



Planning Report

To: Municipality of Kincardine Council

From: Julie Steeper, Intermediate Planner

Date: February 14, 2024

Re: Zoning By-law Amendment Application - Z-2023-058 (MacArthur)

Recommendation:

Subject to a review of submissions arising from the public meeting:

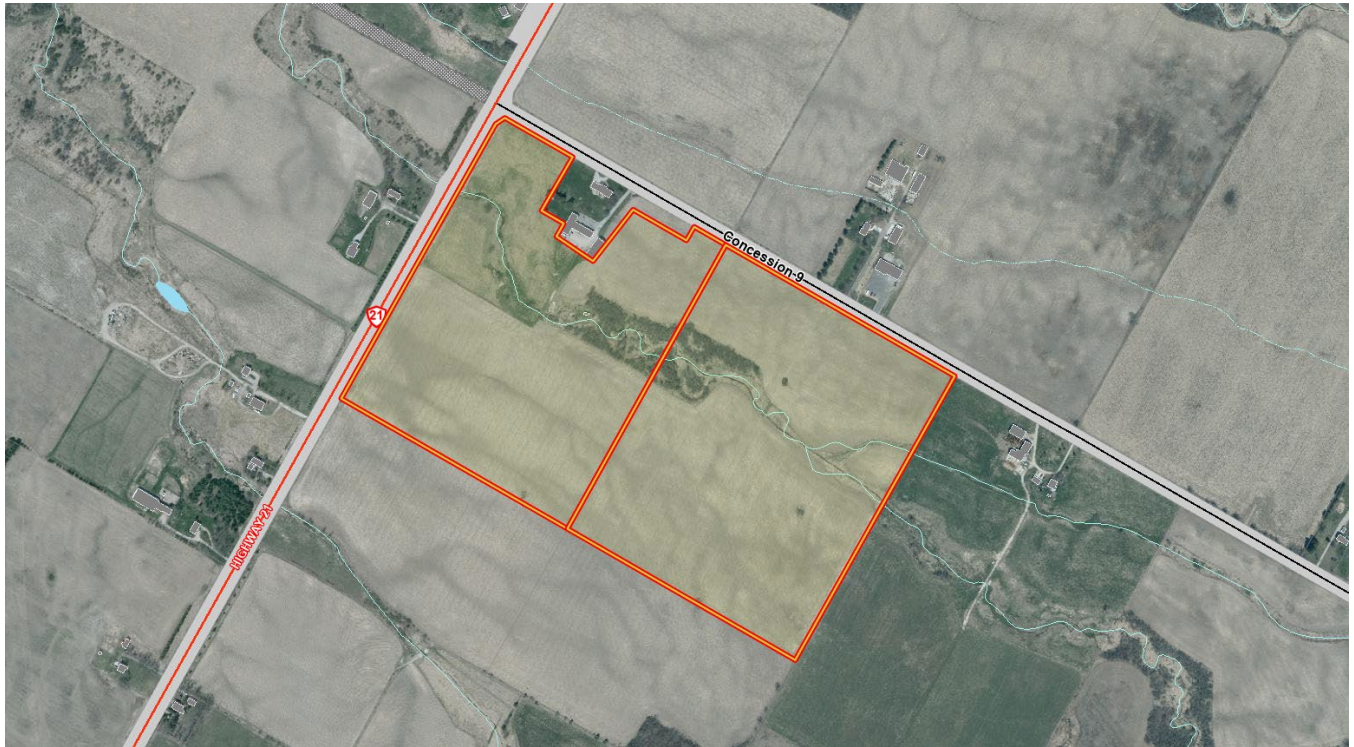
That Council approve Zoning By-law Amendment Z-2023-058 and the necessary by-law be forwarded to Council for adoption.

Summary:

