

Blue Mountain Resorts LP

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February 21, 2018

BY EMAIL ONLY

Travis Sandberg
Planner I
Town of the Blue Mountains
32 Mill Street, PO Box 310
Thornbury, ON N0H 2P0

Randy Scherzer, MCIP RPP
Director Planning & Development
Grey County
595 9th Avenue East
Owen Sound, ON N4K 3E3

Dear Travis and Randy:

**RE: Application for Zoning By-law Amendment and Major Redline Revision to Draft Plan 42T-89009
Blue Mountain Resorts LP - Comments**

Blue Mountain Resorts LP (BMR) has reviewed the application proposing a Zoning By-law Amendment and major redline revision to amend the draft approved subdivision 42T-89009, known as Monterra Phase 2. BMR owns the property immediately west of the subject lands, which currently serves as the 8th Hole of Monterra Golf Course.

The Monterra Phase 2 lands are part of a larger, comprehensively planned development generally known as 'Westbrook' that includes Historic Snowbridge (Plateau North), Monterra Ridge (Willowcreek), Crestview Estates (Plateau East), Second Nature (Monterra South and Plateau South) and the Monterra Golf Course Lands (owned by BMR). Given the integrated nature of these development parcels with the Monterra Golf Course, the Master Development and Servicing Agreements contemplated matters including surface water management works, sewer and water works, walkway works, easements, maintenance obligations, etc.

Given the proposed proximity of a number these residential lots to the Monterra Golf Course as well as the ongoing drainage concerns that have been well-documented in this area over the years, BMR has several concerns with the proposed development and offers the following comments.

Golf Course Setbacks

Township of Collingwood Zoning By-law No. 90-89 established a new, increased building setback of 15 metres for the residential properties located on the subject lands that abut Monterra Golf Course. BMR understands the proposed Zoning By-law Amendment upholds this minimum 15 metre setback. However, BMR would like to note that the preceding residential communities that have been, or are in the process of being developed have minimum setbacks greater than 15 metres for all properties abutting Monterra Golf Course.

Town of the Blue Mountains Zoning By-law No. 98-31 implemented Residential R3-120 and Residential R3-121 exceptions on residential properties abutting Monterra Golf Course within the Historic Snowbridge (Plateau North) development. These exceptions required a minimum rear yard setback of 24 metres for the main building and a minimum rear yard setback of 15 metres for all accessory buildings and structures, including swimming pools and tennis courts.

Town of the Blue Mountains Zoning By-law No. 98-45 implemented the same Residential R3-121 exception on residential properties abutting Monterra Golf Course within the Second Nature (Monterra South and Plateau South) and Crestview Estates (Plateau East) developments.

Furthermore, although not implemented through Town Zoning policies, Monterra Estates (Monterra Phase 1) had lengthy and detailed Covenants and Restrictions registered on title against each individual lot. For those properties abutting Monterra Golf Course, the increased setback distances were calculated and prescribed based on the location of the property as it related to golf course activities. For example, the residential lots abutting the west side of Monterra Golf Course Hole #8 had minimum rear yard setbacks for the main building ranging from 21 to 27 metres and minimum rear yard recreational setbacks of 12 metres for accessory buildings and structures.

Based on the above, all of the preceding residential properties that abut Monterra Golf Course have rear yard setbacks greater than the 15 metre setback proposed for Monterra Phase 2. BMR is concerned about the potential implications of single detached residential dwellings being constructed in such close proximity to its golf course lands – especially with no additional minimum setback prescribed for accessory buildings and structures. Land use compatibility issues between residential properties and golf courses are well-documented and, in many cases, the golf course has been found to be at fault. BMR strongly encourages the Town to reconsider the minimum rear yard setback for the Monterra Phase 2 properties abutting Monterra Golf Course or, at the very least, require a golf ball spray analysis to help determine appropriate setbacks in relation to this particular golf course hole. Furthermore, BMR trusts that the appropriate language re: the potential risk of trespass, nuisance, property damage or personal injury will be included in the subdivision agreement and/or the respective agreements of purchase and sale for this particular development.

Stormwater Management

Drainage concerns on the subject lands and in the general vicinity of this area have been ongoing and well-documented over a number of decades. While BMR appreciates that the drainage concerns of this area extend beyond the boundaries of the proposed development, the ongoing flooding situation is not acceptable. Monterra Golf Course Hole #8 regularly floods when a significant rain event occurs. BMR is concerned with the introduction of a new residential community before the drainage situation has been comprehensively studied and plans for mitigation have been developed for the entire area.

BMR cannot be held responsible for potential damage to these future residential properties as a result of these area drainage issues. We understand the elevations of these single detached residential dwellings are proposed to be above existing grade. Given the proposed grade changes, we remain unsure as to how this may impact the flow of water draining east and north of our property and are concerned water will back up even more than existing conditions on Monterra Golf Course Hole #8. In addition, given these drainage concerns, we trust that these residential dwellings will not have basements and would appreciate confirmation of same.

Finally, BMR recognizes that this development is located immediately west of both a county and municipal boundary and that maintenance responsibilities concerning drainage have been difficult to ascertain over the

years. We trust that maintenance obligations will be clearly defined and assigned - particularly as they relate to Watercourse #1 - going forward to ensure flows are not impeded in the future.

