

# PLANNING REPORT

**County Official Plan Amendment and Zoning By-law  
Amendment to Permit a Seasonal Dwelling on an  
Existing Lot of Record with Access onto a Seasonally  
Maintained Road**

Parts of Lot 29, Concession 2 West of Garafraxa Road  
Geographic Township of Bentinck  
Township of West Grey  
County of Grey

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## PLANNING JUSTIFICATION REPORT

County Official Plan Amendment

And Zoning By-law Amendment

Parts of Lot 29, Concession 2 West of Garafraxa Road

Geographic Township of Bentinck

Township of West Grey

County of Grey

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### 1.0 BACKGROUND & CONTEXT

#### 1.1 Purpose of Report

Cuesta Planning Consultants Inc. has been retained by Mr. John Spaleta in order to prepare and submit applications to amend the County of Grey Official Plan and the Municipality of West Grey Comprehensive Zoning By-law. The applications will enable Mr. Spaleta to develop a seasonal residence that will front onto a section of the 12<sup>th</sup> Sideroad WGR that is not part of the year-round municipal road system. As part of the application, Mr. Spaleta will merge his two separate holdings on Lot 29.

The following report provides a description of the property and surrounding land uses, as well as an evaluation of the proposal with regard to relevant land use policy. In determining the appropriateness of the proposed policy modifications, the following analysis will consider the nature of the proposal itself, along with its compatibility with the surrounding land use and the intent and purpose of the land use policy for this area. The conclusions of this report support the applications to amend the County Official Plan and Municipal Zoning By-law.

This report and accompanying applications are intended as well, to satisfy the requirements of Sections 22 (4 & 5) and 34 (10.1 & 10.2) of the Planning Act regarding the submission of a complete application.

#### 1.2 Location and Description of Subject Lands

Figure 1

The subject lands are located at 442830 12<sup>th</sup> Sideroad WGR and are legally described as Parts of Lot 29, Concession 2, West of the Garafraxa Road. There are two separate adjacent lots, owned by Mr. Spaleta, that are included in the proposal. The lot fronting onto 12<sup>th</sup> Sideroad WGR is approximately .46 ha (1.1 ac.), while the landlocked lot located to the south is ±.84 ha (2.1 ac.) in area.

The parcels included with this proposal contain no structures and are almost entirely wooded. The properties are relatively flat, although the northern portions of the lot slope toward the road and McCormick Lake.