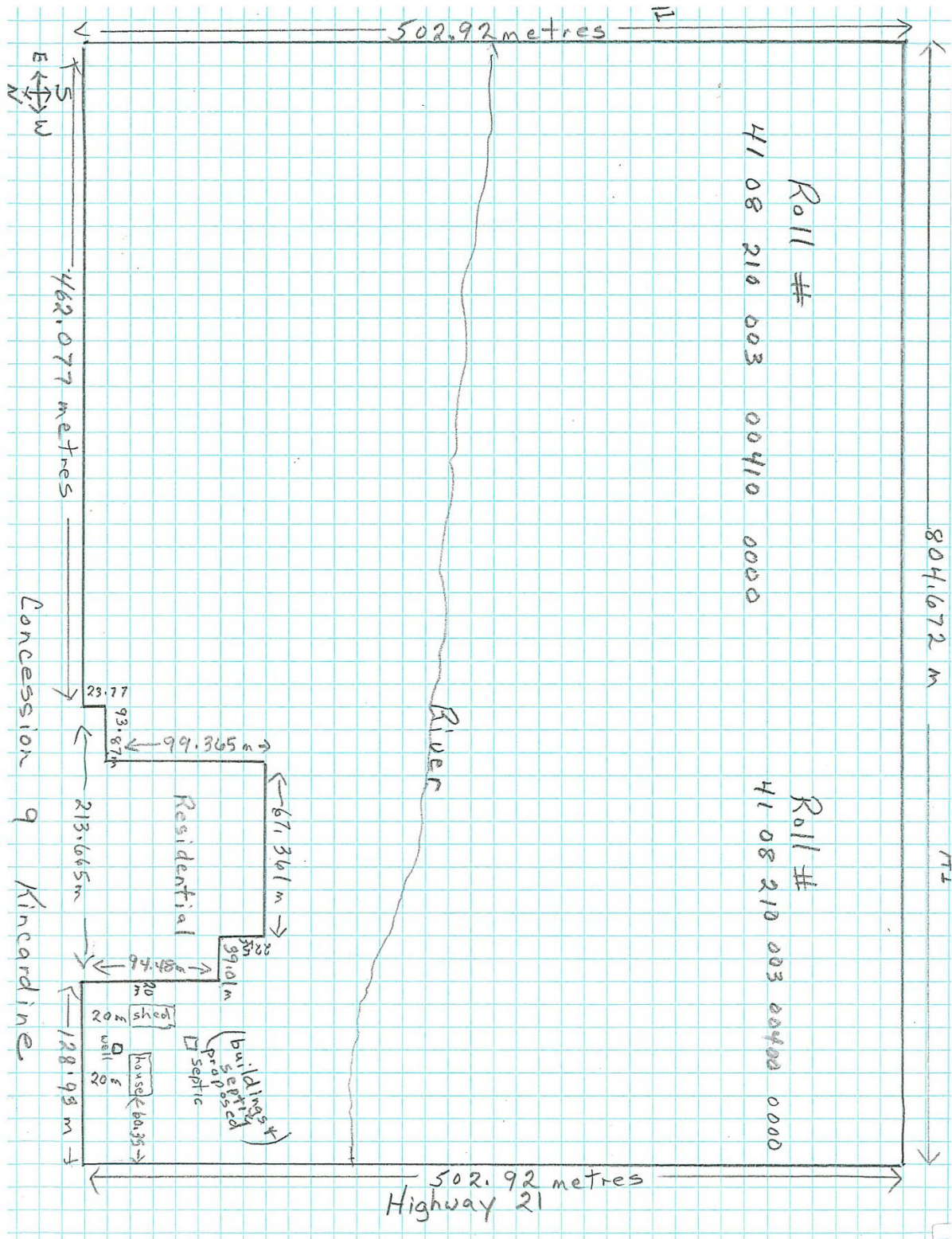
The purpose of the application is to rezone the property to permit the construction of a residence on a remnant farm parcel from a previous severance. If approved, this application would facilitate the construction of a single detached dwelling at 1397 Concession 9. These lands were subject to a previous zoning by-law amendment and severance (Files Z-73-14.21 and B-100-14.21).

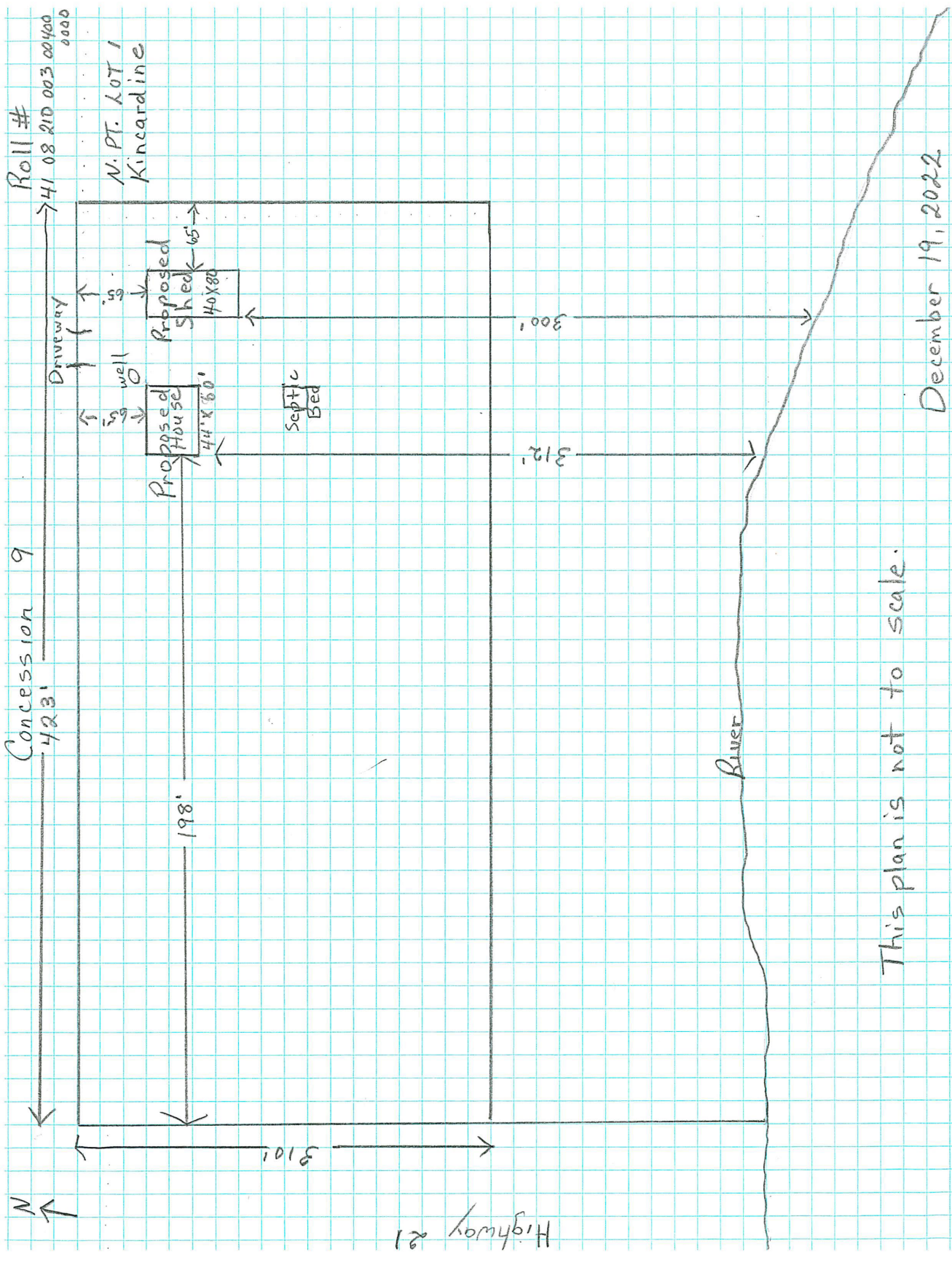
The property is located east of Highway 21, south of Concession 9, and north of Concession 7. The property is surrounded by agricultural and commercial uses.