BMR welcomes the opportunity to continue dialogue with Skyline (Blue Mountain) Inc. representatives and/or the Town and County in regards to this development application. Please do not hesitate to contact me should you have any questions or concerns.

Best regards,



Lindsay Ayers
Director, Planning & Environment

Cc: Dan Skelton, President & Chief Operating Officer, Blue Mountain Resorts LP
Corrina Giles, Town Clerk, Town of the Blue Mountains
Michael Benner, Director Planning & Development Services, Town of the Blue Mountains
Shawn Postma, Senior Policy Planner, Town of the Blue Mountains
Krystin Rennie, Planning Consultant, Georgian Planning Solutions
Paul Mondell, Senior Vice-President Development, Skyline Destination Communities

From: Christine Smith [REDACTED]
Sent: Tuesday, February 20, 2018 1:25 PM
To: Town Clerk <townclerk@thebluemountains.ca>; planning@grey.ca
Subject: MEETING ON 21ST RE MONTERRA ROAD

Dear Town Clerk,

Please include the following photos in your meeting.

I have been living on Monterra Road for over 15 years and in the past 3 years the road has washed away at the end of my drive due to the amount of water being sent down the road, my yard at the back and the area all around my house gets flooded too, this never used to happen. When the drive washes out I can't get out to go to work until the town has come by to fill in the 2 foot deep and 8 feet wide hole. The town is good at getting here quickly and today they have been around 2 times to check on the flooding that we are expecting to happen.

Last time this happened a few months ago I had to park on the road for several days as I couldn't get back on to my drive way. It is illegal to park on Monterra Road in the winter, and jump over the stream to get in to my house.

I believe that if this new development goes in and the water management has not been addressed I am going to have worse problems in the future.

I will be at the meeting and hope you can share these photos.

Thank you

Christine

Christine Smith
Broker

Tue 20/02/2018 4:17 PM

Thank you

I've also emailed more as now the road has collapsed and I can't get out of my property