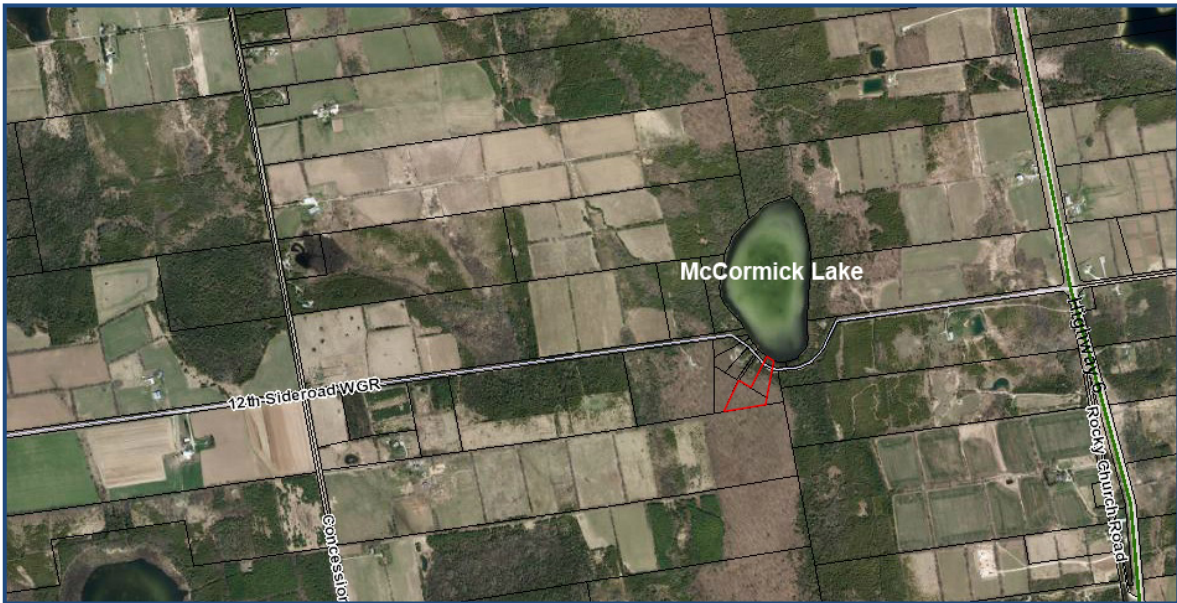


Figure 1 - Location Map

1.3 Surrounding Land Use Figure 2

The surrounding land use is similar in character to the Spaleta lands. The adjacent lots to the west have been developed and contain detached dwellings and associated outbuildings. These dwellings are located within the area designated as 'Significant Woodland' in the Grey County Official Plan. There are five (5) seasonal dwellings in the area adjacent to McCormick Lake, and another three (3) vacant residential lots not including Mr. Spaleta's two lots.

Beyond the wooded areas to the west and northwest, agricultural holdings are located. McCormick Lake is directly north of the Spaleta holding. The area surrounding the site is rural in nature with scattered detached dwellings along the 12<sup>th</sup> Sideroad. The 12<sup>th</sup> Sideroad has been diverted around the south side of McCormick Lake. The original road allowance goes through the lake.



Figure 2 - Surrounding Lands

1.4 Description of The Proposal

Appendix 1

This proposal seeks to amend county and municipal land use policy in order to permit the development of a single-detached, seasonal dwelling on 442830 12<sup>th</sup> Sideroad WGR with access on the opposite side of the road to Lake McCormick. The seasonal dwelling requires an entrance onto a seasonally-maintained road, which is not permitted in the Grey County Official Plan or the Municipality of West Grey Zoning By-law.

The subject parcels are approximately .46 hectares (1.1 ac.) and .84 hectares (2.1 ac.) in area. Mr. Spaleta intends to merge the two lots and, when merged, the lot will be approximately 1.30 ha (3.2 ac.) in area.

An environmental impact assessment (EIS) was required by the municipality and the county and was prepared by AWS Environmental Consulting, which identified several natural heritage features on the property. The EIS confirmed that the subject property could support the proposed use without negatively affecting these features.

**1.5 Approvals Required**

Mr. Spaleta is unable to receive a building permit for a seasonal dwelling as the only access for the property is from a municipal road that is not part of the municipal road system. Specifically, Section 2.3.3 (1) (e) of the comprehensive zoning by-law prohibits issuance of the residential permit unless “access to the site is from a public highway of reasonable construction, and open and maintained on a year round basis and is appropriate for the use proposed.

Appendix 2, Map 3 of the County of Grey Official Plan, designates this wooded area as a Significant Woodland. Schedule A of the County Official Plan designates the land as part of its ‘Rural Areas’ designation.

The need for a county official plan amendment results, in part, from the property being located in an area designated ‘Significant Woodlands’. Unless an Environmental Impact Study (EIS) is prepared and demonstrates that a structure can occur with no impact on the environment, the zoning by-law would not conform to the official plan. No EIS would be required to obtain a building permit, if the property conformed to all zoning provisions.

The approvals required are summarized in Table 1 below:

**Table 1 – Required Approvals**

Application	Approval Authority
<p><u>County of Grey Official Plan Amendment</u></p> <p>To amend the County Official Plan to permit a seasonal residential dwelling on an existing parcel that accesses a seasonally maintained road allowance and is within an area designated as ‘Significant Woodlands’.</p>	<p><b>County of Grey</b></p>
<p><u>Municipality of West Grey Comprehensive Zoning By-law Amendment</u></p> <p>The amendment will be for the purpose of permitting a seasonal residential dwelling that will access a seasonally maintained road allowance.</p>	<p><b>Municipality of West Grey</b></p>

**1.6 Consultation**

Consultations were held with Grey County municipal staff and West Grey municipal staff. Mr. Scott of Cuesta Planning Consultants Inc. and Mr. Spaleta, reviewed the proposal before West Grey Council and responded to questions.

Grey County staff have advised that they do not encourage development approvals that are not supported by the local council. The principal concern raised by council relates to safety concerns regarding emergency vehicle access on a year round basis.

Grey County Staff also advised that the subject lands are identified as 'Significant Woodlands' on Appendix B to the County Official Plan. Development proposals in lands under this designation require the preparation of an EIS. This study was conducted in 2015 by AWS Environmental Consulting Inc (AWS).