Airphoto



Site Plans





This plan is not to scale.

December 19, 2022

Highway 21

Planning Analysis:

The following section provides an overview of the planning considerations that were factored into the staff recommendation for this application, including relevant agency comments (attached), public comments (attached) and planning policy sections.

Agricultural Area Policies

The lands were subject to a previous zoning by-law amendment that facilitated a severance of the commercial use from the farmlands. The zoning amendment applied a special zoning to the retained farm parcel which prohibited the construction of any future dwelling and applied a holding to areas that contained high archaeological potential. The Bruce County Official Plan designates the property Agricultural Areas. The zoning was applied because prime agricultural areas shall be protected for long term agricultural use. The purpose of limiting development in prime agricultural areas is to reduce fragmentation of farmland.

In review of the previous history and policies, staff determined that prohibiting the construction of a dwelling on the retained farmlands was unnecessary given the previous severance was for a commercial use. Restrictions on future residential development are more often applied for farmlands where a dwelling surplus to the landowner's needs is severed from the agricultural parcel. Restricting future residential development in those circumstances is consistent with Provincial and County policy. Staff are of the opinion the protection and restriction were not required given the circumstances of the previous application. The proposed application is consistent with Provincial and Official Plan policies.

High Archeological Potential

A holding provision requiring an Archaeological Assessment for the lands containing high archaeological potential was applied to the farm lot with the previous zoning by-law amendment which will remain unchanged. The holding provision will not allow site alteration or development until an archaeological assessment has been provided by a qualified individual; the appropriate Ministry has accepted and registered the assessment, if required; and the recommendations of the archaeological assessment (if any) have been implemented. The applicant is aware they are required to conduct an assessment prior to any development and the issuance of a building permit.

