

**Anthony Usher Planning Consultant**  
63 Deloraine Avenue, Toronto, Ontario M5M 2A8

(416) 425-5964  
auplan@bellnet.ca

December 8, 2021

Mr. Jeff Iles  
Director of Planning and Land Information  
Municipality of Dysart et al  
Box 389  
Haliburton, Ontario  
K0M 1S0

Dear Mr. Iles:

**Re: Harburn Holdings, Grass Lake - Official Plan and Zoning Bylaw Amendments**

Thank you for sending me additional letters from residents expressing concerns with these applications, over and above those I had received before September 8, 2021. As requested, I am writing to attempt to address, or provide further information responding to, some of those concerns.

Although there were a large number of additional letters, the majority of the concerns raised were similar to those in the earlier letters that I responded to on September 8. As I wrote then, much of what the residents have written represents straight differences of opinion, and by and large I will not reply to points of that type, leaving it to Council to consider the competing viewpoints in the context of the applicable planning policies.

Therefore, this letter will only respond to residents' points on which clarification or additional information from my client and me would be helpful *and* where that has not already been fully provided in my September 8 letter. I will also not respond to points that are best commented on by the firm that is currently peer-reviewing the Hydrogeological Servicing Study and Environmental Impact Study/Wetland Site Assessment for the Municipality. As well, I have dealt with the particular question of whether shoreline alteration and lake filling took place in my letter of December 7, 2021.

Finally, as I wrote on September 8, my client is and will remain open to considering improvements to the proposal.

The rest of this letter consists of specific quotes from the resident letters, in *italics*, with our response below each quote. In some cases, the quotes are representative, not all the comments on the topic.

*. . . we have been kept largely in the dark about this planned development. Recent correspondence received from Harburn Developments made us aware of the proposed planned developments. We should have been notified by the Municipality. (Lesia and Richard Lawton, August 25)*

The Municipality is not required to notify nearby residents of a planning application until it gives notice of a public meeting. This had not happened as of August 25, and has still not happened, as

no public meeting has yet been scheduled.

However, the applicant is required to include a public involvement strategy in the application. Our strategy is provided in section 7 of my Planning Report. As described there, in order to ensure that residents were informed earlier and more comprehensively, we said we would mail a letter and project description to all nearby residents, including some who would not receive municipal notice. That was the document dated June 1, 2021 that the Lawtons received and refer to. In the end it was mailed by the Municipality, and later than we had originally intended, due to COVID-19 limitations.

In other words, Harburn Holdings proactively ensured that residents were informed earlier and in more detail than had only municipal notice been provided. Anyone who feels that the Municipality should enhance its notice practices, should take that up with the Municipality.

In any event, subsequent to the Lawtons' letter, the Municipality published a Notice of Complete Application in local media, and posted information on the project on its website.

*There is no other location on Grass lake [sic] with this density of buildings or units and there are no buildings at all of this kind on Lake Kashagawigamog. (Shawn Foster and Danielle Clements, October 12)*

Certainly, that is so on Grass Lake, and it may be so on the Dysart portion of Kashagawigamog Lake. However:

- ▶ For the residential development, and not including the lands which are and would remain designated and zoned Environmental Protection, my client is only seeking the same Official Plan designation, Suburban Residential, and the same zoning, RS, as applies to most of the lands from Grass Lake west that are within the Haliburton Village Service Area. The Service (i.e. municipal sewage) Area includes most of Grass Lake, and all of the north shore of Kashagawigamog Lake within Dysart.
- ▶ Within the Suburban Residential designation, the Official Plan allows "medium density residential development", which means up to 17 units per hectare and three storeys - overall, more than what we are proposing.
- ▶ Perhaps because of the lot fabric and history of development, with one exception nobody else has obtained the site-specific zoning in this area that is required to actually permit multi-unit buildings in conformity with the Official Plan. However, anyone is free to, for example, merge several abutting lots and seek to do this.
- ▶ The exception is a currently permitted and mostly developed "lifestyle residential development" (as defined in the Official Plan), Silver Beach, on Wigamog Road south of Pinestone. This has been developed by condominium description, and is a mix of single-detached and townhouse dwellings. The planning permissions are described in the Official Plan (section 15.1.5, special area SSP-5) and zoning bylaw (RS-3 exception zone). The RS-3 zone among other things permits a medium-density dwelling, as we are seeking, although it has to be of a townhouse type.

*I feel it's disrespectful to local residents, for the developer to withhold information about these planned "commercial uses". Secondly, County Road 21 is no longer a highway . . . so why would a "highway-oriented" business be permitted here? (Sherry Schell, September 10)*

We do not intend to be disrespectful, or as Ms. Schell later suggests, deceitful.

We are proposing that Severance 1 be rezoned to CH. As indicated in the Dysart zoning bylaw, there is a list of business types permitted in that zone. Every property zoned CH is allowed the same list of businesses, unless there is a site-specific zoning provision adding or subtracting some, which we are not seeking.

Harburn Holdings is in no position to say what the businesses will be. First, as we have described, this is a two-stage process, and the future owner of Severance 1 will determine how it wants to develop the property. It will either have to abide by the standard CH zoning we are seeking, or seek new planning permissions.

As well, actual development is years away. What will market conditions be then? And zoning is intended to set the rules not just for day one, but for many years forward if properly done. Can the businesses on day one be forced to stay forever? Can no new businesses be allowed to replace them?