West Grey municipal staff have acknowledged previous zoning approvals on this road, however they will discourage further development on this road. A proposal to bring the road up to municipal standards was deemed not to be feasible for one lot.

## 1.7 Technical Studies

A Natural Heritage EIS was prepared by John Morton of AWS. The study found a number of small Butternut trees on the subject property. The report concluded that the proposed site development could occur with no anticipated negative impacts or loss of ecological function to any natural heritage features, provided development is compliant with Ontario Regulation 242/08 Section 23.7 pertaining to Butternut trees. The recommended mitigative measures included development setbacks, the location of development envelope lands, development envelope size and a tree cutting activity period restriction.

Mr. Spaleta has since applied for the removal of the Butternut Seedlings located on the subject property in accordance with MNRF regulations. The vacated space allows for the location of a new laneway and up to a 1600m<sup>2</sup> (40mX40m) development envelope.

## 2.0 LAND USE POLICY CONSIDERATIONS

As stated under Section 3 of the Planning Act, all decisions by any authority that affects a land use planning matter, shall be consistent with the Provincial Policy Statement (PPS). On April 30<sup>th</sup>, 2014 the Province of Ontario implemented the updated Provincial Policy Statement. Any decisions made, on or after this date, are to be consistent with the 2014 PPS. The following analysis will evaluate the proposal against applicable PPS policy.

In addition to the Provincial Policy Statement, the Grey County Official Plan (GCOP) and the Municipality of West Grey Consolidated Zoning By-law 37-2006, provide land policy applicable to the proposal.

## 2.1 Provincial Policy Statement (PPS)

Any land use discussion must be assessed against the applicable provisions of the PPS. Although the PPS is to be read in its entirety, the following provisions are deemed to be the most applicable to the consideration of the proposed amendments:

- Section 1.0 “**Building Strong Communities**”
- Section 2.1 “**Natural Heritage**”

Table 2 – Provincial Policy Statement		
Section	Policy	Evaluation
1.0 Building Strong Communities		
1.1.1 Healthy, liveable and safe communities are sustained by:		
a)	<i>promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;</i>	<p>The seasonal dwelling will be appropriately located on a parcel with an existing overgrown clearing and laneway. The area already features similar development and the addition of the proposed use will not demonstrably alter the land use pattern in the immediate area.</p> <p>The structure will be included on an existing lot of record in a rural area containing other compatible seasonal dwelling uses. A seasonal dwelling at this location is not only efficient, but fair and reasonable.</p>
b)	<i>accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;</i>	An additional seasonal dwelling will add to the mix of residential units available in Grey County and the Municipality of West Grey.
c)	<i>avoiding development and land use patterns which may cause environmental or public health and safety concerns;</i>	The proposed land use itself (seasonal dwelling) will not create an environmental, public health or safety concern. However, the County has raised concern over the seasonally maintained road that the subject land would access. Given there are several properties which access the portion of 12 <sup>th</sup> Sideroad



		<p>WGR on which the subject property is located, concerns regarding the seasonal nature of the road would appear moot.</p> <p>The proposed dwelling will generate minimal additional traffic on the road, and will not create additional stress on road maintenance. A new access lane is proposed in the centre of the property, providing adequate sight lines in both directions on 12<sup>th</sup> Sideroad WGR.</p>
e)	<i>promoting cost-effective development patterns and standards to minimize land consumption and servicing costs;</i>	No new lot will be created to accommodate the seasonal dwelling. This existing lot is entirely wooded and is able to contain a suitable building envelope which would not negatively impact the natural features on the property. The building envelope would also contain the well and septic system.
h)	<i>promoting development and land use patterns that conserve biodiversity and consider the impacts of a changing climate.</i>	The proposed development involves a 0.16 ha clearing, below the EIS recommended 0.4 Ha woodland clearing in the development envelope lands. This is consistent with provincial standards regarding wind throw and invasive species. The clearing will not significantly impact woodland genetic diversity or soil moisture according to the EIS.