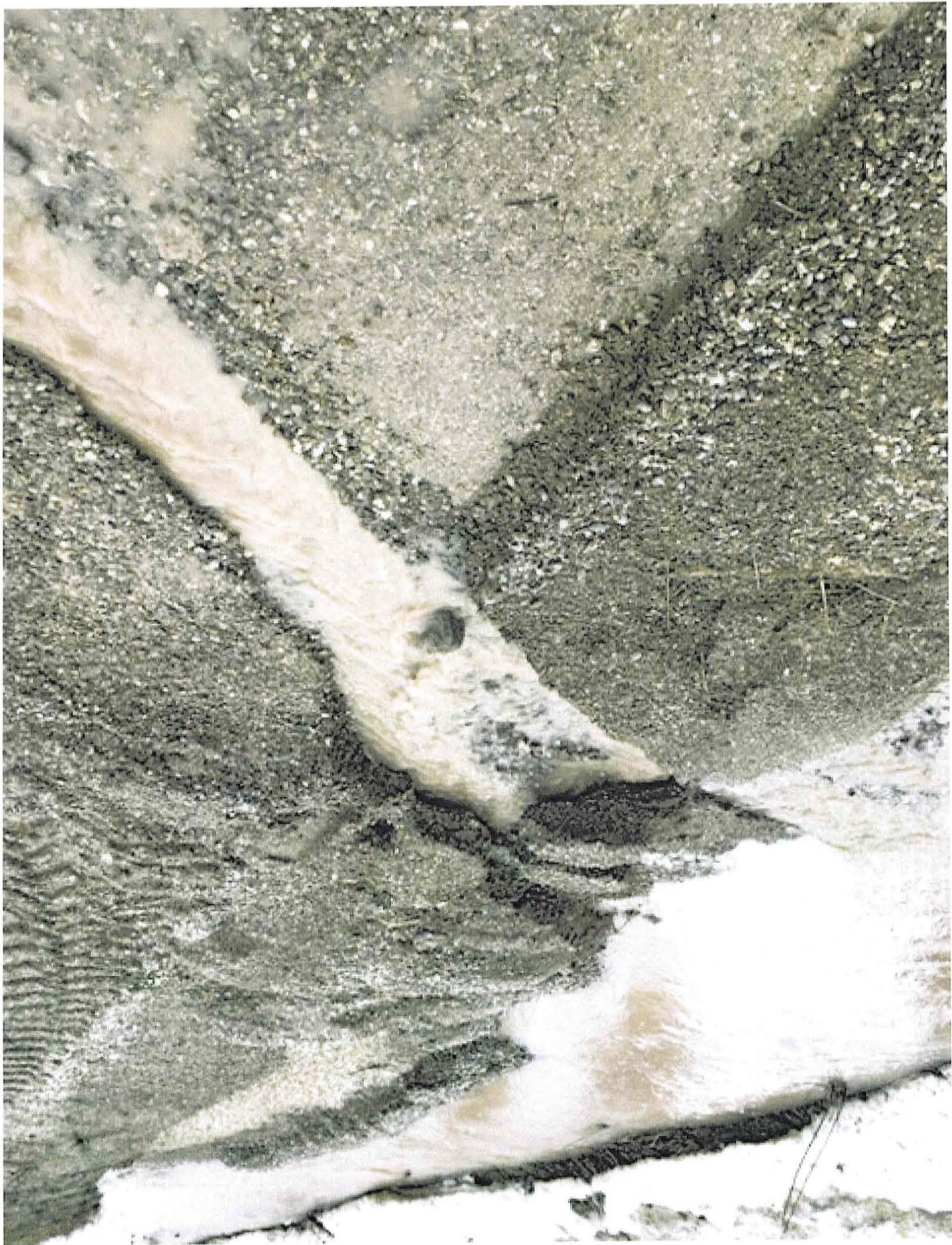
Please pass those on too

Thank you

Christine

Christine Smith









February 15, 2018

To: Randy Sherzer, County Planning Dept. Grey County

595 9th Ave. East, Owen Sound, On. N4K 3E3 (planning@grey.ca)

To: Corrina Giles, Town of the Blue Mountain, Clerk

32 Mill St. Box 310, Thornbury, Ont. N0H 2P0 (townclerk@thebluemountains.ca)

Re: Proposed 32 residential lots – Monterra Phase 2

Collingwood Con. 1 Pt Lt 18, RP 16R-8591, Part 1

LETTER OF OBJECTION

Tyrolean Village Resorts Limited (TVR) is the owner of [REDACTED] the stable property directly across the street (Monterra Rd.) from the proposed development. Over the last several years the TVR stable property has experienced significant and devastating flooding and flood damage from the Monterra lands. The flooding situation appears to be getting worse and more frequent each year.

The ongoing flooding has caused significant damage to the stable business which has been in place for over 40 years. **As a result of the recent flooding (last 5 + years) the forest areas across the street from Monterra have become destabilized and hundreds of trees have fallen down everywhere making the trails too dangerous to use, the paddocks turn into large ponds and flowing streams, the entrance to the riding arena and parking area turns into a pond and forces the business to close down until it clears up.**

Attached are pictures of the flooding in the last few years. The flooding flows from the proposed development and sheet flows across Monterra Rd., it also flows somehow under the road base into the stable paddocks, causing huge trenches and making them unusable. The most recent flooding event occurred in January 2018.

TVR believes that the development of the Monterra lands is PREMATURE until a regional storm water management plan or Municipal Drain is completed and put into place. A solution must be found to get the water down to Georgian Bay, the current situation where the roads and neighboring properties are being flooded in a storm event is unacceptable. The current situation not only negatively affects the TVR lands but the neighbors and the municipality's road. The extreme nature of the flooding is undermining the stability of the road, the shoulders are continually being washed out and there are significant quantities of water somehow flowing under the road into the horse paddocks.

I have had the opportunity to review the Storm Water Management Report (Monterra Phase II Development, dated November 2017) Based on my reading of the report they plan to raise the level of the site so the new building on the site will not flood. They further plan to maintain the "PEAK FLOW RATES" to the pre development levels for the 2 through 100 year design storms. BASICALLY THE PLAN IS TO RAISE THEIR SITE, SO THEIR NEW HOUSES DO NOT FLOOD AND MAINTAIN THE POST DEVELOPMNET PEAK FLOWS TO THE PRE DEVELOPMENT PEAK FLOWS. WHAT THIS MEANS IS THAT THE PEAK FLOWS WILL CONTINUE TO FLOOD ALL OF THE NEIGHBORS, THE INCREASED QUANTITY OF WATER GENERATED BY THIS DEVELOPMENT

WILL NOW BE STORED AND DISCHARGED ONTO THE NEIGHBORS OVER A LONGER PERIOD OF TIME, SO NOW THE FLOODING EVENT WILL LAST MUCH LONGER DUE TO THIS DEVELOPMENT. THIS DEVELOPMENT WILL INCREASE THE TOTAL AMOUNT OF WATER BEING DISCHARGED OFF THE DEVELOPMENT SITE AND WILL CAUSE INCREASED FLOODING TO THE NEIGHBORS.

I have discussed this situation with the town engineer, Brian Worsley and he told me that he agrees that the existing flooding problems must be addressed responsibly.

In fact this development will cause additional flooding not reduce any flooding of the neighbors. **By raising the level of their development property they will solve their flooding issues but they will then increase the already unacceptable flooding on all the neighboring properties.** I would like to request that any proposed development on this site be constructed at the current elevation instead of raising up the lands. The developer should address SWM at the current grade instead of elevating the site and adversely affecting their neighbors.

There is significant case law in Ontario that protects downstream property owners from the dumping of increased volumes of artificially generated storm waters from upstream properties with the knowledge that it will damage the downstream owners. (referring to development of paved roads, parking lots, buildings, etc.). **Would the Municipality not be liable for approving a development with the knowledge that it will damage the neighboring property owners ?**

(Attached is a summary of the case law that I have collected on this issue with a brief summary taken from the cases)

I urge the Municipality to not approve this development until a solution to the flooding is agreed upon and implemented. The Neighbors, the Developer and the Municipality have to work together to find a solution which may either be a regional SWM plan or possibly a drainage petition. The development of these lands is PREMATURE until a solution to the flooding is implemented and the water can be drained properly to Georgian Bay.