While it is true that CR 21 is no longer a provincial highway, it remains a "highway" under the *Municipal Act, 2001*. As well, it is a "street", which has the same meaning, in the zoning bylaw. Whether or not any road is a provincial highway is irrelevant to whether lands on it can be zoned CH.

There are two basic requirements here: a CH zone must have frontage on a public street/highway as defined above, and it must be where the Municipality has chosen to have CH zones. There are CH zones all along CR 21 from Haliburton Village west to the Dysart-Minden Hills boundary, and along various other major roads.

*50% of the original trees since 2003 have already been removed. Allowing a further 50% more trees to be removed is accentually [sic] giving Harburn Holdings the right to remove a total of 75% of the trees that were on the property. No other resident on our lake is allowed to do this, why should Harburn be allowed to do this. (Karen and Peter Warren, September 13)*

The correct figures are in my September 8 letter. About 33% of the property has been cleared since my client acquired it. Hypothetically, unlikely though it is as described in that letter, that could increase to 66%.

The County's Shoreline Tree Preservation Bylaw applies to everyone's lands within 30 m of the shoreline. Before the bylaw took effect in 2012, Harburn did some clearing within 30 m of the Grass Lake shoreline, as did quite a few other property owners on the lake. Harburn has not done any since and, as indicated in the Environmental Impact Study/Wetland Site Assessment, does not propose any significant clearing within 30 m. Regarding the incidental tree clearing that is proposed within 30 m, the Shoreline Tree Preservation Bylaw allows for a number of exemptions including any clearing authorized through conditions of planning approval, which on the subject property would include future approval of condominium descriptions and site plan agreements.

*Water testing shows there may not be a sufficient water table to support 88 units with additional wells, and that the water drawn by the development "should" not affect the water table of neighbouring residences. "Should" is unacceptable.* (Sandre Daoust, September 15)

*According to Harburn Holdings Ltd, the hydrogeological study suggested that "with some additional measures there will be sufficient drinking water of good quality and that nearby well supplies should not be adversely affected". "Should not" is not acceptable.* (Jennifer and Paul Hodges, September 22)

Actually, the hydrogeological servicing study found that the wells drilled "can support" or "can sustain" a total of 97 units, although on the proposed Severance 3, constraints would require further measures be undertaken to support the number of units desired on that lot.

As for "should"/"should not": Section 5.1 of the Hydrogeological Servicing Study, which deals with groundwater levels at nearby private wells, states that there was some drawdown at 1014 Peninsula Road during testing. It then goes on, "It is our opinion that a 1.5 m well interference *will not adversely affect* the sustainability of the well supply at 1014 Peninsula Road", and then, "no other off-site impacts to existing water users *are expected* from long-term pumping of the test wells at the suggested sustainable rates". That's pretty definite language (emphasis added). The quote provided by Ms. and Mr. Hodges is taken from the project description in my June 1, 2021 letter to nearby residents, and is my perhaps overly cautious paraphrase of Palmer's conclusions. Palmer's report, and its more assertive wording, should be considered definitive.

*In my opinion the wells installed on this property, if used in the proposed fashion will cause irrefutable harm to my business and tenants.* (Haliburton Veterinary Services, Dr. Aimee Coysh, September 13)

Dr. Coysh's property, 1014 Peninsula Road, has one of the neighbouring wells tested in the Hydrogeological Servicing Study. She encountered significant rust and sediment in her water supply for about a week following pump testing. She discussed this with Palmer at the time, and her letter to the Municipality provides detailed information on that event and those communications.

It is Palmer's opinion that the actual cause of the contamination was not effects from pump testing on the subject property, but debris being dislodged when Palmer inserted data logging equipment into Dr. Coysh's well to assess its reaction to the pump testing.

Nevertheless, Palmer's report notes there was some water level interference in the Coysh well from the pump testing, but that use of the well on Severance 1 would not adversely affect the sustainability of the Coysh water supply.

Because of the interference potential as well as the brief contamination at the time of testing, Harburn agrees to a commitment whereby the future owner of Severance 1 will:

- monitor the 1014 Peninsula Road well when any well on Severance 1 is initially operated,
- remedy any demonstrated continuing effect on 1014 Peninsula Road's water supply, including improving or replacing that property's well if necessary.

*Will the existing sewer system and pumping stations be able to handle the additional flow? Can you*

*guarantee this? Who will pay for improvements and system upgrades, if required?* (Beverley Coneybeare, October 18)

*The number of units proposed could potentially overwhelm the sewage system which would cause considerable inconvenience, complications and hardship on [sic] the current residents.* (Shawn Foster and Danielle Clements, October 12)

The earlier batch of letters included some similar points; I did not respond to them on September 8.

In our preconsultation with Municipal staff, they were aware of the approximate number of units we were considering. They never indicated any concern with the ability of the sewage system to serve them. Municipal staff are best placed to respond further.

*How much more Light pollution do you expect the current Grass Lake property owners to put up with?* (Catherine MacRae, October 4)

The light impacts of existing commercial development on CR 21 cited by Ms. MacRae and others have, of course, nothing to do with these applications.

Although I didn't mention it in my Planning Report, section 4.16.2 of the Official Plan sets out exterior lighting objectives. The Municipality "encourages" new development to adhere to these, and they "may" be required as a condition of development approval.

Harburn Holdings and I support these objectives, and will have no objection to the Municipality requiring they be implemented on the subject lands through condominium or site plan approval.

