage) must be considered which state:

**3.3.15** *Despite anything else in this Plan, except Section 4.4 as it applies to mineral aggregate operations only, development and site alteration shall not be permitted:*

- ii. *In the following unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions: Significant woodlands, significant valleylands, significant wildlife habitat, significant areas of natural and scientific interest (ANSIs), and coastal wetlands (not covered by 3.3.15i) above).*
- iii. *In the following regional and local features, where a local official plan has identified such features, unless it has been demonstrated that there will be no negative impacts on the natural heritage features or their ecological functions: wetlands 2.0ha or larger in area determined to be locally significant by an approved EIS, including but not limited to evaluated wetlands, and Regional areas of natural and scientific interest (ANSIs).*
- v. *In habitat of endangered species and threatened species, except in accordance with provincial and federal requirements.*
- vi. *On adjacent lands to the natural heritage features and areas listed above, unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. Adjacent lands shall generally be considered to be:*
  - a. *Within 120m of habitat of endangered species and threatened species, significant wetlands, significant coastal wetlands, wetlands 2.0ha or larger determined to be locally significant by an approved EIS, significant woodlands, significant wildlife habitat, significant areas of natural and scientific interest – life science, significant valleylands, and fish habitat;*

As noted earlier, FSF retained ecological and environmental planning firms to review the Environmental Impact Study submitted in support of the County OPA. Through their review of that document they have advised that the County has not demonstrated that there will be no negative impact on significant woodlands, significant wildlife habitat and potentially habitat of endangered/threatened species. As

such, FSF recommends that the County OPA is **not consistent with County OP policies 3.3.15, 3.8.15, 3.8.19 and 3.8.22.**

Finally, the County is applying to re-designate a portion of the subject property to allow for the ERRC (infrastructure). As such, **Sections 3.8.22 and 3.8.23** of the County OP apply which state:

**3.8.22** *Proposals to re-designate lands in the Greenlands designation shall not be permitted unless an EIS is submitted to the satisfaction of the County demonstrating that the policies of Section 3.3.15, 3.3.16, 3.8.15, 3.8.16 or 4.4.1 as applicable, and the relevant policies of the local municipal official plan are satisfied.*

As summarized above, the EIS has not demonstrated no negative impact but rather, relies on the term 'no net effect' when describing the impacts to the key natural heritage features. As a result, the OPA is also not consistent with **Policy 3.8.22** of the County OP.

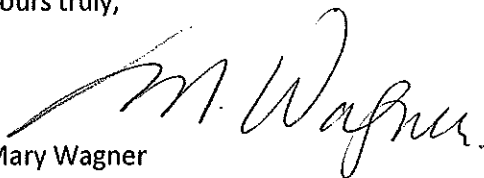
### **Summary**

Based on the above, Friends of Simcoe Forest Inc. is appealing the Ministry's decision to approve Amendment 2 to the County of Simcoe Official Plan given that the decision is not consistent with the policies of the Provincial Policy Statement, Growth Plan and County of Simcoe Official Plan related to development and site alteration within Natural Heritage Systems, Key Natural Heritage Features and Greenlands, as outlined above. Specifically, Friends of Simcoe Forest Inc. is appealing the entire amendment to the Official Plan for the County of Simcoe which would result in changes to Schedule 5.6.1 and the creation of new policy 4.9.9.

Please find enclosed our certified cheque in the amount of \$300.00, payable to the Minister of Finance, Province of Ontario.

If you require further information, I can be reached at 705-716-6564 or [yramrengaw@hotmail.com](mailto:yramrengaw@hotmail.com).

Yours truly,



Mary Wagner  
President – Friends of Simcoe Forests Inc.  
2928 Horseshoe Valley Road West  
Phelpston, ON  
L0L 2K0

encls.