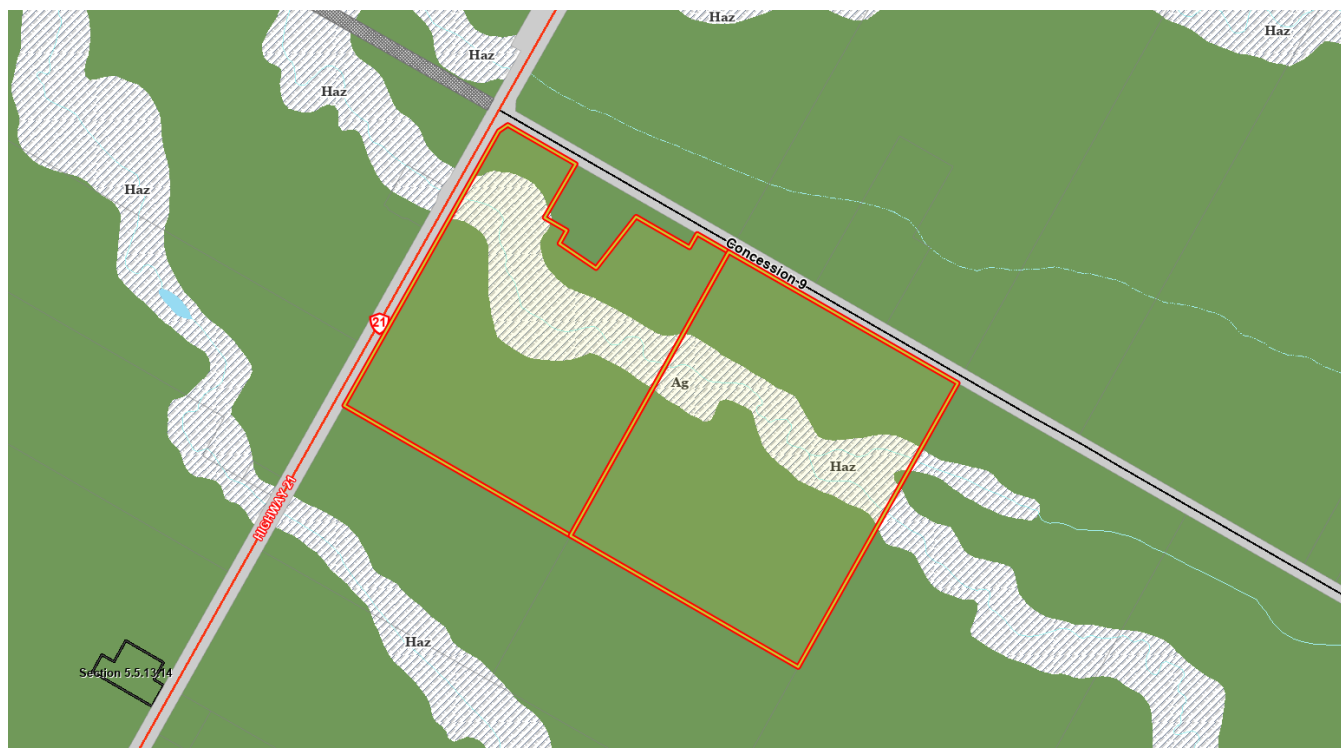
Environmental Features

A portion of the site is designated Environmental Hazard and zoned 'Environmental Protection (EP)'. The Saugeen Valley Conservation Authority (SVCA) has updated its hazard mapping based on the latest floodplain information. A copy of the revised hazard mapping is attached to SVCA's correspondence (see appendix). SVCA staff recommended the proposed zoning for the property be updated as result of this information, which is reflected in the draft amending by-law. This will result in the 'Environmental Protection (EP)' area becoming larger. However, the applicant has sited the proposed residential dwelling outside the Environmental Hazard area.

Appendices

- County Official Plan Map
- Local Zoning Map
- List of Supporting Documents and Studies
- Agency Comments
- Public Comments
- Public Notice

County Official Plan Map (Designated Agricultural Areas and Hazard Land Areas)



Local Zoning Map (Zoned General Agriculture Special with holding 'A1-gd-H' and Environmental Protection 'EP')



List of Supporting Documents and Studies

- Letter from Donald and Dianne MacArthur

Agency Comments

Municipality of Kincardine, Chief Building Official:

- 1- Provide an MDS 1 separation calculation for the proposed Residential Dwelling and any adjacent livestock facility (either livestock occupied or has potential to be occupied) to verify proposed location of residence complies.
 - 2- MTO and SVCA approvals will be required.
 - 3- Entrance approvals to be approved through Infrastructure and Development - Operations
- NOTE: As noted in the A1-gd-H provisions, no site development is permitted until the required Archaeological Assessment is completed, and if the site is clear of any archaeological potential, provide a copy of the filing with the Ministry (MHSTC).

Municipality of Kincardine, Director of Infrastructure and Development: No concerns.
Entrance permit will be needed to support the new access off Concession 9

Historic Saugeen Metis (HSM): Lands, Waters and Consultation Department has reviewed the relevant documents and has no objection or opposition to the proposed County Official Plan Amendment and Zoning By-Law Amendment.

Ministry of Transportation: The proposal has been considered in accordance with the requirements of the Public Transportation and Highway Improvement Act, MTO's Highway Access Management Policy and all related policies. The following outlines MTO's comments.

The subject property is located adjacent to Highway 21, is within MTO's Permit Control Area (PCA), and as such, MTO permits are required before any demolition, grading, construction or alteration to the site commences. Highway 21 at this location is classified as a 2B Arterial in MTO's Access Management Classification System. As such, all requirements, guidelines and best practices in accordance with this classification shall apply.

Access

MTO require that access to a new residence be located a minimum of 85m from the end for radius of the highway to the start of radius of a private access. Based on review of the sketch included in the attached public meeting notice, the proposed entrance location does not meet MTO's requirements.

Building and Land Use

The Proponent shall submit an acceptable Site Plan for MTO review and approval. These plans shall clearly identify all structures/works and parking (existing and proposed).

MTO requires all buildings, structures and features integral to the site to be located a minimum of 8 metres from the highway property limit.

Septic bed - 3m

Septic tank - 8m

Well - 30m

Fence - 0.3m

Residence - 8m

Encroachments

Any encroachments and works identified within the Highway 21 property limits are subject to MTO conditions, approval and permits, prior to construction. All provincial highway property encroachments are strictly regulated and must meet all conditions set out by MTO. General Comments MTO looks forward to the advancement of this development, and we anticipate receiving additional details for review and comment as the project progresses.

Saugeen Valley Conservation Authority: The applications are generally acceptable to the SVCA and their comments are provided in full below.

Public Comments

The Philosopher's Wool Environmental Preserve: We have reviewed the information and PWEF does not have any comments or concerns at this time.

SENT ELECTRONICALLY ONLY: jsteeper@brucecounty.on.ca and bcplpe@brucecounty.on.ca

December 6, 2023

County of Bruce Planning & Development Department
1243 Mackenzie Road
Port Elgin, Ontario N0H 2C6

ATTENTION: Julie Steeper, Planner

Dear Ms. Steeper,

RE: Z-2023-058, C-2023-005 (MacArthur)
1397 Concession 9
Roll No.: 410821000300400
North Part Lot 1 Concession 8
Geographic Township of Kincardine
Municipality of Kincardine

Saugeen Valley Conservation Authority (SVCA) staff has reviewed the above-noted applications as per our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3.1 of the Provincial Policy Statement (PPS, 2020) and as a regulatory authority under Ontario Regulation 169/06 (SVCA's Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation). SVCA staff has also provided comments as per our Memorandum of Agreement (MOA), dated September 2019, with the County of Bruce representing natural hazards, and water resources; and the applications have also been reviewed through our role as a public body under the *Planning Act* as per our CA Member approved Environmental Planning and Regulations Policies Manual, amended October 16, 2018.

Purpose

The purpose of the application is to designate and rezone a portion of the property to permit the construction of a residence on a remnant farm parcel from a previous surplus farm dwelling severance. If approved, this application would facilitate the construction of a single detached dwelling at 1397 Concession 9. These lands were subject to a previous zoning by-law amendment and surplus farm dwelling severance (Files Z-73-14.21 and B-100-14.21).

Recommendation

The applications are generally acceptable to SVCA staff.