*Another point to consider is that these condo units could be purchased by individuals who will list them as short-term rentals, or airbnbs, should the condo boards decide that it's acceptable.* (Sherry Schell, September 10)

The definition of "dwelling unit" in the zoning bylaw is intended to prohibit commercial short-term rental, and that has traditionally been the position of the Municipality. That said, enforcement is another matter (and Dysart even has a page on its website telling short-term renters what to do with their solid waste).

As is well known, short-term rentals are a widespread concern throughout lake country. The four local municipalities have agreed that Haliburton County is best placed to develop a uniform approach. I understand that the County has just retained a planning consultant to undertake a review and public consultation, leading to County-wide policies and regulations.

This is an issue that goes way beyond the subject applications, and indeed, equally applies to all the existing residential properties on Grass Lake.

\* \* \*

Please let me know if you require any additional information or clarification.

Mr. Jeff Iles/December 8, 2021

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Yours sincerely,

*[original signed by]*

Anthony Usher, RPP

# Anthony Usher Planning Consultant

63 Deloraine Avenue, Toronto, Ontario M5M 2A8

(416) 425-5964

auplan@bellnet.ca

December 7, 2021

Mr. Jeff Iles  
Director of Planning and Land Information  
Municipality of Dysart et al  
Box 389  
Haliburton, Ontario  
K0M 1S0

Dear Mr. Iles:

## **Re: Harburn Holdings, Grass Lake - Official Plan and Zoning Bylaw Amendments**

I'm replying to your email of October 29 about filling and site alteration at the subject property, and apologize for having taken so long to do so.

You asked me, "we have received various complaints about the filling of the wetland/site alteration/creation of the pond. As per [Paul Wilson's] email below, he outlines that he received the proper approvals to do so. Are you able to provide us documentation from the approval authorities (DFO, MNR and MOE) for this work? I think this information will be helpful to address these concerns." You were referring to an October 13 email from Mr. Wilson to the Ministry of Environment, Conservation and Parks, copied to you, in which he said he had received approvals from all three agencies.

Mr. Wilson has provided me all the relevant correspondence, which I have carefully reviewed and discussed with him. I have also reviewed with him the overall history of his activities at the property, and revisited the available air photography. I would like to provide a chronology of what has happened, that will be more in depth than what I provided in my Planning Report or my letter of September 8, 2021. This will also address, I hope conclusively, the question of whether the shoreline has been altered, which is of course completely interdependent with the filling and site alteration history.

This letter will be on the public record, but in my view, Mr. Wilson's past correspondence with approval agencies about activities that are not actually the subject of this application should remain confidential unless we are required to produce it for some reason. Therefore, I will describe and quote from the relevant correspondence, but I am providing you with the actual correspondence for your information only.

### ***What happened at the property***

*May 30, 2003* Harburn Holdings Ltd. acquires property.

*Between 2003 and 2008* Paul Wilson has advised me this is when he first undertook any clearing

on the property, on the proposed Severance 1. He also did some filling of an upland wetland in the area he cleared, near Peninsula Road.

Google Earth's air photo of August 2009 confirms this. The only visible cleared area is on Severance 1, inland from the shoreline. Resolution is not sufficient to identify any filling.

As a result of complaints received about this filling, Ministry of Natural Resources staff visited the site, and advised they were satisfied with the work done.

Mr. Wilson also contacted the Department of Fisheries and Oceans about this filling. According to his September 27, 2010 letter to DFO (see below), their staff had also visited the site and advised that they were satisfied with the work done.

*November 2, 2009* Aerial photography is taken which is the basis for the mapping of the property in all subsequent site plans, and the plans submitted in support of the current applications. This includes the mapping of the regulated high water mark, which is also the shoreline for planning purposes. (The high water mark location was refined in 2020 as a result of additional field work by Mr. Wilson, who is an Ontario Land Surveyor, in preparing Plan 19R-10423, but these refinements did not change the shoreline in the area of the point where the boat dock is proposed, which I will refer to from here on as "the point".)

Grass Lake's regulated high water mark is 317.8 m. Mr. Wilson advises me that the equivalent reading at the Canning Lake dam, which controls levels on Grass Lake, is 1.52 m (see also Note 2 on Plan 19R-10423). According to the website of Parks Canada, which operates that dam, the mean annual maximum level is 1.5 m, equivalent to 317.8 m (which happens to coincide with the regulated high water mark). The maximum ever recorded is 1.9 m, equivalent to 318.2 m. In other words, in an average year the water level never exceeds the regulated high water mark, and the highest level ever recorded in flood conditions is 0.4 m above that. As well, that record maximum was experienced in April, not when recreational boating would be likely. The maximum ever recorded from Victoria Day on is 1.7 m, which is 0.2 m (about 7 inches) above the regulated high water mark.

*September 27, 2010* Mr. Wilson writes DFO, advising of his intention to fill an additional area. This was an upland wetland area shown in green on the September 24, 2010 site plan accompanying that letter, which I enclose (resolution is not ideal, I can obtain a higher quality reproduction if required). This upland wetland was above the regulated high water mark and at the base of the point. He asks DFO to confirm if it had any concerns "provided that proper erosion and sediment controls are implemented".

*October 26, 2010* In response to a request for further information, Mr. Wilson writes DFO, "The lowest area in the subject wetland is approximately one foot above the maximum controlled water level of Grass Lake and there are no connecting channels that would allow fish to access any portion of the wetland from the lake".