Please mail to me any future notices for public meetings or decisions on this development.

Sincerely,



Denis Martinek CA, CPA

Tyrolean Village Resorts Limited.



CASE LAW:

1) Scarborough Golf & Country Club v. Scarborough et al. 1986 (high court of justice)

(held the plaintiff was entitled to judgement against the defendant,
Quotes from the case:

- a) "As a lower riparian owner, the plaintiff had the right to the natural flow, quantity and quality of the water in the stream. An upper riparian owner has the right to natural drainage into the water course and a lower riparian owner is obliged to accept that drainage. However that drainage operation must be reasonable and must not increase the volume by artificial means" (Development of paved roads, parking lots, buildings, etc. considered artificial means)
- b) "is also liable for its negligent conduct in breaching a general duty of care by planning and constructing a storm water drainage system with the knowledge, or at the very least with reckless disregard for the fact, that it would damage the downstream riparian owners."

2) Laughren et al. V. LaChance et al. 1988 (District Court of Ontario)

Held, judgement should be awarded to the plaintiffs.

Quotes from the Case:

"A person is not allowed to raise the level of his land so as to cast the surface water onto land which formerly did not receive it. Since the defendants did so, they should be required to take corrective action and pay damages for the loss they caused the plaintiffs"

3) Flaro v. Roffey 1993 (Ontario court of justice, General Division)

Quotes from the Case:

“The court reviewed the law of Ontario relating to the diversion of the flow of surface water, and found that the principles set out by the court of appeal in Woolner v. Dick and Barry v. Trinidad Leaseholds were clearly applicable to the facts at hand. The evidence established that further to the development of R’s property, water drained onto F’s property in three different ways. The flooding of the plaintiff’s land had a common origin, namely surface water from R’s lands and MTC water re directed by the defendants to the F’s and D’s lands. The plaintiff’s lands were now subjected to a large amount of surface water which would not have reached them naturally. Accordingly, the defendants were liable.”

4) Berry v. Trinidad Leaseholds 1953 (Court of Appeal)

Quotes from the Case:

“one must not collect surface water on one’s own land and cast them in a body or artificially channel them onto lands of another to that other’s injury.”

“I respectfully adopt the reasoning set out in that judgement, and for the purposes of this appeal restrict myself to holding that in this Province (Ontario) an occupant of land who, by artificial means, prevents the natural absorption in that land or alters the natural drainage therefrom of water caused by melting ice or snow or of rain water naturally falling there is bound to take all reasonable means of preventing that water from collecting on the artificial surface he has created and draining from that surface on to his neighbors land to the injury of his neighbor.”

5) Vancisse v. Schubert and Selby 1981 (Saskatchewan's Court of Queen's Bench)

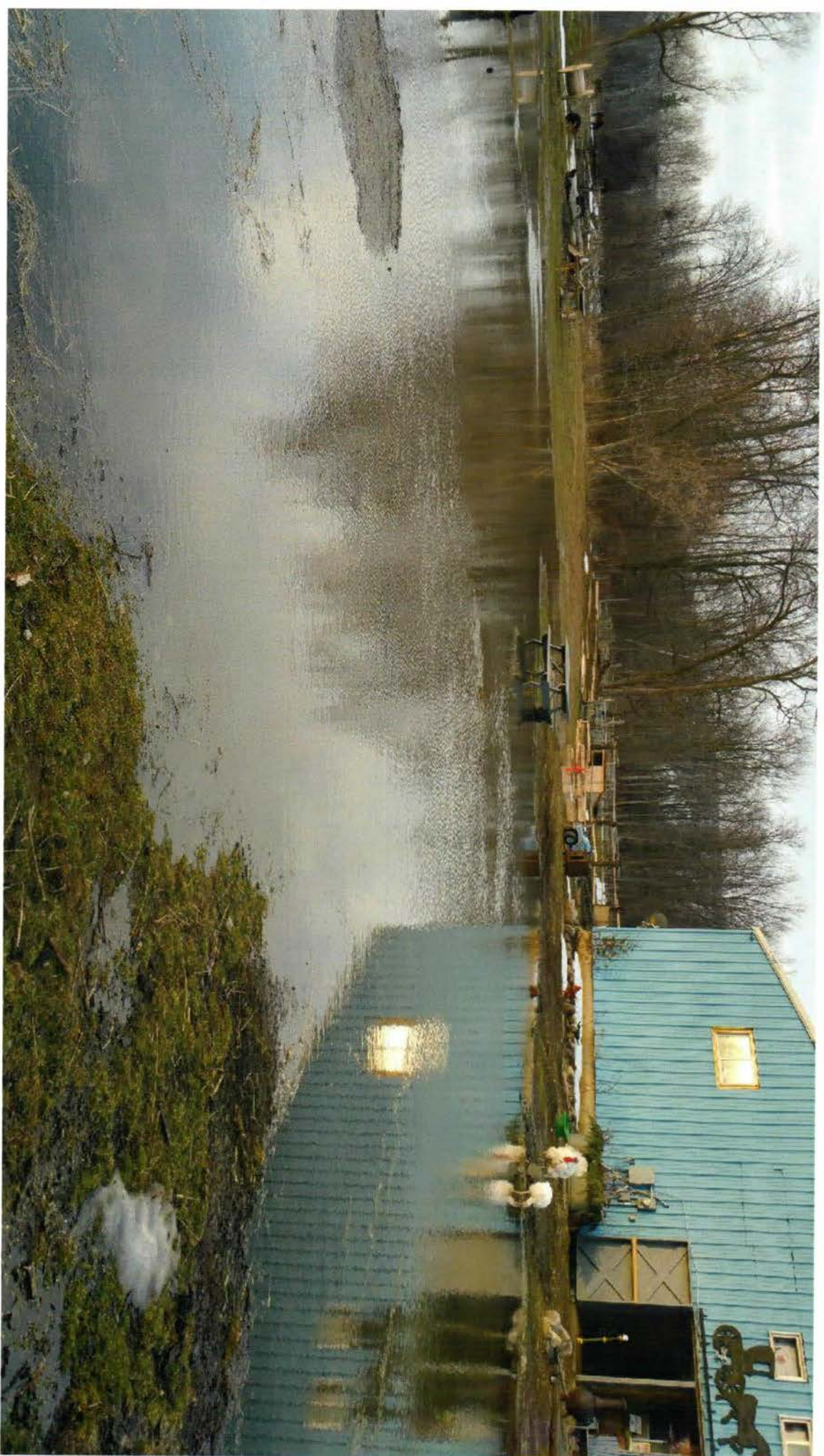
Quotes from the Case:

"The plaintiff brought an action for damages for flood damage caused by water flowing from the defendant's land. The plaintiff also applied for a restraining order to prevent further flooding. The Saskatchewan Court of the Queen's Bench allowed the action."

"With respect to the ditches and works created by the defendants for drainage of water, a subject matter of this action, that the defendants are required to take such steps as will be necessary to ensure that there are no larger volumes of water flowing from the defendant's lands to the plaintiff's lands than if the defendant's lands had been kept in their natural state"

Spring 2017

Flooding of Tyrolean Village Stable lands across the street from the proposed Monterra Development.

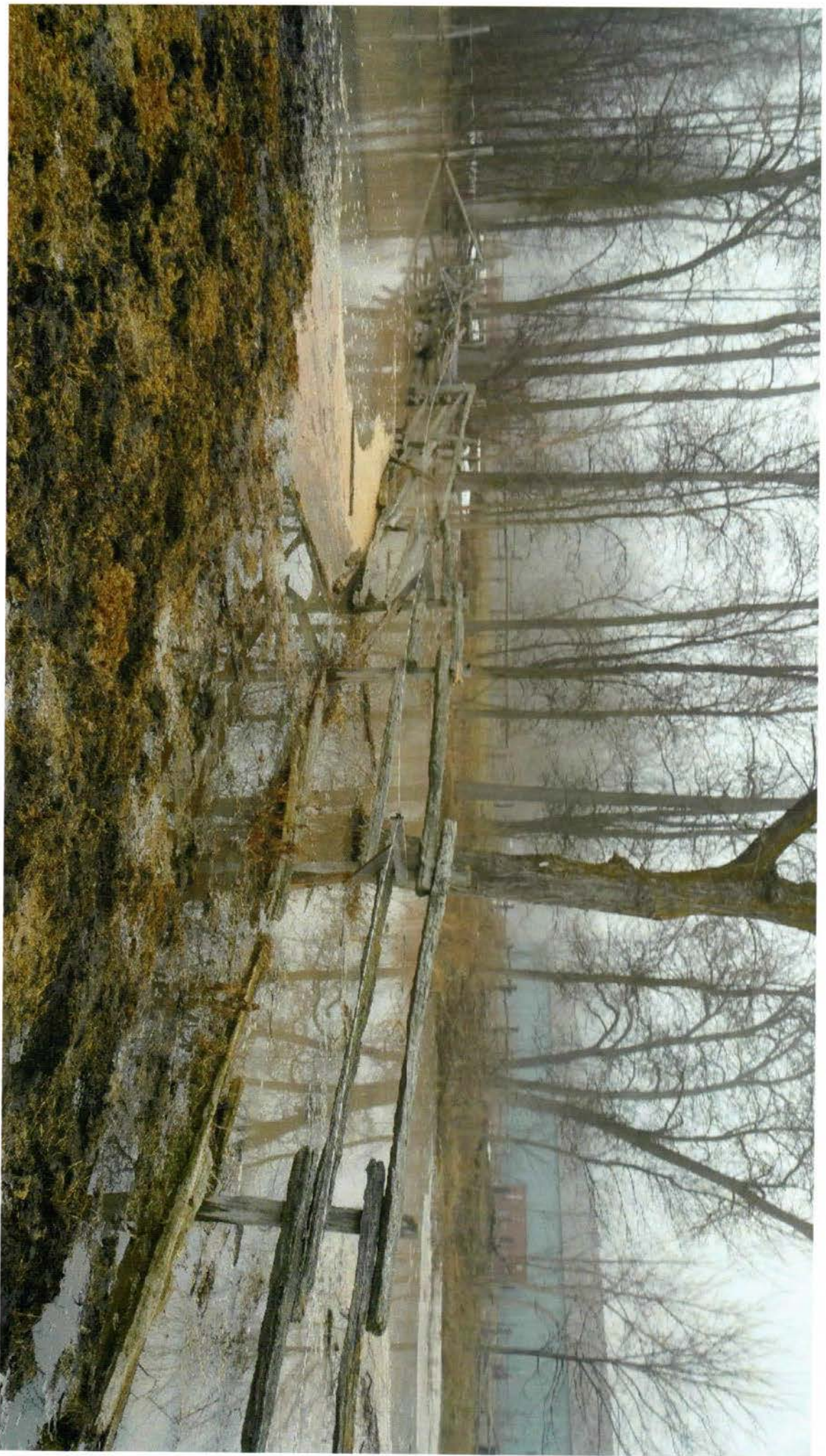














MONTERRA LANDS





MONTERRA
LANDS →



↗ Monterey Lands

SPRING 2016 FLOODING OF:

**Tyrolean Village Stable lands &
Monterra Road**

**from the proposed Monterra Lands
development**

SPRING 2016 FLOODING OF TYROLEAN AREA 2 LANDS (Tyrolean Stable) from Monterra East and upstream



SPRING 2016 FLOODING OF TYROLEAN AREA 2 LANDS (Tyrolean Stable) from Monterra East and upstream