Background

As part of this proposal, SVCA issued SVCA permit 23-050 (attached for reference) on March 23, 2023, and within the SVCA permit 23-050, SVCA staff provided zoning and official plan comments.

Delegated Responsibility and Advisory Comments - Natural Hazards

The natural hazard features affecting the property are Maus Municipal Drain (an open channel watercourse) and its related floodplain. The natural hazard features are generally represented as EP zone in the Municipality of Kincardine zoning by-law. However, based on SVCA site inspection, the EP zone could be revised slightly (to be made larger) to better reflect site conditions. Therefore, SVCA staff recommend a revision to the EP zone. Please find attached SVCA hazard mapping with recommended revision to the EP zone. It is the opinion of SVCA staff that, based on the site plan provided as part of the application, and the site plan approved as part of SVCA permit 23-050, the area proposed for development will not be within the SVCA recommended EP zone.

Provincial Policy Statement – Section 3.1

Section 3.1 of the PPS, 2020 states in part that development shall generally be directed to areas outside of: b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding and erosion hazards; and c) hazardous sites. It is the opinion of SVCA staff that the applications generally comply with Section 3.1. of the PPS, 2020.

County of Bruce OP Policies

Section 5.8 of the County of Bruce OP generally directs development to be located outside of Hazardous Land Area and/or NE designation. It is the opinion of SVCA staff that the applications appear to be consistent with the policies of the Bruce County OP.

Drinking Water Source Protection

The subject property appears to SVCA staff to not be located within an area that is subject to the local Drinking Water Source Protection Plan. To confirm, please contact the Drinking Water Source Protection Risk Management Official.

SVCA Regulation 169/06

SVCA staff has reviewed the applications as per our responsibilities as a regulatory authority under Ontario Regulation 169/06 (SVCA's Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation). This regulation, made under Section 28 of the *Conservation Authorities Act*, enables SVCA to regulate development in or adjacent to river or stream valleys, Great Lakes and inland lake shorelines, watercourses, hazardous lands and wetlands. Subject to the CA Act, development taking place on or adjacent to these lands may require permission from SVCA to confirm that the control of flooding, erosion, dynamic beaches, pollution or the conservation of land are not affected. SVCA also regulates the alteration to or interference in any way with a watercourse or wetland.

A portion of the property is within the SVCA Approximate Screening Area because of Maus Municipal Drian and its related floodplain. The SVCA Approximate Screening Area is associated with Ontario

Regulation 169/06. As such, development and/or site alteration within the SVCA Approximate Screening Area may require permission from SVCA, prior to carrying out the work.

“Development” as defined under the *Conservation Authorities Act* means:

- a) *the construction, reconstruction, erection or placing of a building or structure of any kind;*
- b) *any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure;*
- c) *site grading; or,*
- d) *the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.*

And;

“Alteration” as per Section 5 of Ontario Regulation 169/06 generally includes the straightening, diverting or interference in any way with a river, creek, stream or watercourse, or the changing or interfering in any way with a wetland.

To determine where the SVCA Approximate Screening Area is located associated with our Regulation on the property, please refer to the SVCA’s online mapping program, available via the SVCA’s website at <http://eprweb.svca.on.ca>. As mentioned above, the SVCA Approximate Screening Area includes Maus Municipal Drain and its related floodplain, and an offset distance of 15 metres outwards from the floodplain.

As noted above, SVCA issued SVCA permit 23-050 on March 23, 2023.

Summary

SVCA staff has reviewed the applications in accordance with our MOA with the County of Bruce, and as per our mandated responsibilities for natural hazard management, including our regulatory role under the *Conservation Authorities Act*.

The applications are generally acceptable to the SVCA.

Given the above comments, it is the opinion of the SVCA staff that:

- 1) Consistency with Section 3.1, Natural Hazard policies of the PPS, 2020 has been demonstrated; and
- 2) Consistency with local planning policies for natural hazards has been demonstrated.

Please inform this office of any decision made by the Municipality of Kincardine and/or the County of Bruce with regard to the applications. We respectfully request to receive a copy of the decisions and notices of any appeals filed. Should you have any questions, please contact the undersigned.

County of Bruce Planning and Development
Z-2023-058, C-2023-005 (MacArthur)
December 6, 2023
Page 4 of 4

Sincerely,



Michael Oberle
Environmental Planning Coordinator
Saugeen Conservation
MO/

Enclosure: SVCA permit 23-050 and related SVCA map

cc: Jennifer Lawrie, Clerk, Municipality of Kincardine (via email)
Jennifer Prenger, SVCA Member representing the Municipality of Kincardine (via email)
Bill Stewart, SVCA Member representing the Municipality of Kincardine (via email)

SENT ELECTRONICALLY ONLY: dmacarthur@bmts.com

March 23, 2023

Don and Dianne MacArthur
160 Carloway Trail
Kincardine, Ontario N2Z 0A4

Dear Mr. and Mrs. MacArthur

RE: SVCA Application to Alter a Regulated Area
1397 Concession 9
North Part Lot 1 Concession 8
Roll No. 410821000300400
Geographic Township of Kincardine
Municipality of Kincardine
SVCA Permit No. 23-050

The Saugeen Valley Conservation Authority (SVCA) has approved your application for: construction of a dwelling, construction of a detached accessory building, installation of a sewage disposal system, and related excavation, filling, and grading, all within the adjacent lands to the floodplain of Maus Municipal Drain, as indicated on the attached permit.