*November 1, 2010* Tracy Allison, DFO Peterborough, responds that on the basis of the information provided, the work would not be in fish habitat and therefore is of no concern to the Department.

*November 15, 2010* Mr. Wilson writes MNR, with the same information as provided to DFO. He

asks that a species at risk expert confirm whether there would be any concerns in that regard.

*December 1, 2010* Graham Cameron, species at risk biologist, MNR Bancroft, responds that the site is potential habitat for Blanding's turtle and eastern hog-nosed snake. He advises that work should be restricted to the period May 16 to September 14, and that planting should be restricted to native species. He concludes by suggesting that "ultimately the best way to ensure due diligence in compliance with the [*Endangered Species Act, 2007*] is to have a qualified biologist perform a site assessment".

Mr. Wilson replies on the same day, that he will adhere to Mr. Cameron's recommendations, and will be seeking the advice of Michalski Nielsen Associates Limited on plantings. He also says that he may be seeking severance approval at some future date, at which time he will retain MNAL to "prepare a detailed Site Evaluation Report to make recommendations for the long term protection of wildlife habitat".

*August 29, 2011* Mr. Wilson advises DFO and MNR that he will be undertaking the wetland filling between that date and September 14, consistent with Mr. Cameron's recommendation above. (Google Earth's May 2012 photo shows the site looking much as it does today.)

The above more detailed information requires me to correct one point in my September 8, 2021 letter. I wrote that, when Mr. Wilson was undertaking filling of upland wetlands, he "consulted with staff of the then Ministries of Natural Resources and the Environment, who visited the site during the fill placement and were satisfied with the work that was done." Actually, Mr. Wilson only consulted with the Ministry of the Environment in 2011, to confirm that no permit was required for pond construction.

### ***Shoreline alteration? Point or island?***

As noted in my September 8, 2021 letter, it has been claimed that Harburn Holdings has altered the shoreline, including causing a former island in Grass Lake to become what is now the point by filling between it and the mainland. I responded that my examination of air photos over the last 50 years does not support these claims.

The additional information I have provided further supports that the shoreline is in the same location as it was when Harburn Holdings bought the property in 2003 and before it undertook any site alteration.

As described above and in my September 8 letter, Mr. Wilson kept MNR informed of his work, and staff visited the site and were satisfied with the work that was done. It is contrary to the *Public Lands Act* to deposit any fill below the regulated high water mark without a work permit from the Ministry. Obviously, Ministry staff did not believe that the *Act* had been contravened.

Subsequent to my September 8 letter, I received James Misener's August 25 letter to the Municipality. He wrote that "There was a natural island that I canoed around and has been filled in. Can easily be shown on Google Earth as I have seen." Karen and Peter Warren also wrote, in their undated letter, that the point was originally an island.

Paul Wilson has advised me that in his 18 years of owning the property, the water level has never been high enough for anyone to canoe through the wetland that was later filled, in other words, canoe around the point. As noted above, in 2010 he also told DFO that that wetland was about 1 foot - 0.3 m - above the regulated high water mark. Mr. Wilson is not only a "hands-on" owner and year-round local resident who is extremely familiar with his property, he is also an Ontario Land Surveyor. I therefore trust the accuracy of his observations, and I equally trust that he fulfils his professional obligations as an OLS.

The data described above show that in the season when anyone would be canoeing, the level of Grass Lake has never been more than 0.2 m above the regulated high water mark.

I have re-examined the readily available air photos, in particular the Google Earth 2009 photo, which has the best resolution of any readily available photo preceding the filling behind the point. My conclusion remains that while the pre-clearing photos obviously show a wetland behind the point, they do not show that the point was an island.

I would welcome any hard evidence that residents can provide to the contrary. And if anyone believes I am misinterpreting relevant information that is already available, such as Google Earth photos, and would like to show me the error of my ways, I'd be happy to speak with them.

\* \* \*

Please let me know if you require any additional information or clarification.

Yours sincerely,

*[original signed by]*

Anthony Usher, RPP

**SITE PLAN**  
**PART OF LOTS 9 AND 10, CONCESSION 8**  
**GEOGRAPHIC TOWNSHIP OF DYSART**  
**TOWNSHIP OF DYSART et al**  
**COUNTY OF HALBURTON**  
**PAUL WILSON O.L.S. P.ENG.**