#### 1.1.4 Rural Areas in Municipalities

##### 1.1.4.1 Healthy, integrated and viable rural areas should be supported by:

a)	<i>building upon rural character, and leveraging rural amenities and assets;</i>	The proposed development is a seasonal recreational use, leveraging nearby rural assets such as the surrounding woodland and Lake McCormick without creating a negative impact. The development will build on the rural character of the surrounding area, which includes existing seasonal cottages.
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#### 1.1.5 Rural Lands in Municipalities

##### 1.1.5.2 On rural lands located in municipalities

a)	<i>the management or use of resources;</i>	The seasonal dwelling will involve the recreational use of the nearby lake and forest which is consistent with this provision of the PPS.
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<b>c)</b>	<i>limited residential development;</i>	The proposal is to locate a single seasonal dwelling with private services in a 1600 m <sup>2</sup> envelope on an existing 1.3 ha rural woodlot. The low density of this proposal constitutes limited rural residential development.
	<b>1.1.5.4</b> <i>Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted.</i>	The subject property is near a cluster of similarly sized parcels that contain several seasonal residential uses. The proposed development is not anticipated to conflict with adjacent uses.  The development will be serviced by a private well and septic system. The existing seasonal road is adequate for the proposed use.
	<b>1.1.5.5</b> <i>Development shall be appropriate to the infrastructure which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of this infrastructure</i>	The proposal is appropriate for the available infrastructure. A seasonal dwelling will not require the year-round use of a limited-service road.
	<b>1.1.5.9</b> <i>New land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the minimum distance separation formulae.</i>	The nearest livestock facility is located over a kilometre northeast of the subject property. Furthermore, residential dwellings on lots to the west are in closer proximity to this livestock facility. Therefore, the minimum distance separation formulae is not compromised.
<b>1.6.6 Sewage, Water and Stormwater</b>		
	<b>1.6.6.4</b> <i>Where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided, individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts. In settlement areas, these services may only be used for infilling and minor rounding out of existing development.</i>	The seasonal residential dwelling will utilize a private well and septic system which is the norm for rural development. The servicing can be contained within the 1600m <sup>2</sup> building envelope.
<b>2.1 Natural Heritage</b>		
	<b>2.1.1</b> <i>Natural features and areas shall be protected for the long term.</i>	The EIS (Appendix 2) identifies several vegetation communities on the two lots. Vegetation Community No. 2 is located on a 20 to 35 degree inclined slope, regulating

	<p>water flows into the nearby lake and preventing erosion. The development proposal will be set back 15m from this area to prevent any negative impacts. A new laneway to access the property is anticipated to have no measureable impact on the vegetation community.</p>
<p><i>2.1.7 Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements.</i></p>	<p>The EIS identified four Butternut seedlings located on and adjacent to the subject property. With the associated 25m buffer zones, development can not occur on the property in its current state. Mr. Spaleta has submitted an ESA application for Butternut and Buffer Zone removal. The MNRF confirmed the Butternut ESA registration on December 23, 2015. Mr. Spaleta will be required to plant four genetically certified butternut seedlings elsewhere on his property, in compliance with ESA and MNRF policies.</p>

**2.2 Summary of the Provincial Policy Statement (PPS)**

The above analysis demonstrates that the proposal is consistent with the intent of the PPS. Because the subject lot already exists and is assessed as developable, favourable consideration should be given to permitting a seasonal dwelling. A seasonal dwelling is the most compatible development for the subject lands with regard to municipal policy. Municipal servicing requirements will not change as a result of the development. The site also includes some natural heritage features which will be protected by setbacks.

**2.3 Grey County Official Plan (GCOP) Figure 3**

The land subject to this proposal is designated “Rural” in its entirety. The predominant land use is agriculture and forestry with the Rural designation. The Grey County Official Plan also permits appropriate rural land uses, provided such uses do not conflict with agriculture, forestry or the natural environment. Appropriate rural uses include low density non-farm residential development, such as the seasonal dwelling that is proposed.

Currently the property is entirely wooded with frontage onto 12<sup>th</sup> Concession Road WGR. The woodland on the property is identified as ‘Significant Woodland’ under Schedule B of the County of Grey Official Plan. In order to construct in the woodland an Environmental Impact Study (EIS) would be required. In December of 2015, John Morton of AWS Environmental Consulting, completed an EIS that evaluated the subject land. The report found that, provided certain measures were initiated, a 1600m<sup>2</sup> (40mX40m) development envelope could be located on the subject property, along with a new laneway in the centre of the site.