If you cannot comply with any condition listed as part of this approval, you must not begin your project and you must notify the SVCA.

Right to Hearing

Please be advised that the owner(s) of a property may submit an Application for a development or alteration proposal to the SVCA at any time. An Application must be complete as determined by the SVCA for it to be considered. The completeness of an Application is determined by SVCA staff, or an administrative review can be requested by the applicant to the SVCA's General Manager/Secretary Treasurer. In the event that the administrative review by the SVCA's General Manager/Secretary Treasurer determines an Application is not complete, the applicant can request an administrative review by the Authority. Applications to recognize works that have already occurred are not eligible for administrative reviews. In accordance with Section 28 (12) of the *Conservation Authorities Act*, permission required under Ontario Regulation 169/06, as amended, shall not be refused or granted subject to conditions unless the person requesting the permission has been given the opportunity for a hearing (by request) before the Authority or, in the case of the SVCA, before the Authority's

Executive Committee. Should you receive an SVCA permit, approved by staff, with conditions of approval and object to one or more of the conditions, you will have the option to attend a hearing before the SVCA Executive Committee. Should you submit a complete Application for which staff is not prepared to issue a permit, you will have the option to attend a hearing scheduled before the SVCA Executive Committee. After holding a hearing under Section 28 (12), the SVCA Executive Committee shall, (a) refuse the permission; or (b) grant the permission, with or without conditions. After the hearing, if the Executive Committee refuses permission, or grants permission subject to conditions, the person who requested permission shall be given written reasons for the decision. If the person is refused permission or objects to conditions imposed on the permission, the person may appeal to the Ontario Land Tribunal within 30 days of receiving the reasons for the refusal.

Zoning and Official Plan

Administration and final interpretation of the Zoning By-law and Official Plan are the responsibility of the Municipality of Kincardine and/or County of Bruce. SVCA staff recommend you contact the Municipality of Kincardine and/or County of Bruce to confirm the zoning status and/or designation for the property, and for all other items relating to the Zoning By-law and Official Plan. As the provincial commenting agency for matters relating to Natural Hazards (Environmental Protection, Hazard Lands, etc. zones and/or designations) in association with applications made under the *Planning Act*, SVCA is required to provide comments and assistance to the Municipality and/or County and its residents for zoning and Official Plan matters in this regard. SVCA staff also provides recommendations pertaining to Natural Heritage in accordance with the Plan Review Agreements currently in effect with our member municipalities, and as a watershed agency associated with *Planning Act* applications.

In accordance with the More Homes Built Faster Act, 2022, amendments were made to the Conservation Authorities Act in support of Ontario's Housing Supply Action Plan, which came into effect January 1, 2023. Following the passing of these legislative amendments, a new Ontario Regulation 596/22 was made under the Conservation Authorities Act which also became effective January 1, 2023. Under this new regulation, conservation authorities are no longer able to review and provide commenting services on natural heritage for proposals under the Planning Act. However, on December 19, 2022, you had requested pre-consultation comments to a proposed severance and zoning by-law amendment that would support your proposal. Therefore SVCA staff are providing you with natural hazard and natural heritage comments for your request received before January 1, 2023.

Your proposal of severance and rezoning of the property would allow for: construction of a dwelling, construction of a detached accessory building, installation of a sewage disposal system, and related excavation, filling, and grading as approved within this SVCA permit 23-050. The proposed severance would create a parcel north of the Maus Municipal Drain with frontage on Concession Road 9.

Natural Hazard

Please be advised that as part of SVCA staff site inspection of the property, and based on our mapping, SVCA staff recommend a slight revision (to make larger) the Environmental Protection (EP) zone to best reflect property conditions. SVCA recommended EP zone is shown on the attached SVCA map dated March 23, 2023. It is the opinion of SVCA staff that the construction of a dwelling, and construction of a detached accessory building, will not be located within the recommended EP zone.

Natural Heritage

The only natural heritage feature potentially affecting the property that has been identified by SVCA staff is fish habitat and its adjacent lands related to Maus Municipal Drian that flows through the property. However, based on the proposal, SVCA staff does not anticipate any impacts to fish habitat and its adjacent lands, therefore SVCA would not recommend the preparation of an Environmental Impact Study (EIS) to support the development proposal.

Drinking Water Source Protection

The subject property appears to SVCA staff to not be located within an area that is subject to the local Drinking Water Source Protection Plan.

Conclusion

Please notify SVCA staff when the work is complete so a site inspection can be arranged. Thank you for your cooperation. Should you have any questions, please do not hesitate to contact Michael Oberle of this office.

Sincerely,







Erik Downing
Manager, Environmental Planning and Regulations
Saugeen Conservation
ED/mo

Enclosures: SVCA permit, site plan, SVCA Application form, SVCA map

cc: Jennifer Prenger, SVCA member representing the Municipality of Kincardine (via email)
Bill Stewart, SVCA member representing the Municipality of Kincardine (via email)
Dwayne McNab, CBO, Municipality of Kincardine (via email)
Bruce County Planning Department-Lakeshore Hub (via email: bcplpe@brucecounty.on.ca)

MacArthur
1397 Concession 9
N Pt Lt 1 Con 8 Bruce
Mun. of Kincardine
Roll No.:
410821000300400

Legend

-  Hazard Land-recommended EP zone
-  SVCA Approximate Screening Area Limit
-  Watercourse
-  Parcel Fabric



UTM Zone 17N, NAD 83

1:4000

The included mapping has been compiled from various sources and is for information purposes only. Saugeen Valley Conservation Authority (SVCA) is not responsible for, and cannot guarantee, the accuracy of all the information contained within the map.