**IMPERIAL:**  
 DISTANCES SHOWN ON THIS PLAN ARE IN FEET  
 AND CAN BE CONVERTED TO METRES BY  
 MULTIPLYING BY 0.3048.

**OWNER : HARBURN HOLDINGS LTD.**

**PENINSULA ROAD**  
 (BY UNREGISTERED MUNICIPAL  
 NAMING BY-LAW No. 2003-115)

**PART 1**  
**PLAN 19R-1062**

**PENNY LANE ROAD**  
 (BY UNREGISTERED MUNICIPAL  
 NAMING BY-LAW No. 2003-135)

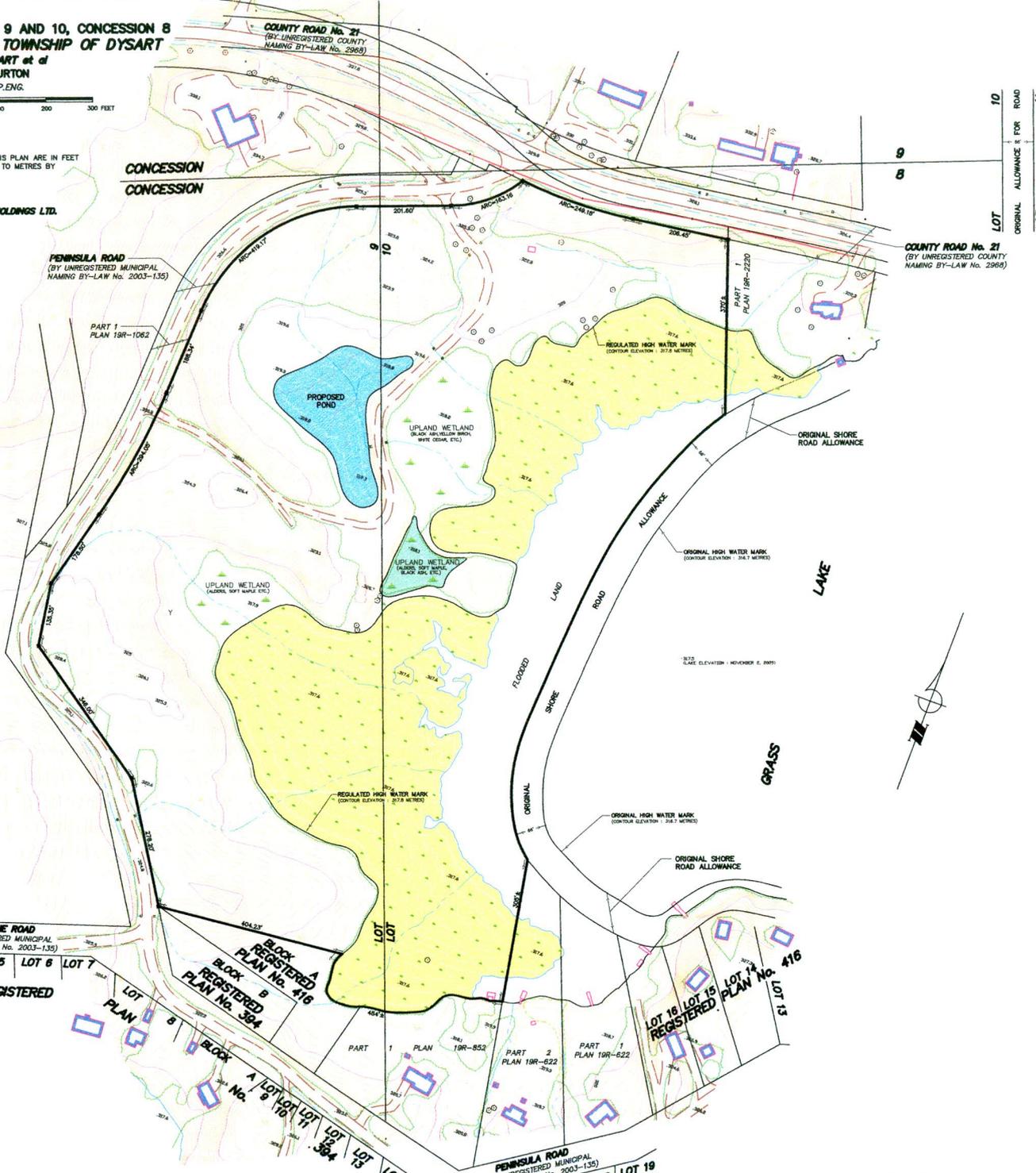
**REGISTERED**

**BLOCK REGISTERED**  
**PLAN No. 416**

**BLOCK REGISTERED**  
**PLAN No. 394**

**PENINSULA ROAD**  
 (BY UNREGISTERED MUNICIPAL  
 NAMING BY-LAW No. 2003-135)

**LOT 16 LOT 17 LOT 18 LOT 19**  
**REGISTERED PLAN No. 394**



**SITE DRAINAGE**  
**EROSION AND SEDIMENT CONTROL**

- DRAINAGE DITCHES SHOULD BE GRADED TO A STABLE SIDE SLOPE BETWEEN 2:1 AND 3:1 WHERE POSSIBLE. UNSTABLE SLOPES SHOULD BE PROTECTED FROM EROSION WITH ROCK RIP-RAP.
- SILT FENCE BARRIERS (OPS-219.130) MUST BE INSTALLED ALONG THE SHORE OF THE LAKE AND UPDRAINAGE FROM WETLAND AREAS AND STREAMS PRIOR TO ANY DISTURBANCE OF EXISTING SOIL CONDITIONS DURING CONSTRUCTION OF ROADS AND DURING SITE GRADING TO PREVENT THE DISCHARGE OF DISTURBED SEDIMENT INTO THE LAKE OR WETLANDS.
- TEMPORARY STRAIN BALE CHECK DAMS (OPS-219.180) SHOULD BE INSTALLED IN DITCHES AND STREAMS TO PROMOTE SEDIMENT DEPOSITION AND TO MINIMIZE SEDIMENT RELEASED INTO THE LAKE DURING ANY CONSTRUCTION THAT DISTURBS EXISTING SOIL CONDITIONS. ROCK CHECK DAMS (OPS-219.210) SHOULD BE INSTALLED IN HIGH VOLUME DITCHES.
- SILT FENCE BARRIERS AND TEMPORARY CHECK DAMS MUST BE MAINTAINED UNTIL DISTURBED AREAS HAVE BEEN FULLY STABILIZED. SEDIMENT MUST BE REMOVED WHEN CAPTURE CAPACITY HAS BEEN REDUCED BY ONE THIRD.