SPRING 2016 FLOODING OF TYROLEAN AREA 2 LANDS (Tyrolean Stable) from Monterra East and upstream



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MONTERRA
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SPRING 2016 FLOODING OF TYROLEAN AREA 2 LANDS (Tyrolean Stable) from Monterra East and upstream



SPRING 2016 FLOODING OF TYROLEAN AREA 2 LANDS (Tyrolean Stable) from Monterra East and upstream



SPRING 2016 FLOODING OF TYROLEAN AREA 2 LANDS (Tyrolean Stable) from Monterra East and upstream



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LANDS →



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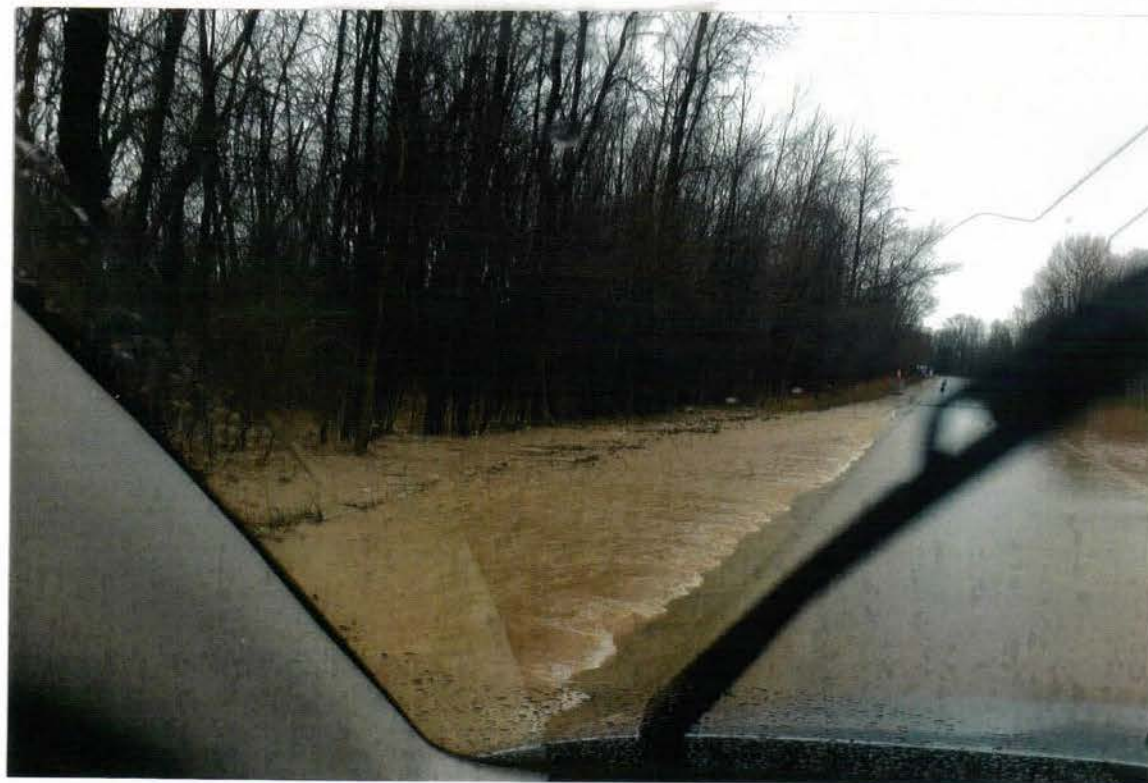
SPRING 2016 FLOODING OF TYROLEAN AREA 2 LANDS (Tyrolean Stable) from Monterra East and upstream



SPRING 2016 FLOODING OF TYROLEAN AREA 2 LANDS (Tyrolean Stable) from Monterra East and upstream



MONTERRA
LANDS



MONTERRA
← LANDS

From: Fran Mount [REDACTED]
Sent: Tuesday, February 27, 2018 1:54 PM
To: Corrina Giles [REDACTED]
Subject: Collingwood Con. 1 Pt Lt 18 RP 16R-8591, Part 1

Please keep me informed regarding Storm Water Management or anything else pertaining to the subject (Plan of Subdivision Grey Road 21 and Monterra Road).