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This mapping contains products of the South Western Ontario Orthophotography Project 2020 (SWOOP2020). These images were taken in 2020 at 16cm resolution by Mapcon Mapping Ltd. They are the property of Saugeen Valley Conservation Authority ©2021.



March 23, 2023

Lot 1
Con 8
Kincardine

Mats Municipal Drain



County of Bruce
Planning & Development Department
1243 MacKenzie Road
Port Elgin, ON N0H 2C6
brucecounty.on.ca
226-909-5515



January 22, 2024

File Number: Z-2023-058

Public Meeting Notice

**You're invited to a Public Meeting to consider
Zoning By-law Amendment Application File Z-2023-058
February 14, 2024 at 5:00 p.m.**

A change is proposed in your neighbourhood: The purpose of the application is to rezone the property to permit the construction of a residence on a remnant farm parcel from a previous severance. If approved, this application would facilitate the construction of a single detached dwelling at 1397 Concession 9. These lands were subject to a previous zoning by-law amendment and severance (Files Z-73-14.21 and B-100-14.21).



1397 CONCESSION 9 - KINCARDINE CON 8 N PT LOT 1
Municipality of Kincardine (Kincardine Township)
Roll Number 410821000300400

Learn more

Additional information about the application is available online at <https://www.brucecounty.on.ca/active-planning-applications>. Information can also be viewed in person at the County of Bruce Planning Office noted above, between 8:30 a.m. and 4:30 p.m. (Monday to Friday).

The Planner on the file is: Julie Steeper

Have your say

Comments and opinions submitted on these matters, including the originator's name and address, become part of the public record, may be viewed by the general public and may be published in a Planning Report and Council Agenda. Comments received after **February 2, 2024** may not be included in the Planning report but will be considered if received prior to a decision being made, and included in the official record on file.

Before the meeting: You can submit comments by email bcplpe@brucecounty.on.ca, mail, or phone (226-909-5515) if you have any questions, concerns or objections about the application. Comments will be provided to the Committee for its consideration.

How to access the public meeting

The Public Meeting will be held in a hybrid format (virtual or in-person) at the Municipal Administration Centre located at 1475 Concession 5, Kincardine.

For information on how to participate in the public meeting, please visit the municipal website at www.kincardine.ca/en/municipal-office/agendas-and-minutes.aspx under "Agendas and Minutes."

Please contact the Municipality of Kincardine at clerk@kincardine.ca or 519-396-3468 if you have any questions about how to participate in the meeting.

Stay in the loop

If you'd like to be notified of the decision of the approval authority on the proposed application(s), you must make a written request to the Bruce County Planning Department.

Know your rights

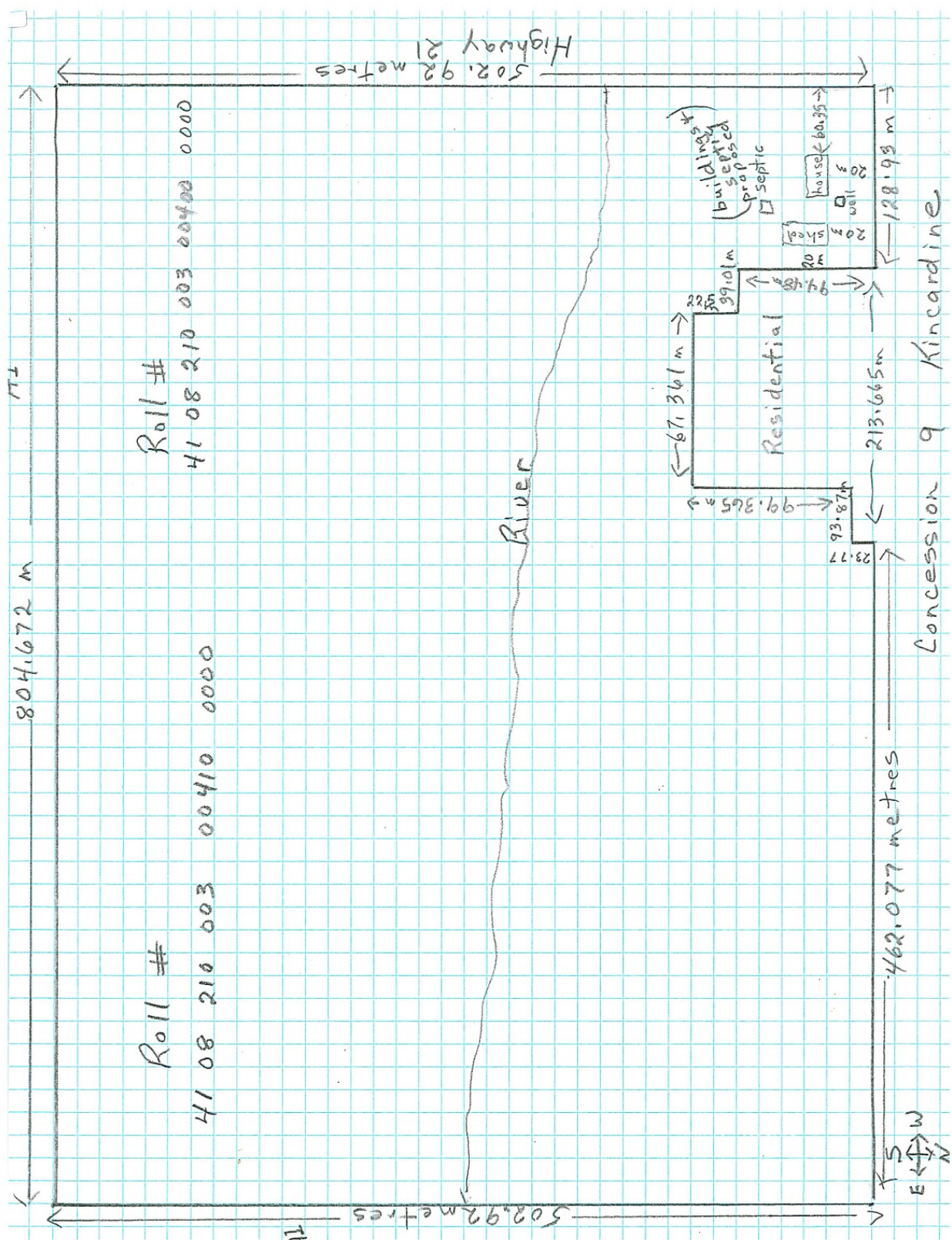
Section 34(11) of the [Planning Act](#) outlines rights of appeal for Zoning By-law Amendment applications.