**NOTE**

1. THE CONTOURS AND ELEVATIONS SHOWN HEREON ARE DERIVED FROM A G.P.S. CONTROLLED TOPOGRAPHIC SURVEY PREPARED BY NORTHMAP PHOTOGRAMMETRIC PROCESSED FROM AERIAL PHOTOGRAPHY FROM NOVEMBER 2, 2006. ALL ELEVATIONS ARE REFERRED TO NA83 DATUM.
2. CONTOUR INTERVAL IS 0.5 METRE.
3. THE WATER LEVEL OF GRASS LAKE IS CONTROLLED BY PARRIS CANADA AT THE DAM LOCATED AT THE OUTLET OF GRASS LAKE.
4. THE REGULATED HIGH WATER MARK OF GRASS LAKE HAS A CONTOUR ELEVATION OF 317.8 METRES AND THE ORIGINAL HIGH WATER MARK OF GRASS LAKE (PRIOR TO CONSTRUCTION OF THE DAM) HAS A CONTOUR ELEVATION OF 316.7 METRES.
5. THE WATER LEVEL OF GRASS LAKE ON THE DATE OF THE AERIAL PHOTOGRAPHY (NOVEMBER 2, 2006) WAS 317.5 METRES. THIS LEVEL IS CONSISTENT WITH THE RECORDS OF PARRIS CANADA OBTAINED FROM OCTOBER 27, 2006 THRU NOVEMBER 3, 2006.
6. THE CONTOURS OF ELEVATION OF BOTH THE ORIGINAL AND REGULATED HIGH WATER MARKS SHOWN HEREON HAVE BEEN DETERMINED FROM DATA SUPPLIED BY PARRIS CANADA WHICH IS OF RECORD IN THE OFFICES OF PAUL WILSON CONSULTING LTD.

**LEGEND**

	DENOTES EXISTING STRUCTURE.
	DENOTES SURVEY MONUMENT PLANTED.
	DENOTES SURVEY MONUMENT FOUND.
	DENOTES 5 METRE CONTOUR.
	DENOTES 0.5 METRE CONTOUR.
	DENOTES COMMON CATTLE MARSH (SEASONALLY INUNDATED BY THE WATERS OF GRASS LAKE, THE DAILY LEVEL OF WHICH IS CONTROLLED BY PARRIS CANADA AT THE DAM LOCATED AT THE OUTLET OF GRASS LAKE).
	DENOTES UPLAND WETLAND AREA PROPOSED TO BE FILLED (FILLING OPERATIONS TO BE INITIATED BY THE IMPLEMENTATION OF THE "SITE DRAINAGE" AND "EROSION AND SEDIMENT CONTROL" MEASURES SHOWN HEREON).
	DENOTES INTERMITTENT WATERCOURSE.

**PAUL WILSON CONSULTING LTD.**  
 ONTARIO LAND SURVEYORS  
 ENGINEERS - PLANNERS

2154 WEGANOG ROAD  
 BOX 200, HALBURTON,  
 ONTARIO, CAN. N0G 2J0  
 (705) 457-3162  
 email: paul@wilsonconsulting.ca

3 NEWCASTLE STREET  
 BOX 174, BRIDGE,  
 ONTARIO, CAN. N1G  
 (705) 386-3400

27/09/2016 2:00-PENINSULA WP- UPR OLL 13

HALBURTON, ONTARIO, SEPTEMBER 24, 2016.  
 SEAL SEAL  
 PAUL WILSON O.L.S. P.ENG.

# Anthony Usher Planning Consultant

63 Deloraine Avenue, Toronto, Ontario M5M 2A8

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September 8, 2021

Mr. Jeff Iles  
Director of Planning and Land Information  
Municipality of Dysart et al  
Box 389  
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K0M 1S0

Dear Mr. Iles:

## **Re: Harburn Holdings, Grass Lake - Official Plan and Zoning Bylaw Amendments**

Thank you for sending me several letters from residents expressing concerns with these applications. As requested, I am writing to attempt to address, or provide further information in response to, some of those concerns. Specifically, I am responding to the following letters:

- Karen Guthrie and Steve Belanger, August 6 and August 12, 2021
- Laurie and Marion Magee, August 14
- Earl and Jamie Misener, August 16
- Lake Kashagawigamog Organization (Jan Gerrow), August 18
- Angela and Jurgen Haedicke, received August 23.

Ms. Guthrie and Mr. Belanger, and the Haedickes, provided their email addresses, and I have Jamie Misener's from previous correspondence with him. I am copying this letter to those correspondents, and ask you to forward it to the others at your earliest convenience. I also expect this letter will form part of the public record.

Much of what the residents have written represents straight differences of opinion. We believe the development is appropriate, and would have minimal adverse effects as demonstrated by the supporting studies. Others have different opinions. By and large I will not reply to points of that type. I am happy to leave it to Council to consider these competing viewpoints in the context of the applicable planning policies.

Finally, I should add that my client is and will remain open to considering improvements to the proposal, based on comments from and concerns of the public, plan review staff, and Council.

The rest of this letter consists of quotes from the resident letters in *italics*, with our response below each quote. I have attempted to organize these by topic.

*We have found and confirmed a Blandings Turtle by the pond on the said property. We have attached dated pictures with the location identified.* (Guthrie and Belanger, August 12)

I have consulted with Paul Wilson, principal of Harburn Holdings, and Gord Nielsen, the author of

the Environmental Impact Study/Wetland Site Assessment (EIS/WSA), on this finding.