Storm Water Management is of particular interest to us as we live at [REDACTED], next to the cart path of Monterra Golf Course and directly across from the pond on the golf course that floods numerous times a year. If the land on the other side of the pond is built up enabling basements in the new homes, HOW IS THE WATER GOING TO BE DIVERTED AWAY FROM THE GOLF COURSE AND AWAY FROM THE PROPERTIES ON THE OTHER SIDE OF THE POND??

Regards

Ray and Fran Mount

February 5th, 2018

Town of Blue Mountains

32 Mill Street, Box 310

Thornbury, ON, N0H 2P0

Attention: Corrina Giles, Town Clerk

AND

County of Grey

595 9th Avenue East

Owen Sound, ON, N4K 3E3

Attention; Randy Scherzer, Planning Department

RE : APPLICATION FOR MAJOR REDLINE REVISION and ZONING BY-LAW AMENDMENT

Property Location: Collingwood Con. 1 PT LT 18 RP 16R-8591, PART 1

It is not our intention to object to this new development, except to express our sadness that the added density is likely to shatter whatever quiet enjoyment that we had left from our property, up and until all of the recently approved developments in the area.

We suspect, as well, that this increased density will not likely have a positive affect on our property values.

However, our main concern has to do with storm water management.

I have enclosed a copy of the Application mapping that you have issue with the Application Notice.

I have added some site detail pertinent to our property ([REDACTED])

167 Grand Cypress is a creek right of way property owned by Blue Mountain Resort, It is fed by water coming off their Mountain properties.

Annual January thaw and spring run-off events, severely floods the west and north parts of our property, and the golf course fairway, every year. That is because the water comes off the mountain in such quantity, that golf course drainage culverts are unable to handle the volumes.

Also, the non-existent drainage infrastructure in the swampland (OS2 et al) where this proposed development is to be located, adds to, if not is, the primary cause of the flooding

Because it is swampland, It will take tons of gravel and sand fill for housing development. Building the land up could aggravate the water back-up, unless the golf course drainage becomes an integral part of your Storm Water Management requirement.

I can only assume that the County and Town have already taken this fact into account, but I feel compelled to bring this problem to your attention and for your consideration in this Application. I leave nothing to chance in this regard.