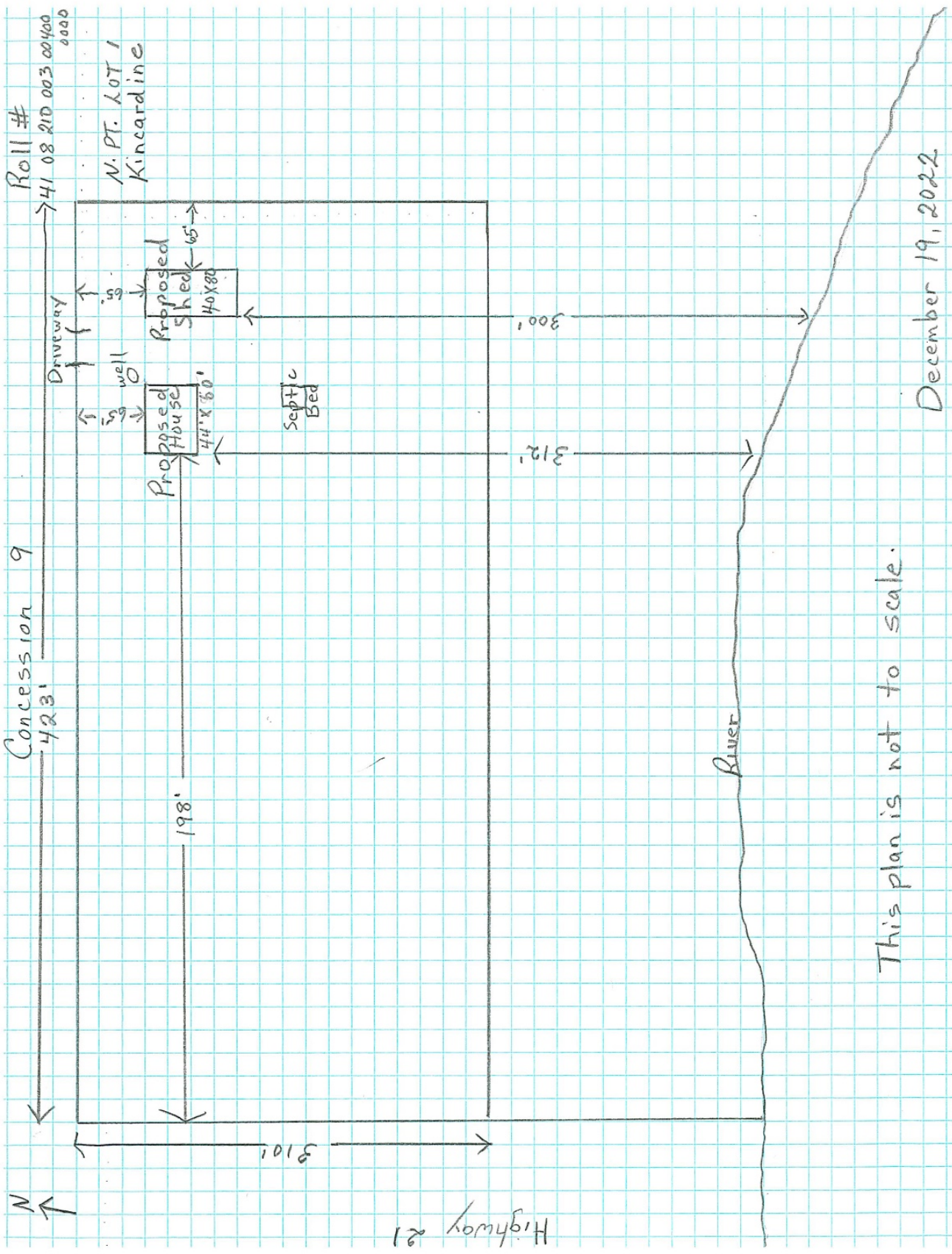
If a person or public body would otherwise have an ability to appeal the decision of the Council of municipality to the Ontario Land Tribunal but the person or public body does not make oral submissions at a public meeting or make written submissions to municipality before the by-law is passed, the person or public body is not entitled to appeal the decision.

If a person or public body does not make oral submissions at a public meeting, or make written submissions to the municipality before the by-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Land Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

For more information please visit the Ontario Land Tribunal website at <https://olt.gov.on.ca/appeals-process/>.

Site plan





This plan is not to scale.