We agree that Ms. Guthrie and Mr. Belanger photographed a Blanding's turtle just south of the pond, on August 8. (I should note, though, that the latitude and longitude coordinates provided with the photos are off the property.)

Ms. Guthrie and Mr. Belanger trespassed on my client's property to obtain their photos. Should they wish to revisit the property, in the company of Mr. Nielsen, they are welcome to do so by arranging that with me. (Of course, this invitation applies also to any of the other correspondents.)

The General Habitat Description for the Blanding's Turtle, Ministry of Environment, Conservation and Parks, 2021, indicates that if the Ministry accepts this sighting, the property would be considered as Category 2 habitat (generally, the lands below and within 30 m of the shoreline), or Category 3 habitat (the rest). In our view, nothing in our proposal would offend the habitat requirements indicated in that document.

However, a confirmed sighting may suggest mitigation measures over and above those recommended in the EIS/WSA. Mr. Nielsen is currently sharing the sighting information with MECP and is consulting with them about what might be appropriate.

*We have also seen "Grace" the 125 yr old snapping turtle on the property. (Guthrie and Belanger, August 12)*

Snapping turtles are a special concern species under the *Endangered Species Act, 2007* and are not subject to any special requirements that would affect the proposed development. The EIS/WSA indicates that conditions for snapping turtles would be maintained and improved.

*[This] property was designated as wet lands. (Magee, August 14)*

None of the property is identified by the Province as provincially significant wetland. Of course much of it is wetland, currently designated as Environmental Protection or Lakes and Rivers in the Dysart Official Plan. It is proposed to more accurately delineate the wetland boundary, and with the boundary refined, the wetland would remain designated Environmental Protection (including that portion now designated Lakes and Rivers.)

*There once was an island on Grass Lake, that has since disappeared due to backfill being dumped into the lake between the mainland and the island. The current owner has taken it upon himself to do this. (Guthrie and Belanger, August 6)*

*The shoreline and wetlands have already been infilled significantly. (LKO, August 18)*

Examination of air photos over the last 50 years does not show that the island referred to by Ms. Guthrie and Mr. Belanger ever existed. Nor have there been any discernible changes in the shoreline.

My Planning Report says, "The present owner has undertaken some clearing and site alteration in non-wetland areas, mainly on the northern half of the property. Site alteration consisted of grading, including creation of the pond. . . . The shoreline and wetlands were not altered."

I have further discussed this with Mr. Wilson. He advises that there was some filling in wetland areas above the shoreline around 2010, when he excavated the pond. (Which means that the statement in my report that the wetlands were not altered is not entirely accurate, though it remains correct with respect to wetlands below the shoreline.) At that time, Mr. Wilson consulted with staff of the then Ministries of Natural Resources and the Environment, who visited the site during the fill placement and were satisfied with the work that was done. As well, the EIS/WSA found that activities on the property "have not had any substantive influence on wetland boundaries".

*Recently there was a Town meeting regarding shorelines, to which we attended [sic]. This is a clear VIOLATION of any shoreline by-law. (Guthrie and Belanger, August 6)*

To the best of my knowledge, nothing has taken place on the property that has violated the present County Shoreline Tree Preservation Bylaw since it came into effect in 2008. I assume Ms. Guthrie and Mr. Belanger attended a meeting to discuss a potential new County shoreline preservation bylaw. Any such bylaw is a long way from coming into effect. It is of course possible that when such a new bylaw is passed, there will be things that happened on this property in the past - and on hundreds of other properties in the County - that would have contravened the new bylaw had it been in effect 10, 20, or 50 years ago.

*Keeping in mind that there is a 50% forest clearing allowance, that much AND more has already been removed over a number of years on these lots. Originally this area was total bush, and clearing more to build would far surpass the 50% forest clearing. (Guthrie and Belanger, August 6)*

*First was the cutting of more than half of the trees . . . . (Haedicke, received August 23)*

*At the end there might only a quarter of the original trees be left! [sic] (Haedicke, received August 23)*

As described in my Planning Report, the property is 8.8 ha above the lake shoreline. Air photos from 1971 suggest about 1 ha was clear at that time. This formerly cleared area has since regenerated.

My client has cleared since acquiring the property in 2003. The total cleared area (not considered ecological land classification units - see EIS/WSA, Figure 2) is about 2.9 ha, which includes the area of the human-made pond (0.4 ha). So 5.9 ha, about two-thirds of the property, remains forested.

It is proposed that at least 50% of the existing forest on each lot would be retained. Of course, all of the existing forest in the 30 m shoreline buffers would be left as is. That means that potentially, up to about 3 ha could be cleared, leaving about 3 ha forested, but it is most unlikely that all four lots would be cleared to the 50% maximum. The exact nature of future development has yet to be determined, and site plans for each lot have not been developed.

It is true that if each lot were cleared to the 50% maximum, only about a third of the property above the lake shoreline would remain covered by existing forest. However, the 50% proposal was intended to ensure that at least half the existing forest would remain untouched, not to establish a naturalized open space percentage for each lot.

The zoning bylaw requires at least 30% naturalized open space for the RS zone proposed for the three southern lots, and 20% for the CH zone proposed for the northern lot. Naturalized open space includes any land suitable for vegetation growth, not just existing forest. Even with 50% further clearing, these bylaw minimums would be well exceeded.