With respect to land use policy, in order to permit the proposed seasonal residence, an amendment to the Grey County Official Plan (OPA) would be necessary. The amendment will permit non-farm development accessing a seasonally maintained road, contrary to policy 2.3.3(1)(e) which requires that “access to the site is from a public highway of reasonable construction and open and maintained on a year round basis and is appropriate for the use proposed.” The road is of a reasonable standard for the use proposed although it is not open on a year round basis. It is noted that this policy is appropriate for the creation of lots, not for development on an existing lot of record.

Table 3 examines, in more detail, the applicable policies of the GCOP that apply to the Spaleta proposal.

Table 3 – Grey County Official Plan		
Section	Policy	Evaluation
6.3 Official Plan Review and Amendment		
(1) In considering an amendment to this Plan the County will be guided by the basic intent of this Plan and by provincial policies along with:		
(a)	<i>The need for the proposed change; however this criterion does not apply to applications for the creation or expansion of a mineral aggregate operation;</i>	Mr. Spaleta is unable to obtain a building permit without relief from the municipal zoning by-law, which also requires the county official plan to be amended for the site. Notwithstanding these restrictions, MPAC assesses the lots as buildable and taxes are paid accordingly.
(b)	<i>The effect of the proposed change on the demand for services and facilities;</i>	This proposal will not increase the service demand already provided along 12 <sup>th</sup> Sideroad WGR. The municipality does not provide any year round maintenance on this section of the 12 <sup>th</sup> Sideroad, although it is understood that some maintenance has occurred in the past. In remote cottage areas, this is not an unusual situation. The residence itself will be serviced by a private well and septic system

		and not require any new municipal services.
(c)	<i>The implications the amendment may have on other policies of the Plan;</i>	This proposal will affect only one policy which pertains to access on year round roads. No other policies will be affected.
(d)	<i>The impact of the proposed change on the County's ability to achieve the principles and policies expressed in this Plan, or on other County policies, programs and interests;</i>	The addition of a single seasonal dwelling unit will not negatively impact the County's ability to achieve its housing goals as stated in the Official Plan.
(e)	<i>The impact of the proposed change on the local Municipalities' ability to achieve the principles and policies expressed in their Official Plans, or on other local Municipal policies, programs or interests; and</i>	The GCOP applies in rural areas of West Grey (See Section d). The proposal will not impact West Grey servicing standards along 12 <sup>th</sup> Sideroad WGR.
(g)	<i>The information requirements listed under Section 6.18</i>	This application and associated documents meet the requirements of a complete application under Section 6.18.

## 2.3 Rural Designation

### 2.3.2 Uses Permitted Policies

(1)	<i>... other uses also permitted within the Rural designation shall include low density non-farm residential ...</i>	A seasonal dwelling would be considered low density non-farm residential development. The proposal complies with this policy.
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### 2.3.3 Development Criteria Policies

(1) As required in Section 2.3.2(1), for any non-farm land uses to be permitted within the Rural designation, all of the following must be satisfied:

(e)	<i>That access to the site is from a public highway of reasonable construction and open and maintained on a year round basis and is appropriate for the use proposed. Access must not result in traffic hazards due to poor sight lines or proximity to an intersection and must conform to Section 5, Transportation and Utilities.</i>	The proposal conforms to all other development policies regarding rural areas in the GCOP, with exception of subsection 2.3.3(1)(e). This policy will be amended for the Spaleta lands in order to permit the proposed dwelling. Although 12 <sup>th</sup> Sideroad WGR is not maintained on a year-round basis, other seasonal dwellings have been approved via rezoning along this section of Sideroad 12. Amending this policy would allow for a seasonal residence to access this road in a similar manner as other seasonal residences in the immediate area. The existing access point is along a gentle bend in the road and will not create a traffic hazard.
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## 2.3 Summary of the Grey County Official Plan (GCOP)

The above analysis demonstrates that the proposal conforms with the intent and purpose of the GCOP. Because the subject area is an existing lot that is assessed as developable, it is not unreasonable to consider some form of development. A seasonal dwelling is an appropriate use for the subject area which is permitted under the rural designation and will not negatively impact the natural heritage of the property or surrounding lands. The proposal does require relief from policy 2.3.3(1)(e) of the GCOP, however the intent of this policy is maintained because access conditions and demand for emergency services during winter months on 12<sup>th</sup> Sideroad WGR will not change as a result of one additional seasonal dwelling development.