Sincerely,

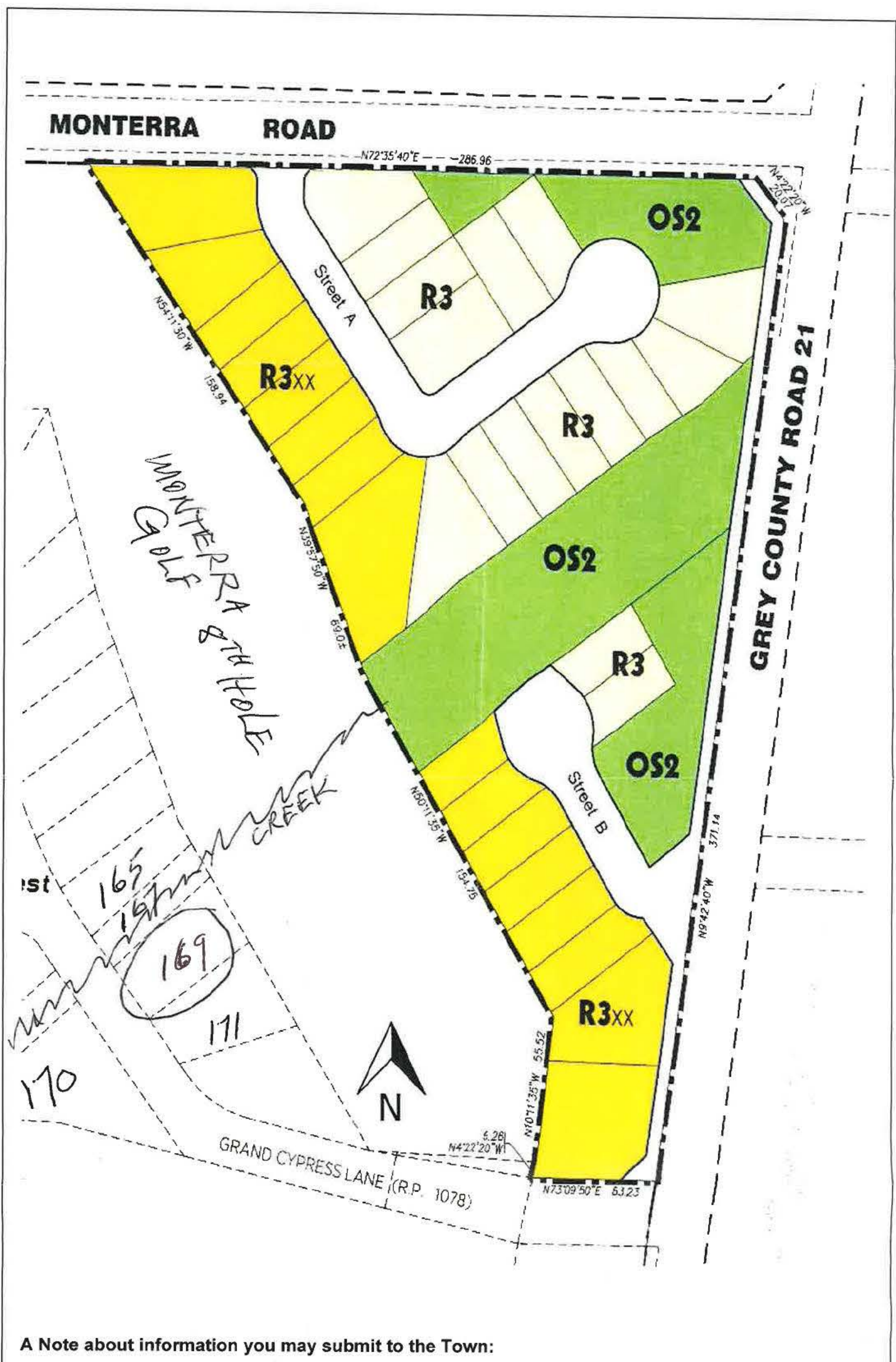
Jim Hanna

[REDACTED]

Blue Mountains Ontario, L9Y 0K8

C: [REDACTED]

H: [REDACTED]



A Note about information you may submit to the Town:

Under the authority of the Municipal Act, 2001 and in accordance with Ontario's Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), all information provided for, or at a Public Meeting, Public Consultation, or other Public Process are considered part of the public record, including resident deputations. This information may be posted on the Town's website, and/or made available to the public upon request.

This document can be made available in other accessible formats as soon as practicable upon request.

From: John Kutcy [REDACTED]

Sent: Wednesday, February 21, 2018 7:03 PM

To: Corrina Giles [REDACTED]

Subject: follow up to this evening's meeting on proposed Monterra 2 development

Hi Corrina. I have expressed my water management concerns with this proposed plan and I was also at the meeting this evening. It was good to see so many similar concerns being expressed by so many other people and organizations.

I would like to be kept apprised of future activity on this file and any further meetings that are held to discuss it.

Thanks, John

[REDACTED]

From: [Travis Sandberg](#)
To: "bahram sedighi"
Cc: [Brian Worsley](#)
Subject: RE: Blue mountain public meeting 20180221
Date: December-04-18 9:31:00 AM

Good Morning Bahram,

Thank you for comments below. Your concerns will be considered as the process continues through the review of this application.

My Very Best Regards,

Travis Sandberg, Planner
Town of The Blue Mountains
Planning and Development Services
32 Mill Street, PO Box 310
Thornbury, ON NOH 2P0
519.599.3131 ext. 283
tsandberg@thebluemountains.ca
www.thebluemountains.ca



From: bahram sedighi
Sent: November-30-18 11:42 AM
To: Travis Sandberg
Subject: Blue mountain public meeting 20180221

Good morning,

Following our yesterday conversation about the Monterra Rd phase II development, with regard to flooding at the west side of Grey road 21 on Feb 20 2018, as I told you at the end of that general meeting, my property **was not impacted by the flood at all**, and there was not any kind of indication or sign of flooding on my property even the height of the water **was less than 60 percent of the diameter of the north side culvert** of my property. Would you please be concerned not create any adversary impact of new development in Monterra Rd phase II to my property.

I appreciate your efforts in advance.

Best Regards

February 12, 2018

Re: Collingwood Con. 1 Pt Lt 18, RP 16R-8591, Part 1

Proposed 32 residential lots – Monterra Phase 2

To: Randy Sherzer, County Planning Dept. Grey County

595 9th Ave. East, Owen Sound, On. N4K 3E3 (planning@grey.ca)

To: Corrina Giles, Town of the Blue Mountain, Clerk

32 Mill St. Box 310, Thornbury, Ont. N0H 2P0 (townclerk@thebluemountains.ca)

Dear Mr. Sherzer,

I am the owner of the Thomson Tennis School, across the street from the proposed development, watercourse 1 flows directly from the proposed Monterra development onto my property and into my pond.

Over the last few years I have noticed a significant increase in flooding on my property during extreme rain events and melt downs. It seems to be getting worse every year.

Based on my understanding of the proposal, the developer is planning on dumping significantly increased quantities of water onto my property. It was explained to me that the peak flows will not be increased during a flooding event but now what will happen is that the flooding event will be increased over a longer period of time as the peak flows are held back and then released onto my property.

I object to having this development go forward until a better solution is brought forward which will stop the flooding of my property. It is not acceptable that such a development can go forward and cause more damage to my property.

Please keep me informed about the progress of this development as I intend to object to any development that will increase the overall quantity of water that will be dumped onto my property and cause further damage to my property.

Sincerely,


Richard Thomson