The proposal also requires that all lands within 30 m of the lake shoreline and 20 m of the pond be maintained as a natural buffer; where they are not currently forested, they would be renaturalized. As a result, even if 50% of the existing forest were cleared on each lot, there would also be substantial new forest regeneration on the two northern lots, as most of the lake and pond buffer areas are currently clear on those lots (the two southern lots are currently almost entirely forested).

*The brush was burned with tires, which indicated to us the lack of respect for the environment of the developer right from the start. (Haedicke, received August 23)*

Burning brush with tires as an accelerant is a traditional rural Ontario practice, but I completely agree it is undesirable. It would also contravene Dysart's present Open Air Fires bylaw.

I discussed this allegation with Mr. Wilson. He advises that there was brush burning on the property, largely over 10 years ago. It was done by subcontractors. He has no knowledge whether tires were ever used, and had he become aware of subcontractors doing this, he would have stopped it.

*This proposal of 88 units will potentially add upwards of 250 extra people using this roadway and likely 80-125 more vehicles. There will be a major increase [sic] to the PERSONAL SAFETY of everyone who lives on [Peninsula Road]. (Guthrie and Belanger, August 6)*

*We would ask that an area traffic assessment be completed to insure the safety of all cars exiting Peninsula Road . . . . (Misener, August 16)*

We did not undertake a traffic study as the Municipality did not believe one was warranted in the circumstances.

*They claim it will be a small dock with no motorized boats, who would be policing this? Will it come down to neighbours policing neighbours, this will only escalate to tension and neighbour disputes. Added calls for service to our local OPP and by-law department, whose resources are already extended. We know with experience once a dock has been installed, in time more docks will be added along with many more boats. (Guthrie and Belanger, August 6)*

*The eventual condo corps, and the municipality [sic] won't stop powerboats and [personal watercraft] from entering and destroying the wetlands area once a dock is put in place . . . . [It's] easy to put it into words and into a condo contract, but enforcement won't happen. (Misener, August 16)*

*The small, non motorized dock proposed on the shoreline will be difficult to monitor and enforce. (LKO, August 18)*

*The proposal said only a single dock would be [built] but no power boats be allowed. This is totally misleading: Who can forbid the use of a power boat on public lakes?? (Haedicke, received August*

23).

As described in my Planning Report, the proposal is for a single 2.5 m wide floating dock on the retained lot. It is proposed that power boats be prohibited through the subsequent condominium description or site plan agreement for this lot. Alternatively, if the Municipality wishes, power boats could be prohibited through zoning. Dysart's zoning bylaw currently includes several provisions limiting the number and/or size of power boats that can be berthed ("parked") on various properties.

This concern about enforcement could apply equally to every restrictive provision of every zoning bylaw, subdivision plan, condominium description, site plan agreement, and building permit. The large majority of landowners adhere to the planning and building rules laid down for the development of their properties. There are a few bad actors. And yes, if a bad actor breaks the rules, it is most often going to be neighbours who notice that and have to call Municipal bylaw enforcement (not the OPP). But if someone docks a power boat here, the situation would be no different than if another shoreline owner builds closer to the shoreline than permitted, uses her property for a use not permitted, etc. - it can happen anywhere and any time.

Finally, re "once a dock has been installed, in time more docks will be added along with many more boats" - in this case that could not happen without a further planning approval.

Of course, my client is also free to build a dock right now on the present property, at the same location as we have proposed as it is the only feasible one, and its use by power boats would be free and unrestricted.

Regarding the Haedickes' statement, they are correct that the use of a power boat *on water* cannot be readily restricted, as discussed below. But the planning instruments discussed above can control the *berthing* of boats at docks. For all practical purposes, residents of the proposed development would only be powerboating on Grass Lake if they could berth their power boats on the property.

*If the objective is to truly protect the Grass Lake Wetlands, water access has to be eliminated and floating signs posted on the water prohibiting anyone from going through the wetland areas by powercraft. (Misener, August 16)*

There is no way to achieve this except by a federal regulation, and the probability of obtaining such a regulation is negligible. It would be possible to post signs offshore *discouraging* power boating in the wetlands.

*Power boats have been entering (destroying) the wetlands area and going to shore to fish the pond for a few years now. Harburn has done nothing to deter these actions. (Misener, August 16)*

This is a large property without any development or occupation. My client does not encourage trespassing, but it is not practical for my client to monitor and seek to enforce against trespassing activities, nor is its responsibility to do so.

Responsible development, and occupation by residents committed to protecting the environmental and recreational values of the property, would be the best insurance against such undesirable behaviours.

*The parking lot in of itself will create run off of gas and oil residue straight into the lake, into OUR drinking water and the home in which these fish live. (Guthrie and Belanger, August 6)*

All parking areas would be at least 30 m from the shoreline. The entire area within 30 m of shore would be maintained as a natural buffer, except for the minor exceptions noted in my Planning Report. The EIS/WSA recommends best practice stormwater management design for the parking area. With these measures in place, the parking areas should have no discernible impact on Grass Lake.

*. . . has any thought been given to what this project will do for property values for the residents of Peninsula Road?*

Property values as such are not a consideration in planning decisions. In the long run, good planning decisions should maintain or increase the values of nearby properties, all other things being equal.

\* \* \*

I hope this is helpful. Please let me know if you require any additional information or clarification, and I invite the resident correspondents to do the same.

Yours sincerely,

*[original signed by]*

Anthony Usher, RPP

cc. Karen Guthrie  
Steve Belanger  
Angela and Jurgen Haedicke  
Jamie Misener