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Sent via e-mail to: dmeasures@clearview.ca

Doug Measures
Mayor, Township of Clearview
217 Gideon Street
Stayner, ON L0M 1S0

**Re: NEC Amendment and Development Permit for 26/27 Sideroad
Case No. 15-176 - Urbaniak v. Ontario (Niagara Escarpment
Commission)**

Dear Mayor and Council,

Donnelly Law (“we” or “the Firm”) represents Ms. Wendy Franks and Mr. David Stevenson (the “Clients”) in the above-noted matter.

This letter is a request to Council to re-consider its support for the environmentally destructive widening of Sideroad 26/27, and proposed sale and closure of County Rd #91 (“CR 91”). Given the obvious, widespread public support for keeping the road open, we ask that Council publicly debate your costly support for your proposed Niagara Escarpment Plan Amendment and Development permit application (the “Application”) to be considered at the February 24, 2021 Case Management Conference to be convened by the Niagara Escarpment Hearing Office (“NEHO”).

It is clear the Niagara Escarpment Commission (“NEC”) is against Clearview’s Application. At the October 29, 2020 meeting of the NEC attended by Ms. Franks, Commissioners voted 13-1 to endorse Staff’s conclusion that the Application is not in the public interest and that the proposed Amendment does not meet the Purpose and Objectives of the *Niagara Escarpment Planning and Development Act*, *Niagara Escarpment Plan* and other relevant Provincial policies.

The Commission also voted 12-2 in favour of sending NEC experts to the NEHO hearing to review the appeal of the NEC decision to deny approval of the Sideroad 26/27 expansion. This vote occurred over the objection of Clearview’s legal counsel.

This was a major setback for Clearview. As one Commissioner noted, CR 91 is a “fantastic road,” and asked Clearview legal counsel why you want to close the road. The expense and risk associated with the closure left the Commissioner “at a loss” to

understand the logic of closing a major piece of transportation infrastructure. Fellow Commissioners agreed.

Another Commissioner asked in disbelief to see Clearview's Transportation Master Plan, which doesn't exist. Clearview counsel Mr. H. Elston told Commissioners that Clearview "doesn't see the need" for assessing alternatives to upgrading Sideroad 26/27. Commissioners were noticeably concerned, and Mr. Elston was asked point blank if the commitment to Walker would be re-visited.

In reaching these conclusions, the Commission was in possession of the recommendations of NEC Staff concerning the revised technical evaluation of the Application. The *Niagara Escarpment Commission Staff Summary Rreport: Proposed Niagara Escarpment Plan Amendment PS 215 18 Sideroad 26/27 Township of Clearview, County of Simcoe*, October 29, 2020 was prepared and presented by Senior Strategic Advisor Ms. Nancy Mott, MCIP RPP.

It is the conclusion of NEC expert staff and Commissioners that:

- The Amendment could set a precedent for future applications to allow infrastructure projects absent the full consideration of alternatives;
- All alternatives have not been considered to justify the proposed policy changes;
- An EA may be required for potential impacts to the Provincial Park;
- Agency comments indicate that there are significant unresolved issues with respect to the potential impact of the road works;
- It has not been demonstrated that the application is in the public interest; and
- The applicant has not justified the Amendment and it does not meet the Purpose and Objectives of the NEPDA or the NEP or other relevant Provincial policies.

Our client has been advising Clearview for years that the closure of CR 91 and upgrade of Sideroad 26/27 run counter to the NEPDA, pose a significant risk to the public, and amount to an extraordinary gamble with legal liability. Now, after considerable investment of expertise by the NEC, our clients, the Blue Mountain Watershed Trust and other stakeholders, the chickens have come home to roost.

A number of stakeholders provided the following comments to the NEC critical of Clearview's misguided Application:

The Town of Blue Mountains

The Town's letter concludes by asking that the NEPA be rejected to protect the integrity of the NEP, the natural environment and the "well-being of the all the people within the South Georgian Bay Region."

Municipality of Grey Highlands (“MGH”)

The Mayor of MGH states that he did not feel that the project had been proven to be necessary to the public interest or that all alternatives have been considered, and that significant risk for negative impact to surrounding lands have yet to be mitigated. The Mayor concluded by recommending that the proposed NEPA be rejected.

Seeley and Arnill Construction

“To close [CR 91] makes no sense in any way except to limit competition to aggregate entering the Collingwood, Wasaga Beach, and Clearview markets from the west to the benefit of Walker Industries. The extra haul and costs associated with the closure of the county road would “effectively put sources other than Walker out of the South Georgian Bay market.”

St. Mary’s Cement

“The closure of this road would mean truck traffic would be forced to use Grey/Simcoe Roads 31/95 and 124, adding an additional 14 kilometres (round trip) to the haul of product in order to get to this local market. This extra haul, and the costs associated with it, would be extremely detrimental to our business (and others in the area) and would adversely impact competitive pricing within the local market.”

NEC Public Interest Advisory Committee (“PIAC”)

Having visited the site, heard from the Township’s consultants and considered the responses of those consultants to the comments submitted on the proposed NEPA, the PIAC passed the following motion:

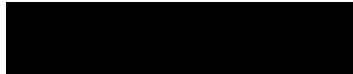
“That this committee not support the proposed amendment as stated due to our view that the proponent has not demonstrated that this is in the public in the interest and has not considered other evident alternatives.”

What is Clearview thinking? To defend Clearview’s position at NEHO looks incredibly unwise, in light of the clear opposition to this undertaking. In addition, it is our conservative estimate Council will spend in excess of \$500,000 defending this road closure at the NEHO. Why?

In light of these events, will Clearview commit to discussing with residents a sensible resolution to this conflict?

Please do not hesitate to contact me at 416-572-0464, or by email at david@donnellylaw.ca, cc’ing alexandra@donnellylaw.ca and morgan@donnellylaw.ca should you have any questions or comments concerning this correspondence.

Yours Truly,



David R. Donnelly

cc. Minister Jeff Yurek (Environment, Conservation and Parks)
Minister John Yakabuski (Natural Resources and Forestry)
Minister Steve Clark (Municipal Affairs and Housing)
The Blue Mountains Town Council
Grey Highlands Town Council
Collingwood Town Council
Clearview Council
Warden of Simcoe County
Warden of Grey County
NEC
Client