A comparable example of how to regulate development on unimproved roads can be found in The Town of South Bruce Peninsula Official Plan, which provides some flexibility with regard to safety concerns for lots accessing seasonally-maintained roads. These types of proposals are required to apply for a minor variance application, which provides the legislative authority for agreements as a condition of approval. These policies are attached to this report as Appendix 3.

The proposed lot addition will additionally reduce the number of buildable lots in the area. Therefore, the municipality will not have to consider a separate access agreement should an additional seasonal dwelling be constructed on the rear lot.

The proposal has satisfied all the EIS requirements for the favourable consideration of an amendment to the official plan and has satisfactorily addressed the servicing issues associated with this existing lot.

## 2.4 Municipality of West Grey Zoning By-law Number 37-2006

The subject property is zoned "Rural" (A2) by the Municipality of West Grey Zoning By-law Number 37-2006. The rural zone permits for single detached dwellings, but Section 6.10 of the by-law prevents the construction of any building or structure that does not have the required frontage on an improved public street that is maintained on a year round basis.

An amendment to the Municipality of West Grey Consolidated Zoning By-law 37-2006 will be required. In reviewing the zoning in the immediate area, two properties which also front onto 12<sup>th</sup> Sideroad WGR, have had site specific by-laws passed to exempt these properties from this provision. The property to the west is zoned A2-42, which provides for the following.

"Notwithstanding Section 9, Rural Zone, the lands zoned A2-42 may be permitted a seasonal residential dwelling fronting on a seasonal roadway."

The Spaleta lot, described as 442830 12<sup>th</sup> Sideroad WGR, conforms to all other Zoning By-law provisions. Section 9.3 permits an existing lot of record, that does not meet minimum frontage and area requirements in a rural zone, to be built on. As the Spaleta lands are an existing lot of record, an amendment with regard to lot size requirements is not necessary.

The seasonal dwelling proposed will be approximately 85 m<sup>2</sup> (900 ft<sup>2</sup>) in size, as illustrated in the attached site plan. No relief from the ground floor area or setback provisions of the zoning by-law is required to permit the proposed structure.

### 3.0 SUMMARY & CONCLUSIONS

This report has been prepared for the purposes of supporting amendments to the Grey County Official Plan and Municipality of West Grey Comprehensive Zoning By-law, which would permit a seasonal residence to be built on an existing lot on a municipal road allowance that is not part of the municipal road system and has been described as a seasonal road. Because this is an existing lot, from which municipal taxes are generated, it is not unreasonable to consider ways to provide for development on the lands. The development, however, should take into account municipal servicing concerns. There are a number of provisions that the municipality could use to safeguard its position with regard to the provision of municipal services, which include:

- permitting only a seasonal residence, and define the seasonal period as May 1 to November 1;
- zone this portion of 12<sup>th</sup> Sideroad WGR as a non-maintained year round municipal road; and
- require an agreement registered on title absolving the municipality of providing any services or maintenance on this section of 12<sup>th</sup> Sideroad WGR other than those presently provided.

The proposed use is neither unique to the area nor will it create a traffic hazard.

Given the foregoing, this planning report has demonstrated the following:

- 1) The proposal is consistent with the Provincial Policy Statement as it will not significantly impact surrounding natural features and, as a seasonal dwelling, supports the rural character of the surrounding area;
- 2) Methods of addressing infrastructure limitations have been provided;
- 3) The amendment to the Grey County Official Plan is reasonable, which would permit the proposed use, as there is sufficient evidence along 12<sup>th</sup> Sideroad WGR that the seasonal road allowance can accommodate one additional seasonal residential use;
- 4) The amendment to the Municipality of West Grey Comprehensive Zoning By-law is reasonable with regard to seasonal use as outlined above;

- 5) The amendment to the Municipality of West Grey Comprehensive Zoning By-law is reasonable with regard to the rural zone regulations (A2), as it proposes to accommodate development on an existing lot, assessed by MPAC as a developable lot, which existed prior to the present official plan and zoning by-law being established.
- 6) The matter of providing emergency services can be resolved by limiting the period of use in the by-law and having the owner sign a registerable non-service agreement.
- 7) The proposal represents appropriate rural land use planning principles.

This justification for approval should only be considered for an existing lot, not for a consent to permit a new lot.

Respectfully Submitted,



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